

**EGREMONT PLANNING BOARD
PUBLIC HEARING
MINUTES
PROPOSED BYLAW AMENDMENT, OPEN SPACE AND
RECREATION OVERLAY DISTRICT**

**Wednesday, March 9, 2015
8:01 p.m.**

Present: Planning Board: Helen Krancer (chair), Mark Holmes, Bill Bodinger, Don Pulfer (clerk)
Citizens, abutters, and interested parties: Twenty-nine signed in (ref. sign-in sheets, attached)

Notice – The clerk read the notice for this meeting:

Notice is hereby given pursuant to the provisions of Chapter 40A, Section 5 of the Massachusetts General Laws that the Egremont Planning Board will hold a public hearing for a proposed amendment to the Zoning Bylaw of the Town of Egremont, Massachusetts to create an Open Space and Recreation Overlay District on the entire town. The hearing will take place at the North Egremont Firehouse, Route 71, Egremont, Massachusetts on Monday, March 9, 2015 at 8:00 p.m.

The language of the proposed bylaw changes can be viewed at Egremont Town Hall or on the town's web site, <http://www.egremont-ma.gov> .

The above was posted, and published in the Eagle for two consecutive weeks.

Written comments -The clerk read into the record an email from Elizabeth Goodman, Esq. to Helen Krancer, chair, Egremont Planning Board, February 11, 2015 (copy attached). Attorney Goodman represents Shemshack LLC, and its manager, Kayvan Hakim, who object to the proposed bylaw on the grounds that it would adversely affect the character of the neighborhood and town.

Draft "Amended Version" of the proposed bylaw by Catamount Ski Area, along with comments as to why they think this kind of bylaw is needed, distributed at this meeting (attached).

Rich Edwards – from Catamount. explained that this proposal came from Catamount and that he hopes that through this meeting he can work with the town to create the best possible zoning bylaw. Rich introduced his partner to speak on Catamount's pre-existing, non-conforming recreational use.

Tom Gilbert –Mr. Gilbert said that Catamount presented this zoning to the Select Board, because, he says our zoning bylaw is for residential use only; this does not reflect the real character of the town. Bylaw does not recognize recreation as a permitted

use, except as pre-existing, non-conforming use. He says that it is not clear to Catamount what is or is not acceptable. He pointed out that the number of ski resorts and golf courses have continued to drop as the financial difficulties progress. Such businesses need community support like these proposed zoning changes.

He said that Catamount looked at the many open space and recreational districts in other communities. Most of these are on the cape. Contacted John Lipman, an environmental land planner from Orleans and a member of the Cape Cod Commission, to help the town understand what it needs in terms of recreational zoning.

John Lipmann – Referring to the “Amended Version” that Catamount distributed tonight, pointed out again that lack of clarity on what is required for changes to pre-existing non-conforming uses creates confusion and uncertainty for businesses. This proposal provides guidance for very large parcels like the ski area and the golf course so they can be allowed and regulated.

This proposed amendment increases the minimum area for recreational use to 75 acres, eliminates language having to do with agriculture. He defined ‘overlay district;’ it would not change the zoning already in place, which he said is residential, town-wide. This amended draft bylaw, he says, does all it can to “minimize impact to neighbors” and to make things more clear for business planning.

He said that this amended version is only a suggestion, so that we can improve the document working together. He suggests that we can assemble comments tonight and recommendations, and present them as a set of amendments to the proposed bylaw at Town Meeting. The Planning Board would officially ask the Select Board to make such amendments as we hear tonight on the town meeting floor, moved forward as a package, the document and the changes.

Michelle Butler, Cain Hibbard & Meyers, read a letter dated March 9, 2015 from Elizabeth Goodman, into the hearing (attached). Among her points are: that the existing zoning provides reasonable controls, Catamount’s proposal provides it with special dispensations by removing zoning controls from its operations, it would have affects beyond Catamount, it has no provisions to preserve or encourage open space, it simply allows certain commercial operations by right where they presently are regulated or restricted, and it would allow commercial activities with no controls over traffic, parking, times of operation, etc. Also it transfers special permit authority for large buildings from the Planning Board to the Board of Selectmen. It is a poorly drafted proposal that would be detrimental to the town.

Bill Wood – Historical Commission and Zoning Board of Appeals. Mr. Wood agreed with Elizabeth Goodman’s letter. Pre-existing, non-conforming uses are protected by the zoning bylaw, not restricted. Over 30 years the ZBA has given a great many special permits without interfering with existing uses. Catamount recently got a special permit for the aerial park from Egremont’s ZBA. He suggests a Catamount Commercial District instead, drafted by the Planning Board. Bill said that he doesn’t see that Catamount has a problem This proposed bylaw is confusing, it has nothing to do with land use planning, and appears to benefit only Catamount. Agricultural section is entirely unnecessary. Most of the uses listed are already allowed in the general zone, boating, ski resorts, family activity areas, nature trails, dog trails, hiking trails, horse back riding, scenic tours, mostly by right already. He recommended again a special district for Catamount.

Question from the floor – what is allowed with a pre-existing, non-conforming use?

Elliot Snyder, Chair, Zoning Board of Appeals – Anything is possible, any change to the structure is allowed by special permit from ZBA. Catamount recently was given a special permit to do what it had been doing, with no changes and without any onerous restrictions. Mr Snyder wondered who or what inspired Catamount to offer this bylaw change?

Eileen Vining – wonders about the process: it appears that Catamount wants to redraft and modify their proposal, but the law is very clear. The proposal was submitted to the Select Board, the Planning Board is required to hold this public hearing, and they will make a recommendation based entirely on the way it was presented to the Select Board.

We are out of sync; Catamount wants to develop a bylaw that will help them. But now they want to modify it; even they don’t like what they proposed, and Eileen certainly does not either. A lot of other people don’t like it. To draft a bylaw on the town meeting floor is disastrous; you can’t draft a bylaw with a hundred people in the room. She recommends that this bylaw be withdrawn by the Select Board, that Catamount work with the Planning Board to draft an appropriate bylaw, and that it then is brought to town meeting. If this bylaw stays on the warrant and gets voted down at town meeting, it cannot be proposed again for two years. It does not make sense to proceed now, especially since Catamount brought in a new version tonight, and they have said they want our input so they can draft another new version. The process has been misunderstood. Eileen thinks we should start over, redraft legislation that is good for Catamount and for Egremont.

This proposed amendment would have a tremendous impact on the Town of Egremont. There is no definition of “active and passive recreation.” What is meant by “not limited to?” Motorized vehicles for hire are allowed, but what about motorized vehicles not for hire? It would allow “non-motorized recreation,” but it also says permitted uses are not limited by this list. There is nothing in this

proposal that regulates use. Planning boards routinely look at many issues, lighting, traffic flow, effect on abutters and other neighbors, screening, hours of operation, etc. There are no provisions in this proposal for any control or oversight; this is a free-for-all zoning amendment. There ought to be some regulation and review of potential impacts. Eileen has looked at open space bylaws from other towns, and she hasn't found a single one without controls and restrictions to protect their towns.

This allows accessory buildings up to 12,000 SF without any oversight. Our post office is 3,000 SF. This proposal allows buildings three-times the size of Town Hall and the Post Office, and they could be three stories, by right. And it could be any number of buildings, each up to 12,000 SF, and these could be designated as accessory uses.

This is not just a ski area and a golf course we are talking about, it is any parcel 50 acres or more. Ms. Vining showed a map indicating a huge portion of Egremont sites of more than 50 acres, all over town. Some are state and town land, but more than forty parcels (six government owned). Even if you took our APR parcels, this is a substantial part of town that could be affected by this proposed bylaw.

She urges the Planning Board to not recommend it, and the Select Board to withdraw it from the warrant, because it is not ready yet. It should not be redrafted on the town meeting floor.

Bob Climo – Catamount came to you and wanted to work with you on the bylaw.

Helen Krancer – No, they did not. They brought it to the Select Board without having consulted the Planning Board; it was only after the Select Board accepted it to be placed on the Town Meeting warrant that they came to the Planning Board and directed us to hold this public hearing. They did not ask for any input from us.

Bob Climo – We have so many “doom and gloom” scenarios going on right now. Catamount pays property taxes. The economic impact of Catamount is important. We need to come up with a plan to help them survive as a business. You should work with them to make this work.

Charles Flynn, Selectman - Catamount worked with the Select Board to bring this forward. They thought they had a need. I've seen a lot of “doom and gloom” here tonight, and I've seen some finger pointing. There is too much emphasis on why we can't do something, rather than why we can do something. This is an opportunity for us to protect and preserve a business in this community. Are we serving industries in town that pay taxes and make this a better place to be?

Helen Krancer – To clear the record, Catamount did not come to the Planning Board to discuss any of this proposal. They followed the process, but there is a misconception in this room about when Catamount approached the Planning Board; it was not until after the Select Board had given this proposal to us to bring to a public hearing so that it could be voted on at Town Meeting. Catamount told us that they talked to a lot of people and looked at other bylaws, but they did not ask us for our input into drafting this proposed amendment.

Charles Proctor – Mr. Proctor repeated his desire for agriculture to be removed. He went on to say that it is a good idea to withdraw this proposal and take the time to work on a recreational bylaw that would be presented at an annual or special town meeting. There are other things besides a ski area and golf course that are recreational, and they all need to be considered. He asked that the Planning Board not recommend this proposal at this time.

Elliot Snyder – He can understand the need for a recreational bylaw. But Catamount has been well treated as a pre-existing non-conforming use. Bylaw change, however is complex. What we (the ZBA) asks always is, how can we help this applicant without detriment to the town, what is good for business and for all of us? Too many people are against government, process, and regulation, but this is what protects us all. The failure of certain businesses in town, including my own, has never been attributable to the bylaws.

Kate McCormick, McCormick, Murtagh & Marcus– She said that Catamount does not actually have any permits, because every decision they have made has been appealed by an abutter. So process and permits that stall like this make business planning difficult. There is no active permits right now.

Richard Allen – Mr. Allen said that there is time for Catamount and the Planning Board to work together between now and the town meeting. Agriculture and residences are allowed by right. Commercial properties require a special permit. Catamount simply is asking to be put in the same category as residential and agricultural uses, to be able to plan and change without special permits.

John Lipman, Business Development Strategies – Setbacks do exist; they are 50 feet, double the residential setback. Some uses (like go-carts) are specifically prohibited. I have never seen on Cape Cod any proposed bylaws that did not have whole paragraphs added and excised at town meeting; this just is the nature of how we do this.

Elliot Snyder – The reason that permits take so long is that nobody is satisfied with conditions, everyone wants just what he wants. This is not a problem with our bylaw; it is a problem with us.

Al Thorp – We need to work with Catamount; they are a competitive business, and we need to help their business. Regulations effect business, it discourages it and inhibits entrepreneurship. Just because something is allowed does not mean that it will happen. Any property owner wants to enhance his property. He recommends a more permissive bylaw in general.

George Smith – We should be working to support Catamount, because they are an important taxpayer. We ought to be transparent here. One man rebuilt a house overlooking the ski area, and now he and his attorneys are giving Catamount problems. Just because he has a lot of money he should not be able to interfere with Catamount, who has brought so much income to the town.

Tom Gilbert – Mr. Gilbert said that the purpose is for Planning Board to get feedback from this meeting so they can make recommendations to the Select Board and the town; he hopes that won't be "black and white." They have proposed tonight to increase minimum acreage to 75, and he hopes the Planning Board will make that change, and that they will prohibit motorized vehicles.

Bill Wood – Suggested that Catamount withdraw the application and work with the Planning Board. We should keep our businesses in town, but we also have to bring this to the attorney general, and we do not know how much we can change the proposal. Therefore Bill recommended that this proposal be withdrawn.

Eileen Vining – People who do not have a recreational use next door could quickly have one, without any input. She asked if Catamount would be willing to work with the town to create a proper, focused and thought-through bylaw.

Karen Berger – Catamount abutter. The abutter who is making trouble for Catamount does not represent me or the rest of the neighborhood. This ski area should continue.

Juliette Haas – There have been many very constructive comments tonight. So many changes are being made to the original proposal, that it now has many holes in it. She recommends working on a bylaw that works for Catamount and the town.

Richard Allen – Wonders why we could not have made necessary changes in the two months between now and the town meeting.

Question from Floor – Asked Bill Wood about his comments about a Catamount Corridor District. Bill described his idea briefly.

Kate McCormick – She said that that would be spot zoning.

Jug End Residential District – discussion about why this was not seen as spot zoning.

Planning Board – There was some discussion about whether to continue the hearing or close it. The board voted to close the hearing.

Hearing closed at 9:27 p.m.

Respectfully submitted,



Donald Pulfer, Clerk

Reviewed and approved by Planning Board at its meeting March 25, 2015.

Proposal

3.9.15

OPEN SPACE & RECREATION OVERLAP District

NAME

Address

Richard Edwards	11 Hilltop Rd S. Egr.
Tom Gilbert - Cotamont	32 Bertrup Court, Lenox, MA
John Lipman	Orleans, MA
Bob HAIGHT Copake Planning Board	Copake, NY
Charles Proctor	131 Baldwin Hill Rd
Theresa King	217 Ty End Road
Eileen Young	217 Jug End Road
Elizabeth	29 Blunt
Mary Wexler	96 Prospect Lake Rd
Tom Haas	3 Baldwin Hill Rd E
Juliette Haas	"
Marcella Beecher	227 Sky Farm Rd
227 Sky Farm Rd	Copake NY 12516
Copake NY	
Richard Allen	45 2nd Street
Bruce Turner	17 Phillips Rd
Kate McCormick	McCormick Hurtagh & Marcus
Michele Butler	Cam Hibbard + Myers

Proposal

3.9.15 (2)

~~OSR (Continued)~~
~~Large Side, Ground Mounted, PV Installation~~
overlay District

Name

Address

Bill Wood	119 HILLSDALE ROAD
Rosemary Carpenter	6 Fisher Ln
Juan Carpenter	6 Fisher Ln
Jenny Smith	33 Bowman Rd
Tom Sietav	66 Boice Rd
Karen Berger	4 Fisher Lane
Charles Flynn	158 Jug End Road
Al Thorp	57 Jug End Road
Bob Climo	34 oxbow Road
Georgette Kinney	28 oxbow Rd
Lou Sespe	5 Nicholson Rd
D H Birdsall	113 BALDWIN HILL ROAD S
Walt Snyder	47 Undermountain Rd

A to
C. Formant Bylaw

From: "Goodman, Elisabeth C." <EGoodman@cainhibbard.com>
Date: February 11, 2015 at 4:47:43 PM EST
To: <Hkrancer@gmail.com>
Subject: Proposed zoning bylaw change

Helen,

I represent Shemshack LLC, and Kayvan Hakim, manager for Shemshack LLC. I just learned that Catamount filed a proposed new zoning bylaw with the selectmen and that it was referred to the planning board. I understand that your board will be discussing the zoning bylaw tonight. I believe you will be setting the date for the public hearing on this zoning proposal.

I request that your board please let me know the proposed hearing date, since I have a conflict and cannot attend your meeting tonight. My client has strong objections to this proposal. He is concerned that this proposed change will adversely affect the character of the town and the neighborhood. If passed, the bylaw may remove the ability for the Town to impose any controls on noise, parking and other adverse effects of the aerial park. In addition, there are legal questions raised by this proposal. For example, agricultural uses already cannot be prohibited, unreasonably regulated, or require a special permit so this proposal appears to be superfluous.

We would like to file written comments on this proposal prior to the public hearing.

Thank you for your consideration.

Best,

Elisabeth C. Goodman
Cain, Hibbard & Myers, P.C.
377 Main Street
Williamstown, MA 01267
Main Number: (413) 884-0006
Direct Dial: (413) 629-1312
egoodman@cainhibbard.com
www.cainhibbard.com

377 Main Street, Williamstown, Massachusetts 01267, Tel. 413-884-0006 Fax 413-443-7694
Direct Dial: 413-629-1312 email: egoodman@cainhibbard.com

Elisabeth C. Goodman

March 9, 2015

BY HAND DELIVERY

Planning Board
Town of Egremont
Town Hall
P.O. Box 368
Egremont, MA 01257

Re: Zoning Amendment Proposed by Catamount Development Corporation
to Create Overlay District

Dear Members of the Planning Board:

This firm represents Shemshack LLL, the owner of 13 Nicholson Road, Egremont, MA, which is an abutter to property owned by Catamount Development Corporation ("Catamount"). Catamount seeks approval from the Planning Board of an amendment to the Egremont Zoning Bylaws, which then would require adoption at Town Meeting. For the reasons set forth below, we strongly urge the Planning Board issue a report recommending against the proposed bylaw amendment.

1. Summary of the Amendment Provision

The proposed amendment is entitled "Open Space and Recreational District (OSRD)". Paragraph A provides that the overlay district encompasses all areas of the Town of Egremont, Massachusetts. Paragraph B states in part that the "requirements of this overlay district shall apply in addition to the other provisions of the underlying zoning districts; where the base zoning regulations differ from the requirements of the OSRD, the requirements of the overlay district shall apply." Paragraph C of the proposed amendment is the critical change, because it provides a long list of **types of uses that would be allowed by right on all parcels greater than 50 acres**. Paragraph C(3) allows accessory uses that are incidental to and commonly associated with the allowed principal uses, including expressly allowing structures that are up to 12,000 square feet in size. Paragraph E allows the selectmen to authorize buildings greater than 12,000 square feet by special permit.

2. The Existing Zoning Scheme Provides Reasonable Controls

Under the current zoning bylaw in Egremont, commercial uses are allowed only after some review by the Town Planning Board. The commercial uses described in the proposed

zoning amendment would require a special permit before they could be started in a residential zoning district. The Massachusetts Appeals Court, in *SCIT, Inc. v. Planning Bd. of Braintree*, 19 Mass. App. Ct. 101, 109 (1984) commented on the role of special permits as follows:

Special permit procedures have long been used to bring flexibility to ... zoning... by providing for specific uses which are deemed necessary or desirable but which are not allowed as of right because of their potential for incompatibility with the characteristics of the district.... Uses most commonly subjected to special permit requirements are those regarded as troublesome (...for example, gasoline service stations, parking lots, and automobile repair garages) ... and uses often considered desirable but which would be incompatible in a particular district unless conditioned in a manner which makes them suitable to a given location...." (Citations omitted.)

Special permits are established by G.L. c. 40A, §9, which states that special permits may be issued only for uses which are in harmony with the general purpose and intent of the ordinance or by-law. Special permits may also impose conditions, safeguards and limitations on time or use." *Id.*

Under the current zoning scheme, operating a commercial business is subject to reasonable regulations, such as controls on the hours of operation, parking, traffic, and lighting. If the bylaw amendment is adopted as proposed it will eliminate the requirement for special permits for many kinds of this type of use. The bylaw amendment will affect all the property in the Town of Egremont by removing the ability of the Planning Board to have any oversight over the listed commercial uses.

Typically, an overlay district is intended to provide additional zoning controls, such as a floodplain protection district. The current zoning bylaw includes three overlay districts. For example, the Wireless Telecommunications Overlay District is intended to provide appropriate controls over the construction of wireless telecommunications towers. In contrast, the proposed amendment is intended to relax reasonable zoning review and permit unregulated development in Egremont.

3. Catamount Proposes the Amendment to Provide it with Special Dispensations.

The proposed amendment, written and proposed by Catamount, is an effort to remove all zoning controls from the Catamount operations. The Zoning Board of Appeals recently issued a special permit that provides reasonable conditions on the operation of Catamount's aerial park. The park operations are not closed down or unreasonably inhibited by the special permit, but the conditions assist in balancing commercial uses with the nearby residential uses. The special permit for the aerial park, as issued by the Zoning Board of Appeals, regulates such important aspects as the number of people who can use the park and the days and hours of operation. In a separate action, the Zoning Board of Appeals determined that Catamount should not be permitted to build a commercial maintenance building on a quiet residential street. The shed was proposed to be used to repair large motor vehicles, with the noise of running engines and truck traffic

coming and going at all hours. Without zoning controls over its property, Catamount could build a park of any size, with buses and related traffic, and it would try to build the shed as an accessory use, with no controls over access routes or parking, and no limits on noise, no required setbacks.

4. Effects of the Proposed Amendment

If passed, the bylaw will not just affect the Catamount property. Any similar business use and related facilities, including vehicle maintenance sheds, large parking lots, outdoor activity centers, with trucks and buses, and other commercial operations, could operate right next to homes.

The proposed bylaw amendment is deceptive. It purports to “protect and preserve open spaces, scenic views, natural resources, and areas of natural beauty.” These are laudable goals. Everyone can agree that the natural beauty and scenery of Egremont is a valuable aspect of life in Egremont and should be preserved and enhanced. In contrast to the stated intent, the proposed amendment unfettered, unregulated development. There are no provisions to preserve or encourage open space. It is intended to allow commercial or business operations in residential zones where such activity is currently restricted or prohibited.

For example, under the current zoning bylaw, if you have residential property such as your home, there is no restriction on the uses the amendment says it will authorize. You can hike, horseback ride, have nature trails, boating areas, and tennis courts on residential property under the current zoning bylaw. These are not prohibited uses.

The amendment also purports to provide something additional for agricultural uses, but this too is deceptive. Agricultural use, even commercial agriculture, also is not regulated by the current zoning bylaw. There is no need for a proposed amendment to allow farming, forestry, horticulture, floriculture, or educational uses associated with any of these activities. The amendment proposes to allow these uses on parcels of more than 50 acres, but all of these are already exempt from zoning by state law. G.L. c. 40A, Section 3 states that no zoning bylaw may prohibit, unreasonably regulate or require a special permit for these activities.

The proposed Amendment would cause other deleterious changes. It would allow businesses to operate right next to homes. It would allow all types of commercial activities, such as mini-golf, go carts, trampolines, bouncy castles, boat ramps and boat rentals, in any location in town, with no controls on the traffic, parking, number of customers, or days and hours of operation, right next to homes. There would be no controls on the lighting of any parking lots constructed for these businesses. Accessory buildings up to 12,000 square feet could be constructed, without any review as to the effect of using the buildings, the location of the building, setbacks, or assessment of noise, traffic or parking. There would be no controls over construction activities setting up these businesses.

Zoning Board of Appeals

March 9, 2015

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Unlike any of the other overlay districts in Egremont, the proposed amendment transfers the special permit authority from the Planning Board to the Selectman, without good reason. Planning Boards are experienced volunteers, with training and information, who specialize in issues regarding planning in the towns. As written, it is questionable exactly what authority the Selectmen would have to regulate by special permit. The proposed bylaw allows all the specified activities as uses by right, so the special permit cannot regulate the hours, parking, noise, drainage or other aspects of the uses allowed by right.

The bylaw amendment is an effort to eviscerate land use controls in the Town of Egremont. Zoning districts have been the approved method of controlling land use in America since the landmark United States Supreme Court case *Euclid v. Amber*, 272 U.S. 365 (1926). In an historic decision supporting zoning, the Court held that the separation of zones of residential, business and other uses bear a substantial relationship to preserving public health and safety. This proposed bylaw amendment attempts to override that long-standing sound wisdom by eliminating zoning review, and allowing free rein to business and commercial operations in residential neighborhoods, under the pretense of preserving land.

This proposal is not based on any principles of planning, is poorly drafted, and would result in detrimental effects if adopted. We urge the Planning Board to recommend against this proposal. Thank you for your consideration of this request.

Very truly yours,



Elisabeth C. Goodman

The Open Space & Recreational District
Amended Version – For Discussion at Egremong Planning Board Meeting
March 9, 2015

Why is the Open Space and Recreation District (OSRD) Needed?

- The current zoning bylaw is deficient in addressing the needs of the Town of Egremont. It **does not allow by right many uses that currently exist**. The only specified zone for the entire town is residential, even though commercial uses vital to the town's character and economic health are present.
- Existing commercial uses are considered "pre-existing, non-conforming." These commercial uses include specialty stores, restaurants, inns, and outdoor recreation that define the town's rural aesthetic character. Any modification of these important commercial uses must go the Zoning Board of Appeals (ZBA), which is left to argue whether a change to an established business "increases the nonconformity." This creates **confusion and uncertainty for business owners** and the public as to what kind of commercial development there should be and what it should look like.
- Creating an Open Space and Recreational District (OSRD) overlay would modernize zoning and allow the continuation of and changes to existing recreational uses in very limited areas of town, so that these uses can adapt to changing economic conditions in a way that is **consistent with Egremont's open space protection and community character**.
- The **overlay district would not in any way interfere with the underlying zoning** or contradict the village center planning currently underway.
- **Strict criteria limit what uses are allowed in the OSRD**, minimizing the impact to neighbors. This will allow a more predictable, orderly bylaw that reduces permitting delays and uncertainty, so that affected landowners can better plan and maintain open space and environmental benefits.
- Under current zoning, the commercial setback is 50 feet, **double** that of the residential setback, thus ensuring a minimum distance of 75 feet between a residential and commercial building.
- Without the OSRD, land owners frustrated by uncertainty and lack of flexibility may convert their properties to suburban development – which is allowed by right!

What's Changed from the Original Proposed Bylaw Amendment?

Since the Selectmen submitted the proposed OSRD in January 2015, farmers have made it clear that they do not want their land affected by this bylaw amendment. Therefore, **all language pertaining to agriculture and related operations has been dropped** from the proposal. In addition, the proposed changes increase the size of the parcels that can use this overlay district **from 50 acres to 75 acres** in order to further restrict its application. The original OSRD was also redrafted in a format more consistent with Egremont's zoning bylaw to make it easier to read and understand. **With your input**, any additional changes can be made and proposed as a single, comprehensive amendment to the original OSRD. Under state zoning law, these changes can only be introduced on Town Meeting floor, providing time for the public to voice their recommendations and to ask the Board of Selectmen, who sponsored the OSRD zoning amendment, to offer those changes at Town Meeting.

Zoning

(Open Space/Recreation District)

3.1.1.3

f. The OPEN SPACE AND RECREATION DISTRICT (OSRD)

3.2.8. The Open Space and Recreation Overlay District (herein the "OSRD") is hereby established as an Overlay District that includes all parcels within the Town of Egremont, Massachusetts.

5.7. Open Space and Recreation

5.7.1. Intent and Purpose

- (1) To modify use restrictions of land and to apply special use and other standards to certain types of development within the Town of Egremont. The intent of the OSRD is to allow for the use of larger tracts of land in a manner that will achieve the other purposes of this Bylaw while reducing the possibility of potential negative impacts on abutters;
- (2) To protect and preserve open spaces, scenic views, natural resources, and areas of natural beauty;
- (3) To preserve land for outdoor recreational uses;
- (4) To promote types of rural resource economics that generate income for townspeople while inhibiting overdevelopment; and
- (5) To establish a category of zoning for certain large parcels that are currently used or have the potential to be used for recreational purposes.

5.7.2. Relationship to Other Districts

The OSRD modifies and, where there is inconsistency, supersedes the regulations of the underlying zoning district. Except as so modified or superseded, the regulations of the underlying district remain in effect.

5.7.3 Allowed Uses in the OSRD

In addition to uses allowed under this Bylaw, on all parcels, or connected parcels owned in the same name greater than 75 acres, land, buildings and structures may be used, individually or collectively, as of right, for active and/or passive outdoor recreational activities, whether or not pre-existing. Multiple principal uses and structures are allowed in the OSRD if the other provisions of this Section 5.7 are met. One or more of the following uses are allowed:

- (1) golf courses; (2) tennis courts; (3) boating areas; (4) ski resorts; (5) play and family activity areas; (6) nature trails; (7) hiking areas; (8) climbing areas; (9) adventure or structured climbing activities; (10) non-motorized biking and recreation; (11) horseback riding; and (12) scenic tours.

5.7.4. Accessory Buildings, Structures and Uses in the OSRD

Accessory buildings, structures and uses that are incidental to a principal building, structure or use and that are commonly associated with the above listed uses are allowed, provided that each accessory building, structure or use has a footprint less than 12,000 square feet, unless a special permit therefore is issued by the Board of Selectmen pursuant to Section 6.2 of this Bylaw.

5.7.5. Prohibited Uses in the OSRD

Unless existing prior to the adoption of this Section 5.7, shooting ranges and commercial operation of motorized recreational vehicles, such as motorcycles, dirt bikes, ATVs and go-carts, are not allowed in the OSRD.