

Town of Bolton
Development Review
Board

3045 Theodore Roosevelt Highway
Bolton VT 05676
802-434-5075

In re: **Catamount/Bolton Land, LLC**
Final Subdivision Review
May 18, 2006

FINDINGS AND DECISION

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves the review of an application for final subdivision and plat approval submitted by Catamount/Bolton Land, LLC, John Wakefield agent, for a major subdivision under the Bolton Land Use & Development Regulations. The property is located in the Rural II and Forest Districts, along the west side of the Bolton Valley Access Road (Tax Map Parcel ID # 3003227). The request is for the subdivision of an existing 2,398 +/- acre parcel, owned by the applicant, into two lots of 840+/- acres and 1,422+/- acres, for purposes of transferring ownership of the 840-acre parcel to a private party for use as a wood lot.
2. A pre-application sketch plan review was held during the February 15, 2006 meeting of the Development Review Board. The applicant also requested that preliminary subdivision review be waived by the board under Section 6.2 of the Bolton Land Use & Development Regulations. A letter of determination was issued by the board on March 7, 2006, and sent to the applicant by certified mail. Based on information received, it was determined by the board that the proposed subdivision should be reviewed as a major subdivision, because it involved the re-subdivision of previously subdivided property that would result in the creation of four or more lots. It was also requested that that the final subdivision plat show:
 - zoning district boundaries,
 - environmentally sensitive areas (critical wildlife habitat, slopes in equal to or in excess of 15% and 25%, and surface waters, wetlands, and associated setback areas), and
 - any VAST and Long Trail corridor rights-of-way, and information regarding current easements or agreements.

The applicant's request to waive preliminary review under Section 6.2 (B) was granted since the parcels to be created are 30 acres or more and are to remain undeveloped.

3. The application for final subdivision approval was received at the Bolton Town Office on March 28, 2006. A copy of the application is available at the Bolton Town Office.
4. On Tuesday, April 11, 2006, notice of a public hearing for final subdivision review was published in the Burlington Free Press.
5. On Friday, April 7, 2006, notice of a public hearing for final subdivision review was posted at the following places:

- a. The Bolton Town Office
 - b. Catamount/Bolton Land, LLC's property, which is within view of the Bolton Valley Access Road, the public-right-of-way most adjacent to the property for which the application was made
 - c. The Bolton Store
 - d. The Jonesville Post Office
 - e. Smilie Memorial School.
6. On Saturday, April 8, 2006, a copy of the notice of a public hearing was mailed to the applicant. On Saturday, April 8, 2006, a copy of the notice of public hearing was mailed to the nineteen owners (names and addresses provided by Catamount/Bolton Land, LLC) of properties adjoining the property subject to the application.
 7. The application and plat were considered by the Development Review Board at a final public hearing on Wednesday, April 26, 2006. The Development Review Board reviewed the application and plat under the Bolton Land Use & Development Regulations, as adopted January 5, 2005 (effective date January 26, 2005).
 8. Present at the hearing were the following members of the Development Review Board, representing a quorum of the board:
 - Sharon Murray, Chair
 - Margot Pender
 - Mike Rainville
 - Jerry Chabot
 - Michael Hauser, Alternate
 - Rob Heimbuch, Alternate

There were no identified conflicts of interests or recusals.

8. At the outset of the hearing, Development Review Board afforded those persons wishing to achieve status as an interested person an opportunity under 24 V.S.A. §4465(b) to demonstrate that the criteria set forth in that statute could be met. It was determined for the record that Catamount/Bolton Land, LLC, John Wakefield, agent, as applicant met the criteria for interested person status and retained the right to appeal any decision of the DRB under these proceedings. No other person requested interested person status or otherwise participated in these proceedings. All testimony was presented under oath, as administered by the Chair.
9. During the course of the hearing the following exhibits were submitted to the Development Review Board, which are on file and available at the Bolton Town Office:
 - The DRB application form, dated 3/28/06, and adjainer list.
 - General description of the project.
 - Final subdivision plat (paper), prepared by Christopher J. McKown, Little River Survey Company, LLC, dated March 2006, showing the proposed subdivision of Lot

- B-1 (840+/- acres) from Lot B (1,422+/- acres), in relation to surrounding parcels and the Bolton Valley Access Road.
- A “Property Base Map” showing elevation contours (contour interval not specified), prepared by the S E Group, dated January 23, 2006
 - Bolton Zoning Map indicating the approximate location of the 840-acre parcel in relation to Rural II and Forest Zoning Districts.
 - Proposed ANR wastewater system and potable water supply permit application (undated)
 - Preliminary forest stand map and stand analysis, prepared by S. Moreau of Greenleaf Forestry, Jericho, VT, dated August 2003, which identifies stand types, including the percentage of beech (mast) by map area.

10. Subdivision approval was requested for the project pursuant to review under the following sections of the Bolton Land Use & Development Regulations:

- Article II, Section 2.3, Tables 2.5 and 2.7
- Article VI, Section 6.5
- Article VII, Sections 7.1 - 7.3

It was determined by the Board that the application was sufficiently complete to make findings under applicable regulations, given that no additional development was being proposed. The DRB waived the final subdivision application requirement for the final plat to be on Mylar, and accepted the paper copy at the April 26, 2006 public hearing. This waiver shall not apply under Section 6.6, Plat Recording Requirements.

11. The hearing was adjourned on April 26, 2006, requiring the issuance of a decision by the Development Review Board by June 9th, 2006 in order to meet the 45-day statutory requirement. The Board voted to enter deliberative session on April 26th, 2006, pending the issuance of this written decision.

FINDINGS

Based on the application, testimony, exhibits, and other evidence submitted the Development Review Board makes the following findings:

1. The applicant seeks approval to subdivide an existing lot into two lots for purposes of transferring ownership. The subject property is a 1,517+/- acre parcel located off of the lower west side of the Bolton Valley Access Road in the Town of Bolton, Tax Map Parcel ID # 3003227. The applicant will retain the 1,422 acre parcel, identified as “Lot B” on the plat. The 840 +/- acre parcel, identified on the plat as “Lot B-1,” will be transferred to a private party for use as a wood lot.
2. The property is located in the Rural II and Forest Districts as depicted on the Town of Bolton Zoning Map on record at the Bolton Town Office and as described in Tables 2.5 and 2.7 of the Bolton Land Use & Development Regulations. Proposed lots will meet applicable zoning district requirements including minimum lot size and lot width/frontage requirements.

3. According to testimony presented, the majority of land to be subdivided has steep slopes of 15% or more, and includes areas of very steep slope in excess of 25% that are not conducive to development. These areas of steep and very slope are suggested from contours on the project base map, but are not shown on the final subdivision plat as submitted.
4. The locations of surface waters are also indicated, but required setbacks are not shown on the final subdivision plat as submitted.
5. The entire area of both parcels is identified on state maps as productive bear habitat. Stand information submitted by the applicant indicates that beech stands (an important mast crop for bears) comprise between 18% and 28% of the forest cover within the project area. Deer habitat has also been identified in the vicinity. According to the applicant, John Gobeille from the Vermont Department of Fish and Wildlife is in the process of examining the property to determine if the subdivision will have any significant impact on wildlife in the area, as required for Act 250.
6. No development, including the construction of roads or structures, is proposed at this time. The buyer of the 840 acre parcel intends to use the lot, at present, for wood production. The buyer at some point may apply for necessary permits for residential use of the property – for example to construct two log homes to be used as a seasonal getaway.
7. Act 250 and state wastewater system permit amendments are required. No Act 250 hearing has been requested, and approval is expected the week of May 1, 2006. Catamount/Bolton Lands LLC is amending their state wastewater system permit only because of the water/wastewater system that is located on the retained lot – no additional system capacity is proposed.
8. There are no written easements for VAST, GMC, or Catamount trails, only informal landowner agreements – these are therefore not shown on the final plat. The future owner plans to allow for continued access and use, but any easements or written agreements would have to be negotiated with the new owner.

DECISION AND CONDITIONS

Based upon these findings, and subject to the conditions set forth below, the Development Review Board votes (5 – 0) to grant the application for final approval of a major subdivision.

Members voting in favor: Sharon Murray, Jerry Chabot, Margot Pender, Mike Rainville, Michael Hauser (Alternate); Rob Heimbuch (Alternate) did not vote.

We find that the proposed subdivision meets applicable requirements of the Bolton Land Use & Development Regulations, including the following:

- Article II (Zoning Districts), Section 2.3, Tables 2.5 (Rural II District) and 2.7 (Forest District) – the final plan and plat generally conforms to the purpose of each district to to maintain Bolton’s rural character, protect significant natural resources, and to protect Bolton’s more remote and inaccessible forested upland areas from fragmentation, development, and undue environmental disturbance, while allowing for continued traditional uses such as forestry, outdoor recreation and limited, compatible low density development. Proposed lots will meet minimum district lot size requirements and applicable district dimensional standards, including minimum lot frontage or width requirements.
- Article VI, Section 6.5 (Final Subdivision Review). The final plan and proposed plat generally conforms to applicable review standards under Article VII and the Bolton Town Plan currently in effect.
- Article VII (Subdivision Standards). The land to be subdivided is to remain undeveloped at present, therefore most standards under Article VII do not apply. It is acknowledged, however, that the lots to be created are severely limited in their development suitability by the presence of steep slopes, critical wildlife habitat, and surface waters, which are not shown on the final subdivision plat as submitted for review. As required under Sections 7.2 – 7.4 of the Bolton Land Use and Development Regulations, subdivisions of land shall set aside as designated open space and/or exclude from subsequent development, surface waters, critical wildlife habitat areas and associated buffer areas, as well as and land that is characterized by steep slopes. Any further development of these lots, therefore, will be subject to the following conditions of subdivision approval.
- In addition, Section 3.16 (B)(3) of the Bolton Land Use and Development Regulations regarding development on slopes in excess of 25% *shall not apply* to any subsequent development of either lot to be created by this subdivision since neither of these lots will predate The Bolton Land Use and Development Regulations, as adopted January 5, 2005 (effective date January 26, 2005).

The Development Review Board approves the final subdivision application and plat subject to the following conditions:

1. Within 180 days of receipt of final subdivision approval under Section 6.5, the subdivider shall file a Mylar plat in the Bolton land records in accordance with the requirements of 27 V.S.A. Chapter 17, and provide two (2) paper copies and one (1) digital copy of the recorded plat to the Zoning Administrator. In addition to the requirements of Section 6.6 (Plat Recording), the following shall be shown on or appended to the Mylar plat as recorded in the land records of the town:
 - a. Areas of steep slope (15% –25%) and very steep slope (>25%) with the notation that any subsequent development or site disturbance on slopes of 15% to 25% shall be subject to conditional use review and approval by the Bolton Development Review Board; and that development and site disturbance, including the construction of structures and roads, is prohibited on slopes in excess of 25%,

which shall be designated on the plat as open space in accordance with Sections 7.2 – 7.4 of the regulations.

- b. Surface waters, wetlands and setback areas, as required under Section 3.17 and Section 7.3(B) of the regulations pertaining to surface waters and wetlands, which shall also be designated on the plat as open space in accordance with Sections 7.3 and 7.4 of the regulations.
2. Within 180 days of receipt of final subdivision approval, a copy of the critical wildlife habitat report from the Vermont Fish and Wildlife Department shall be placed on file with the original application at the Bolton Town Clerk's Office. Copies shall also be provided to the Bolton Conservation Commission, and to the buyer of the subdivided parcel. Department recommendations for the protection of critical wildlife habitat shall be incorporated in any subsequent development proposals for the subdivided lots.
3. Applications for the subsequent development of subdivided lots shall include designated building envelopes that meet the requirements of Sections 7.2(E) (Building Envelopes) and Section 7.3 (Protection of Natural & Cultural Resources). Access roads or driveways shall be designed to meet the requirements of Section 7.3, in addition to any other applicable requirements of the Bolton Land Use and Development Regulations in effect at the time of application.

The Bolton Development Review Board also strongly encourages Catamount/Bolton Land, LLC and any future owners of subdivided lots to allow for continued, managed public access for traditional outdoor pursuits, including access for hunting and existing recreational trails (e.g., the Catamount, VAST and Long Trails) that cross these properties; and to meet with the Bolton Conservation Commission, the Bolton Select Board, and other organizations as appropriate to negotiate the dedication or sale of conservation or trail easements that would allow for permanent trail protection.

The approval of the Development Review Board shall expire 180 days from the date of this decision, unless the approved plat is signed by the Chair of the Bolton Development Review Board and duly filed or recorded in the Bolton Town Office.

Dated at Bolton Vermont, this 18th day of May, 2006.

Sharon Murray, Chair Bolton Development Review Board

<p>NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceedings before the Development Review Board. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.</p>
