

Town of Bolton Development Review Board

Bolton Town Office
3045 Theodore Roosevelt Highway
Waterbury, VT 05676
802-434-5075

Automotive Services International, Inc.
EPSC Master Plan (Docket No.6-1-10 VTec)
June 20, 2013

Applicant

Automotive Services International, Inc.
(d/b/a The 4x4 Center)
c/o Michael Hopwood
63 Ethan Allen Drive
South Burlington, VT 05403

Landowner

Catamount/Bolton Land, LLC and
Mountain Operations and Development, LLC
(d/b/a Bolton Valley Resort)
c/o Larry Williams, President
4302 Bolton Valley Access Road
Bolton Valley, VT 05477

Application

(Application materials on file at the Bolton Town Office, procedural history attached.)

The applicant, Automotive Services International Inc. d/b/a as the 4x4 Center, has submitted a "Master Plan for Erosion Prevention, Sediment Control and Stormwater Management" (EPSC Master Plan) dated June 2012, prepared by Greenleaf Forestry, and supplemental materials prepared by Grover Engineering PC, for review by the Bolton Development Review Board (DRB) under the terms of the Stipulation and Dismissal Order in Docket No. 6-1-10 VTec, (Stipulation Order) dated June 15, 2011 and amended on February 18, 2013. DRB review of the submitted EPSC Master Plan is limited to findings and conclusions based on "Conditions Regarding Master Planning" as specified under Condition #6 of the Stipulation Order.

DRB review under this order applies to planned erosion prevention and sediment control measures for 4x4 Center activities and areas of development specifically identified in the EPSC Plan as submitted, to include new trail development, facilities and features on the "South Parcel" in the vicinity of the Timberline Base Lodge at Bolton Valley Resort, currently owned by Catamount Bolton Land, LLC and Mountain Operations and Development (Tax Map ID # 7-3004250), accessed from the Bolton Valley Access Road.

Conclusions and Decision

Based on the attached findings, the DRB has determined that:

1. The application as submitted under the terms of the stipulation order is substantially complete.
2. Based on the qualifications and written certification of Dean Grover, PE that the EPSC Plan as submitted meets applicable state standards and incorporates best management practices necessary to minimize erosion, sedimentation and stormwater impacts to the greatest extent possible, the DRB agreed (3-1, Sharon Murray dissenting) to waive its right to require an independent technical review of the application, as provided under the stipulation order. This was done with the understanding that, under the terms of the order, the DRB cannot therefore require changes or modifications to the plan as submitted, with regard to erosion prevention and sediment control.

3. Based on the above findings and certifications, the DRB has determined that the EPSC Master Plan as submitted under the stipulation order, including best management practices and protocols for regular monitoring and maintenance, will minimize erosion, sedimentation and stormwater impacts to the greatest extent possible.

The Bolton Development Review Board hereby approves the EPSC Master Plan as submitted by the applicant under Condition #6 of the stipulation order, specifically as it pertains to planned erosion prevention and sediment control activities for 4x4 Center activities and uses listed in the plan. As such, trails, features and structures listed in the application and referenced in the above findings shall be exempt from compliance with § 3.16 (B) of the Bolton Land Use and Development Regulations prohibiting development on slopes in excess of 25%, provided that they are developed in full compliance with the EPSC Master Plan as submitted, including the EPSC measures and BMPs identified therein, and there is no other evidence of ongoing undue erosion or stormwater runoff. Pursuant to the terms of the stipulation order:

1. This EPSC approval applies only to § 3.16 of the Bolton Land Use and Development Regulations. It does not exempt facilities or uses identified in the EPSC Master Plan from any other applicable requirements of the regulations. All development listed herein that has not been previously approved by the DRB is subject to separate DRB review and approval under applicable provisions of the regulations, including but not limited to zoning district requirements, general and development review requirements, and provisions for planned unit development (as applied to master plans), including standards that address the overall impacts of 4 x4 Center development on forestland, wildlife habitat, riparian buffers and public water supply source protection areas. All prior conditions of approval for development previously and separately approved by the DRB remain in full force and effect.
2. Approval of the EPSC Master Plan shall not prohibit an application for DRB review and approval of additional activities that are not identified in the master plan. Such activities will be subject to review under § 3.16 if applicable, unless incorporated under an amended master plan approved by the DRB.
3. The Town shall have the right to independently enforce violations of the EPSC Master Plan in the same manner and to the same extent as any other violation of the zoning regulations.
4. The applicant shall provide the town with copies of any and all correspondence to and from representatives of the Vermont Agency of Natural Resources and Act 250 related to the 4x4 Center's use of trails, and shall give the Town at least 30 days advanced notice of any changes or modifications to State of Vermont environmental permits relative to or materially impacting the trails related to the 4x4 Center's "Off-Road Driver Training Program."
5. Upon reasonable notice, the applicant shall provide the town's Zoning Administrator with periodic access to the expanded trail system so that he or she may ascertain compliance with the EPSC Master Plan under the stipulation order relating to the 4x4 Center's "Off-Road Driver Training Program. In the event that the use of a trail by the applicant results in ongoing, under erosion or other sustained adverse impacts, notwithstanding implementation by the applicant of the erosion prevention and sediment control measures referenced in the EPSC Master Plan, nothing herein shall preclude the town's Zoning Administrator from ordering that the use of that trail cease unless and until appropriate remediate action is taken.

6. In the event that the 4x4 Center's Off-Road-Driver Training Program is replaced by a successor 4x4 driver training school or similar operation, the EPSC Master Plan as approved by the DRB, including ongoing trail maintenance obligations, shall continue in effect and shall be the responsibility of the successor. In the event that this use is discontinued and not replaced, then the landowner shall, at its option, either (1) assume responsibility for maintaining any erosion control infrastructure installed pursuant to the EPSC Master Plan, or (2) promptly "de-commission" and remove the same to avoid future failure of such infrastructure over time. Failure to decommission within a reasonable time shall evidence intent to assume the maintenance obligation.

EPSC Master Plan approved as submitted (3-1) by the Bolton Development Review Board:

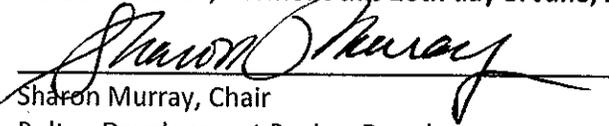
Jenifer Andrews – Yea

Margot Pender – Yea

Sharon Murray – Nay

Michael Rainville – Yea

Dated at Bolton, Vermont this 20th day of June, 2013.


Sharon Murray, Chair
Bolton Development Review Board

NOTICE:

1. In accordance with 24 V.S.A. § 4449(e), the applicants are hereby notified that state permits also may be required prior to land subdivision or construction. The applicant should contact the DEC Permit Specialist for District #4 (802-879-5676) to determine whether state permits are required.
2. This decision may be appealed to the Environmental Division of the Vermont Superior Court by an interested person who participated in the proceeding 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 Division Court Proceedings.

Review Process

(Application materials, hearing notices, minutes on file at the Bolton Town Office)

An initial application for Erosion Prevention and Sediment Control (EPSC) Master Plan review and approval by the DRB, dated July 12, 2012, was filed by Automotive Services International (d/b/a the 4x4 Center) in association with landowner Mountain Operations and Development LLC and Catamount/Bolton Land LLC, pursuant to the Stipulation of Dismissal and Order issued under Docket No. 6-1-10 VTec, dated June 15, 2012. The application was deemed incomplete by the Zoning Administrator, as stated in a letter to the applicant issued on September 19, 2012. On appeal, following a warned public hearing, the DRB determined in a written decision issued on November 27, 2012 that the application would be accepted for DRB consideration if reviewed and certified by an EPSC professional as required under the terms of the stipulation order, or by a professional engineer licensed by the state, as required under the Bolton Land Use and Development Regulations. At that time the DRB retained its right to also request an independent technical review of the EPSC plan under the terms of the order. The stipulation order, as amended by all parties to allow a professional engineer to certify the plan, was received by the town for recording on February 26, 2013 and forwarded to the DRB.

The EPSC Master Plan was resubmitted for DRB review, as prepared by Greenleaf Forestry and reviewed and certified by Dean Grover, PE of Grover Engineering PC, along with additional materials prepared by Mr. Grover, on February 27, 2013 and referred to the DRB. The public hearing to consider the application, warned in accordance with 24 V.S.A. § 4464 and the Bolton Land Use and Development Regulations, was scheduled for April 23, 2013 but, due to the lack of a quorum that evening, was rescheduled for a special meeting of the DRB warned and held on May 7, 2013, 6:30 pm at the Bolton Town Office with a quorum of the DRB present. There were no reported ex parte communications, conflicts of interest, or recusals. The hearing was adjourned that evening.

The following persons attended and participated in the hearing process, or submitted written comments prior to the hearing date, and may be afforded status as interested persons with rights to appeal this decision:

Michael Hopwood, Applicant	Representing Automotive Services International
Larry Williams, Landowner	Representing Mountain Operations and Development, LLC and Catamount/Bolton Land, LLC
Scott Moreau, Consultant	Representing the applicant
Dean A. Grover, PE	Greenleaf Consulting, Inc., PO Box 39, Westford, VT 05494 Grover Engineering PC, 2044 Main Road, Huntington, VT 05462
Dory Barton	Representing the applicant Arrowwood Environmental, 950 Bert White Road, Huntington, VT 05462 Representing the applicant

The following materials in support of the application were submitted during the hearing process:

- A. Transmittal Letter from Claudine Safar, Esq., Monaghan, Safar Dwight PLLC, dated 2/27/13.
- B. Letter from Dean A. Grover, PE, Grover Engineering PC dated 2/5/13 regarding the completeness of the application, and a description of the plan features as specified under the terms of the stipulation order.

- C. "Master Plan for Erosion Prevention, Sediment Control (EPSC) and Stormwater Management, 4x4 Center Vermont" (June 2012), as developed by Scott Moreau Greenleaf Consulting Inc (Greenleaf Forestry), as reviewed, revised and approved by Dean Grover, PE (State License No. 5696). This included the following materials, as reviewed by the DRB under the terms of the order:
1. Plan Narrative
 2. Appendix A: Maps
 - Map 1 Driving School Training Site, prepared by J. Carroll, 9/21/12
 - Map 2 Driving School Timberline Area, prepared by J. Carroll, dated 9/21/12
 - Map 3 Driving School South Parcel, prepared by J. Carroll, dated 9/21/15
 - Map 3b Driving School South Parcel, prepared by J. Carroll, dated 10/3/12
 - Map 5 Percent Slope, prepared by J. Carroll, dated 9/21/12
 3. Appendix C: Master Plan Drawings
 - Site Plan – Warm-Up Area, prepared by Dean Grover, PE, dated 11/15/2012
 - Trail Details, prepared by Dean Grover, PE, dated 11/19/12
 - Erosion Prevention and Sediment Control Plan (Features), prepared by Dean Grover, PE, dated 11/15/12.
 4. Appendix D: Master Plan Schematics
 - Schematics for specified EPSC practices (Trails), prepared by Greenleaf Forestry
 5. Appendix E: Supplementary Comments from Professionals/ANR
 - Letter from Dean Grove, PE, dated 10/9/12

The following information pertaining to this application was also submitted at hearing:

- D. First Amendment to Stipulation and Dismissal Order, as recorded on February 26, 2013.
- E. Bolton Selectboard policy pertaining to independent technical reviews, as adopted by the board on May 5, 2013.

Findings

(Referencing "Conditions Regarding Master Plan," Condition #6 of Stipulation Order, in italics.)

The applicant will, within one year of the date of this Order, file with the Town a list of all areas on the Bolton Valley Resort property which the Applicant reasonably expects that it may develop for the 4x4 Center's "Off-Road Driver Training Program" within the next three years, and a list of associated uses, trails, structures, facilities and features.

For those areas and uses identified, the Applicant and/or Landowner shall develop and file for Town review a "Comprehensive Plan for Erosion Prevention, Sediment Control and Stormwater Management" (EPSC Master Plan) prepared and/or certified by either a professional engineer or a certified professional in erosion and sediment control and/or stormwater management, that addresses all areas and uses identified on the list, and conforms to the current "Vermont Standards for Erosion Prevention and Sediment Control. The master plan for erosion control and stormwater management shall be submitted for review and approval by the Bolton Development Review Board (DRB), which may consult with other EPSC professionals and require modifications to the plan.

1. A 5-year "Master Plan for Erosion Prevention, Sediment Control (EPSC) and Stormwater Management" for the 4x4 Center, prepared by Greenleaf Forestry, dated June 2012, as subsequently reviewed, revised and approved by Dean Grover P.E., Grover Engineering PC (State License No. 5696), and a letter from Mr. Grover, dated February 5, 2013 certifying to the completeness of the application, were filed with the Town of Bolton on February 27, 2013. The EPSC plan was also prepared for Act 250 master plan filing, as referenced in the plan. Only those portions of the plan relevant to DRB review under the conditions of the stipulation agreement are considered.
2. Areas on the Bolton Valley property that the 4x4 Center expects to develop within the next five years, as identified in Section IV (Areas of Expected Expansion) are limited to the "South Parcel" as generally shown on Maps 1 and 2, dated 9/21/12, the boundaries of which are subject to a separate subdivision application before the Bolton DRB.
3. Uses listed in the master plan proposed for development within the next five years include the following, as described in Section VI (Uses, Trails, Facilities and Features):
 - Trails – Use of 5.1 miles of additional trail, including 4.86 miles of trail on the upper portion of the South Parcel (above the Warm up Area) and 0.24 miles of new trail within the Warm-up area, as generally shown on Maps 1, 2 and 3b, dated 10/3/12. As noted on Map 3b, this will include the use of 3.93 miles of existing logging or ski trail and 1.17 miles of new connecting trail. Note: Certain trails included in the plan (Alpine Traverse, Hairpin) were previously approved by the Bolton DRB in a decision issued on December 12, 2012 (#2012-16-CU).
 - Winter Exercise Lane (feature) – as generally shown on Map 2 and detailed on the "Site Plan– Warm-Up Area" (Site Plan) dated November 15, 2012, to include the widening an existing 22-foot wide trail to 40-feet and adding a turnaround at the north end. Note: this feature was previously approved by the Bolton DRB in a decision issued on December 12, 2012 (#2012-16-CU).
 - "Flip Flop" (feature) – consisting of two dirt tracks reinforced with crush stone, approximately 50 feet long at different elevations, to be relocated within the Warm-up Area, as generally shown on Map 2.

- Traction Circle (feature) – consisting of a round track of crushed, compacted gravel, with a width of 30 feet, an inside diameter of 140 feet, and an outside diameter of 200 feet, to be located within the Warm-Up Area as generally shown on Map 2 and detailed on the Site Plan dated November 15, 2012.
- Hospitality Trailer Pad – consisting of a 30' by 30' leveled, grass pad, to be located adjacent to the existing winter skid pad, to park a trailer for winter warming and shelter, as shown on Map 2 and the Site Plan. Note: this feature was previously approved by the Bolton DRB in a decision issued on December 12, 2012 (#2012-16-CU).
- Storage Building/Area – to include an 86' x 26' building and 130' x 60' impervious storage/yard area, located within the Winter Warm-up Area next to the existing parking lot, as generally shown on Map 2 (Shop Area) and the Site Plan (3-Bay Shop and Office) to be used for office space, the storage of equipment, and light repairs.
- Additional trails and features may be developed within the lower portion of the South Parcel, but have not yet been identified or mapped and are therefore not subject to DRB review under the terms of the order.

The EPSC master plan required by this agreement for listed outdoor recreational uses shall be prepared in accordance with the current "Vermont Standards and Specifications for Erosion Prevention and Sediment Control" and at minimum shall include the following components:

A location map and site plan that identifies the type, location and extent of planned outdoor recreational facilities and uses in relation to steep ($\geq 15\%$) and very steep ($>25\%$) slopes, mapped surface waters and wetlands, existing facilities, public roads and adjoining properties. Said map and plan shall be of sufficient scale and detail to allow reasonable analysis of slopes and drainage in relation to existing features and proposed improvements.

4. The EPSC plan as submitted includes:

- Location maps (Maps 1, 2, 3, 3b) dated 9/21/12, prepared using 2011 Bing imagery as a base, at a varying scale of approximately 1" = 980', that show the general location of proposed trails, features and structures in relation to existing roads and facilities, surface waters and inventoried wetland areas.
- A "Percent Slope Map" (Map 5) dated 9/21/12, prepared at a scale of approximately 1"=1,200' from 2004 LIDAR data, that shows the general location of proposed "pervious" trails in relation to steep and very steep slopes, depicted on the map as shaded areas. The total length and relative percentage of proposed trails to be developed on steep and very steep slopes cannot be determined from this map, nor is this specified in the EPSC Plan; however as depicted on the map, the majority of trails to be developed are to be located on slopes with gradients in excess of 25% (shown in red) which comprise most of the parcel.
- The "Site Plan-Warm-Up Area" dated November 15, 2012, prepared by Dean Grover, PE, which shows proposed "impervious" features and structures, including the Traction Circle, Winter Exercise Lane, hospitality pad, and office storage area in relation to survey and LIDAR-derived elevation contours (1-foot intervals), mapped at a scale of 1"=60', and adjoining properties.

- "Trail Details" dated November 12, 2012, prepared by Dean Grover PE, which includes general trail construction notes and a table for the appropriate spacing of waterbars and broad-based dips for grades ranging from 5% to 40%, a profile and detail for the Winter Exercise Lane, and a cross-section of the hospitality pad.
- "Erosion Prevention and Control Plan" dated November 15, 2012, prepared by Dean Grover, PE at a scale of 1"=60' for the Traction Circle and Shop/Vehicle Wash Area, which includes notes regarding site conditions, required grading and erosion prevention and control measures, timeline, and associated erosion control measure details.

A description of the level, intensity or frequency of proposed uses.

5. The EPSC includes a general history and overview of 4x4 Center activities under Section I (Introduction), but no specific information regarding hours and days of operation, nor the number or types of vehicles that will be using the trail system and associated facilities per class session, or the number of sessions per week or season.
6. According to applicant testimony, no change in the frequency or level of use above that previously approved by the DRB is planned; additional trails and facilities are intended to provide additional routing flexibility and training options.
7. According to the applicant, Scott Moreau of Greenleaf Forestry, and Dean Grover, PE; all erosion prevention and sediment control measures, with regular monitoring and maintenance, have been designed to withstand existing and planned levels of use.
8. The applicant also requests that the DRB allow the 4x4 Center to operate anywhere on the permitted trail system at any time of the year under proposed protocols, except for protocols (and conditions of prior DRB approval) pertaining to Bicknell Thrush habitat. According to the applicant and engineer, the level of use is restricted by the fact that the 4x4 Center must operate the facility in a manner that does not create a water quality violation, and by habitat considerations. The level of use is to vary based on site conditions, including no use of the facility during periods where soils are near-saturated or saturated. Prior conditions of DRB approval regarding dates of operation, however, are not solely based on erosion prevention and sediment control – for example shared use of winter trails by skiers at Bolton Valley Resort (defined under prior conditions of approval as the principal use of the property) is also relevant, under previous findings.

Descriptions and schematics of the Best Management Practices (BMPs) to be employed in connection with a particular use or activity to ensure that erosion, sedimentation and stormwater impacts are minimized to the greatest extent possible. The BMPs shall comply with generally accepted state standards and specifications as certified by an ESPC professional.

9. The EPSC Plan and supplemental materials include the following:
 - EPSC Plan Section V (Environmental Protection and Erosion Control) prepared by Greenleaf Forestry, as reviewed by Dean Grover, PE, including erosion control protocols and practices specific to trails (pervious areas) and stream crossings. These were initially modeled on Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont (VANR 2006), with departures as reviewed by Mr. Grover.

- EPSC Plan Appendix D – Including schematics for erosion prevention and sediment control practices to be used in trail development and maintenance (pervious areas). These are also addressed under related protocols and on the “Trail Details” sheet prepared by Dean Grover, PE.
- Impervious surfaces (Buildings, Traction Circle), including activities where more than one acre of disturbance will occur during a particular phase of construction, are covered under supplemental materials listed above, including the “Erosion Prevention and Control Plan” dated November 15, 2012 prepared by Dean Grover, PE in accordance with the current Vermont Standards and Specifications for Erosion Prevention and Sediment Control.
- Letter from Dean Grover, PE, Grover Engineering, dated February 5, 2013, certifying in writing that the EPSC Plan conforms to applicable state standards, including both the Vermont Standards and Specifications for Erosion Prevention and Sediment Control (for impervious features) and Accepted Management Practices for Maintaining Water Quality on Logging Jobs in Vermont (for pervious features, including trails); and that proposed management practices are most appropriate to the situation, and will minimize erosion, sedimentation, and stormwater impacts to the greatest extent possible.

