

**PLANNING BOARD REPORT AND RECOMMENDATION
ON ARTICLE 24**

On April 8, 2015, the Planning Board held a public hearing on a proposed citizensø petition to approve certain existing commercial recreation uses by right. The Public Hearing was posted as required by law. The Planning Board unanimously opposes this proposed bylaw and recommends that it be voted down at the annual town meeting for the following reasons:

- É No other commercial uses are allowed by right in the General District;
- É The language concerning changes to these uses is too vague. It could be read to mean that any new buildings and structures would be allowed by right; and öother recreational usesö are not defined;
- É Recreational uses permitted by right under this proposal could include roller derby, automobile racing, dirt biking, horse racing, or anything that could be interpreted as örecreation.ö
- É The proposed bylaw change would give commercial uses (golf course and club, ski area, aerial park/ropes course, all-seasons resort apartments, and large maintenance buildings, for example) *carte-blanche*, by-right use without town review, unlike all other commercial uses in Egremont.
- É The proposed change appears to be illegal, i.e., spot zoning, where two land parcels have ö been singled out for treatment less onerous than that imposed upon nearby, indistinguishable properties.ö [Massachusetts Supreme Judicial Court].
- É Catamount Ski Area and Egremont Golf Course already are protected by their existences pre-dating adoption of the zoning bylaw. They are pre-existing, non-conforming uses, not subject to regulation under our zoning bylaw, unless changed uses are proposed.

The idea put forward at the public hearing to address the proposalø shortcomings with amendments from the floor is a poor solution to a complex problem. There were 18 signatories on this petition, and the single one who came to the hearing could not articulate the meaning of this proposal. A supporting abutter, on finding that it would allow such uses as dirt biking, withdrew her support of the proposed language. There is no end to the list of potential uses that might be called örecreational,ö and the town meeting floor is a poor place to attempt to define and articulate what uses would be allowed or not allowed. Further, there would be no time to render an opinion or do the research necessary to determine whether such a bylaw change even would be acceptable under Massachusetts law.

The Planning Board is keenly aware that Catamount Ski Area requires a greater degree of certainty regarding their plans to remain resilient in a changing recreational economy, and we believe that it is possible to work together to envision a solution that would make Catamount's plans for change more certain at least regarding Egremont's requirements. The Select Board's announcement of an *ad hoc* committee to address these issues is, we believe, a good idea because it could address Catamount's need for certainty as well as Egremont's obligation to the purposes of the Zoning Bylaw (§ 1.3 Purpose).