

# Town of Bolton Development Review Board

Bolton Town Office  
2712 Theodore Roosevelt Highway  
Bolton VT 05676  
802-434-5075

In re: **DDJG Property Ventures, LLC**  
**Pre-Application Sketch Plan Review**

May 8, 2006

DDJG Property Ventures, LLC  
29 Railroad Street  
Colchester, VT 05446  
Attn: David Dubrul and Jeff Garfield

Dear Messrs. Dubrul and Garfield,

Thank you for attending the February 15<sup>th</sup>, March 11<sup>th</sup>, and April 26<sup>th</sup> 2006 meetings of the Development Review Board (DRB), and a March 15<sup>th</sup> site visit, to present your sketch plan for the proposed subdivision of a 37.5 acre parcel located in the RI and RII Districts off of Champ Lane (Tax Map Parcel ID #4090579).

According to information provided and as recorded in the minutes of our meetings on file at the Bolton Town Office, it is our understanding that:

- The proposal is for the subdivision of a pre-existing, nonconforming 37.5 acre parcel located in the R1 District (~12.5 acres) and the R2 District (~25.0 acres), as shown on a survey plat of the Fuller Estate, dated May 1988. The parcel currently meets district dimensional standards with the exception of district frontage requirements. It may be accessed from Green Mountain Drive (private road) via a 50-foot right-of-way owned by the property owners (in a different mapped location than the existing access) or by a second access from Champ Lane (private road), consisting of existing rights-of-way that are 16.5 feet, 30 feet and 50 feet in width.
- The land in question consists of steep and very steep terrain as defined in Bolton's Land Use & Development Regulations (Section 3.16), with slopes equal to or in excess of 15%. Much of the land, as shown on the slope map provided, includes slopes in excess of 25%. The parcel is currently undeveloped. A recently installed logging road is being used for logging operations, and to provide access for further site evaluation, including septic system test pits. The project, as proposed, would create approximately 1.5 acres of impervious surface – state stormwater permits will be required.
- The proposal is for a planned residential development on 37.5 acres, which could result in the creation of up to seven lots, based on densities calculated from minimum district lot sizes. Lots would range in size from 1.4 acres to 15.0 acres and accommodate seven house sites for the construction of single family homes to be served by a combination of individual and shared on-site water and wastewater systems. Potential lot lines, house sites and septic system locations are shown on an orthophoto-based sketch plan dated January 2006. All house sites, with the exception of the house on Lot #7, would be located in the R1 District. Land in the R2 District otherwise would remain undeveloped, but is not included as designated as open space on the sketch plan.
- The project would be developed in two phases. Phase I would involve the development of Lots 1-3 as shown on the sketch plan, using a shared drive from the end of Champ Lane. The

applicant would be willing to upgrade Champ Lane, and the existing right-of-way from the end of Champ Lane, to accommodate increased traffic from the proposed development. Phase II would require a second access from Green Mountain Drive to serve the four remaining lots, that would involve upgrading the existing access road (approximately 700 feet) and the construction of approximately 200 feet of new road adjacent to the Green Mountain Power Substation, or negotiating use of the existing right-of-way. It was apparent from the site that a new road would likely fall within the required buffer of a drainage that flows on that side of the substation.

- Approximately 2,060 feet of access road is proposed within a 50-foot right-of-way, as shown the sketch plan, with three landing/pull-off areas large enough to accommodate the transport of modular home sections. The proposed road will include improvements to the recently installed logging road. The road would be constructed in conformance with A-76 standards, as required under the Bolton Land Use and Development Regulations, and have a gravel surface 18-feet wide, except in landing/pull-off areas. Finished grades would not exceed 15% and, according to a letter submitted by the developers from the Bolton Fire Department, dated \_\_\_\_\_, would be acceptable to the department for emergency vehicle access. The access road would be maintained by a homeowners association.
- As shown in the meeting record, the DRB is in receipt of letters from adjoiners Mark and Tina Atwood dated 2/15/06, and Calvin and Diana Blow and Tiffany Fahl and Jerome Blow, dated 2/20/06, that express concern regarding the use of existing rights-of-way to access the proposed development. Copies of these letters were provided to you and are on file at the Bolton Town Office.
- Proposed house and septic system sites are located in areas where, as indicated on maps provided, slopes are less than 25%. The proposed access road, however, would necessarily involve the disturbance of slopes in excess of 25%. Cut and fill will be required in several sections to reduce grades to 15%. Steep slope protections are included under Sections 3.16 (Steep Slopes) and 7.3 (Protection of Natural & Cultural Resources) of the Bolton Land Use & Development Regulations. The developers submitted a letter from Attorney David H. Greenberg, dated March 15, 2006 regarding the potential applicability of Section 3.16 (Steep Slope) provisions. At the request of the DRB, the Bolton Planning Commission clarified, in a memo dated \_\_\_\_\_ that the intent of the steep slope provisions under Section 3.16 of the regulations is to prohibit any site disturbance on slopes in excess of 25%. A copy of this memo was given to you. The letter and memo are on file at the Bolton Town Office.

Based on the information provided, in accordance with Section 6.3(D) of the Bolton Land Use and Development Regulations, it is our determination that:

1. The proposed subdivision includes more than three lots, the development of a new access road, and is to be developed as a planned residential development (PRD). It would therefore be classified as a major subdivision.
2. The DRB, in associated with PRD approval, would have the ability to waive or modify zoning district dimensional and density requirements, for purposes stated in the regulations. As presented, however, the proposed subdivision would not comply with other provisions of the Bolton Land Use and Development Regulations, including:
  - RI and RII District PRD standards [Tables 2.4(E)(5), 2.5(E)(5)] in which PRDs are specifically allowed and encouraged to “protect significant natural resources, to promote the development of

affordable housing in appropriate locations, and to preserve open space.” The proposed design allows for more efficient use of land for residential development, but does not address housing affordability nor identify designated natural resource or open space areas (including steep slope areas) for protection.

- Section 3.16 (Steep Slopes) which requires conditional use review for development on steep slopes equal to or in excess of 15%, and prohibits development on very steep slopes in excess of 25%. Though proposed house sites appear to be under the 25% slope limit, access to those sites would require significant disturbance of slopes in excess of 25%.
- Section 7.3 (Protection of Natural & Cultural Resources) which requires that subdivision boundaries, lot lines, and building envelopes shall be located and configured to minimize adverse impacts to slopes greater than 15%, to avoid disturbance to slopes in excess of 25%, and to avoid the placement of structures on rock outcrops, prominent hilltops and ridgelines. Driveways and access roads are also to be designed to avoid areas of steep slope. Land characterized by steep slopes is to be protected as designated open space under Section 7.4 (Open Space & Common Land) which, at minimum, would include identification and notation on the subdivision plat.
- Section 7.6 (Transportation Facilities & Infrastructure) which requires that all access to the subdivision, and to individual lots, meet applicable access and driveway standards (Section 3.2); and that all access roads be designed, laid out and constructed in accordance with the requirements of Section 7.6(D). Given the slope of the proposed access road (up to 15% grade), associated construction, maintenance and stormwater management and erosion control requirements, and that access issues with adjoining property owners remain unresolved, it is not clear that applicable standards could be met. Moreover, dead-end roads in excess of 2,500 feet are specifically prohibited.
- Section 8.5 (General Standards) which requires that PRDs “present an environmentally sensitive, effective and unified treatment of the site(s) which, to the extent feasible locate or cluster development on the most developable portions of the site(s) and exclude from development environmentally sensitive areas, including: areas of very steep slope...;” and “designates functional open space that is contiguous with such land on adjoining parcels, which incorporates significant natural and cultural features identified for protection, including environmentally sensitive areas... ”

The DRB has the ability, for purposes stated in the regulations and in association with the approval of a planned residential development, to grant requested waiver or modifications of zoning district requirements and subdivision review standards under Articles VII and VIII. However, given that existing slope characteristics severely limit the development suitability of the entire parcel we could not, under our regulations, approve the creation of new, essentially nonconforming lots intended for further development.

Section 3.16 of the regulations, however, as noted in our meetings and your attorney’s analysis of our regulations, does allow for development on slopes in excess of 25% subject to conditional use review, on “pre-existing lots legally in existence as of the effective date of these regulations (January 26, 2005) for which the Board determines that there is no portion of the lot on which the slope does not exceed 25% and, as such, that the total prohibition of development on slopes in excess of 25% would unduly preclude reasonable use of the lot” which, the DRB agrees, could include the construction of a single family home. In order to approve such a use, the DRB would have to find that the application addresses and meets all applicable requirements of the regulations, including:

- conditional use approval requirements under Section 5.4 (Conditional Use Review) including applicable site plan approval criteria (Section 5.3);
- requirements for development on steep slopes (Section 3.16), including a demonstration that the building envelope and access are located to minimize, to the extent feasible, site disturbance within areas of very steep slope (>25%), and that adequate stormwater management and erosion control will be provided in accordance with a plan to be approved by the Board; and
- related access requirements for pre-existing, nonconforming lots (Section 3.2), including the statutory and regulatory requirement for access to such lots via a right-of-way that is least 20 feet in width.

Please note that, in accordance with our regulations, DRB sketch plan review determinations are intended to serve as guidance to potential applicants and, as such, are not binding on the town or the applicant. If major subdivision and planned residential development review are requested, an application that addresses DRB concerns and is designed to meet the requirements of our regulations should be made within six (6) months of the date of issuance of this letter, or another sketch plan meeting will be required. The application should include all applicable materials listed in Table 6.2.

The applicant has the option of requesting in writing the waiver of preliminary plan review, as well as other standards of subdivision review, under Section 6.2. Modifications or waivers of applicable zoning district dimensional and density requirements should be submitted in association with the request for planned residential development review under Article VIII, which would be conducted concurrently with subdivision review. All waiver requests should accompany the application.

An application for conditional use review under Section 3.16 may be submitted concurrently with an application for final subdivision review, or at any time if no subdivision of land is proposed, and should include all applicable materials listed in Table 5.1.

Please contact our Zoning Administrator, Dick Ward, to obtain forms or if you have any questions or need further assistance.

Sincerely,

Sharon Murray, Chair  
Bolton Development Review Board

cc: Mark & Tina Atwood, 95 Champ Lane, Bolton, VT 05676  
Calvin & Diana Blow, PO Box 588, Richmond, VT 05477  
Jerome Blow & Tiffany Fahl, 216 Green Mountain Drive, Bolton, VT 05676