



Town of Bolton Development Review Board

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

Catamount/Bolton Land, LLC
Final Subdivision Approval/Minor Subdivision
Application #2012-15-SD
January 11, 2013

Applicant

Catamount/Bolton Land, LLC
210 College Street, Suite 201
Burlington, VT 05401

Application

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

The applicant has requested approval to subdivide a 1,144± acre parcel from an existing, previously approved 1,499± acre parcel, to include the majority of Catamount/Bolton LLC land (and Nordic trail system) northwest of Joiner Brook and the Bolton Valley Access Road, for conveyance to the Vermont Land Trust and eventual transfer to the State of Vermont. The parcel to be subdivided (ID #16-001.000) is located at 3207 Bolton Valley Access Road in the Resort Residential, Forest and Conservation Districts, with 300± feet of road frontage below the "s-curve" where the Access Road crosses Joiner Brook. No additional development is proposed.

The land to be subdivided is largely forested and includes previously documented steep slopes, significant wildlife habitat (bear habitat) and biological areas, wetlands, headwaters and tributaries to Joiner Brook, and public water supplies and source protection areas. In addition to an established backcountry Nordic trail system, the parcel also includes the "Old Access Road" (Broadway Trail) previously used for emergency access, two backcountry shelters (historic Bolton Lodge and Bryant Camp), and retained rights and easements to a 50-foot right-of-way accessing a 19.3-acre community leach field area (to be retained by Catamount/Bolton Land LCC), a 50-foot Green Mountain Club trail easement, a 30-foot Catamount Trail easement, and various rights and easement reserved for the Mountain Operations and Development Corporation, including rights to develop backup wells, as described in the purchase and sales agreement included with the application.

This application has been reviewed by the Bolton Development Review Board (DRB) as a minor subdivision under Section 6.5 (Final Subdivision Approval) and applicable subdivision standards (Article 7) of the Bolton Land Use and Development Regulations as amended through July 19, 2010 and in effect at the time of application, and previous conditions of subdivision approval pertaining to this parcel under a decision issued by the DRB on May 18, 2006. The DRB's procedural history and relevant findings are attached.

Decision – Final Subdivision Approval:

- Denied
- Approved
- Approved with Conditions:

The Bolton Development Review Board hereby approves the subdivision of the 1,144± acre parcel to be conveyed to the Vermont Land Trust from the 1,499± acre parcel owned by Catamount Bolton LLC, (ID

#16-001.000), as shown on the draft subdivision plat dated June 2012, subject to the following conditions of subdivision approval:

1. The subdivision plat to be recorded in the land records of the Town of Bolton shall include and show the following information, as agreed to by the applicant:
 - a. An inset showing the location of the subdivision in relation to the Bolton Valley Access Road, Joiner Brook, and adjoining properties.
 - b. Lot lines, survey monument and marker locations for the lots as subdivided, including the 19.3+/- acre lot to be retained by Catamount/Bolton Land LLC, as surveyed, and the remaining undeveloped 1,144 +/- acre portion of the lot to be conveyed to the Vermont Land Trust, as mapped, and the lot dimensions and areas for each. The DRB waives the requirement to survey the outer boundary of the larger lot to be conveyed to Vermont Land Trust.
 - c. The locations of all deeded easements and rights-of-way recorded, or to be recorded, in the land records of the town, including but not limited to utility, highway, emergency access and trail corridor easements, and associated plat notations and references.
 - d. The mapped locations of the Old Access Road (Broadway Trail), Bolton Lodge and Bryant Camp.
 - e. Joiner Brook, its mapped tributaries and minimum setback distances from each as required under Section 3.17 of the Bolton Land Use and Development Regulations – to include a 100-foot setback from Joiner Brook and 50-foot setbacks from tributaries and other naturally occurring streams and wetlands.
2. Except has herein amended, all terms and conditions of the previous subdivision approval issued by the Bolton Development Review Board on May 18, 2006 shall remain in full force and effect.
3. No further subdivision or development of the retained parcel or the parcel to be conveyed to the Vermont Land Trust is allowed without review and approval from the Bolton Development Review Board.
4. Except for existing bridge crossings, minimum setback distances and undisturbed, vegetated buffer areas shall be maintain along Joiner Brook, its tributaries, and wetlands located on the property in accordance with Section 3.17 of the Bolton Land Use and Development Regulations and prior conditions of subdivision approval.
5. Bolton Lodge and Bryant Camp shall be preserved and maintained by the Green Mountain Club for use by the GMC and the public, consistent with the shelters' existing and historic character, as described in "Shelter Management in Bolton Valley" submitted by the GMC, dated July 24, 2012, and the accompanying "Letter of Intent to Convey Rights of Way to the Green Mountain Club" for this purpose, as signed by representatives of the Vermont Department of Forests, Parks and Recreation, the Vermont Land Trust, and the Green Mountain Club, dated December 2012. In the event that the Green Mountain Club cannot fulfill its responsibilities for shelter maintenance as described, it shall immediately notify all parties in writing, including the Town of Bolton.
6. A nonexclusive easement for emergency access in the event that the Bolton Valley Access Road is or becomes temporarily impassable, and for any work necessary to facilitate such access, shall be dedicated by Catamount/Bolton Land, LLC to the Town of Bolton as agreed to by the applicant, and as indicated on the Subdivision Plat dated June 2012 and described in the proposed easement deed submitted as with the application which, upon formal acceptance by the Bolton Select Board, shall be separately recorded in the land records of the town.

7. The subdivision plat, as approved by the DRB, shall be submitted for recording in the land records of the Town of Bolton within 180 days of the date of this approval, or the approval shall expire and reapplication for final subdivision approval shall be required. The applicant shall file the Mylar plat, signed by the Chair or other authorized representative of the Development Review Board, with the Town Clerk in accordance with the requirements of 27 V.S.A. Chapter 17, and provide two paper copies and one digital copy of the recorded plat, and one copy of all supporting documentation to the Zoning Administrator (see Section 6.6 of the regulations). The survey plat as recorded shall carry the following endorsement (Section 6.6):

Approved by the Development Review Board of the Town of Bolton, Vermont, on the 11th day of January 2013, subject to all requirements and conditions of subdivision approval. Signed this ___ day of ___, 2013, by _____, DRB Chair.

8. No changes, modifications or other revisions that alter the subdivision as approved, including the location of subdivision boundaries, lot lines, easements, accesses or conditions of subdivision approval, shall be made without prior approval from the DRB. Any changes, modifications or revisions recorded without DRB approval shall be considered null and void.
9. All other required state and municipal permits and approvals must be obtained prior to recording the subdivision plat in the land records of the Town of Bolton.
10. The conditions of this subdivision approval are binding upon and enforceable against the applicants as permittee and their successors. By acceptance of this approval, the permittees agree to allow authorized representatives of the Town of Bolton to access the property subject to this approval, at reasonable times, for purposes of ascertaining compliance with the conditions of approval.

Approved with conditions (5-0) by the Bolton Development Review Board:

Michael Hauser – Yea
Sharon Murray – Yea
Michael Rainville – Yea

Susan Vita – Yea
Margot Pender – Yea

Dated at Bolton, Vermont this 11th day of January, 2013.

For the Development Review Board:


Sharon Murray, Chair

NOTICE:

1. In accordance with 24 V.S.A. §4449(e), the applicant is 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, meeting minutes on file at the Bolton Town Office)

Sketch Plan Review. A request for pre-application sketch plan review of the proposed subdivision was submitted by the applicant on May 15, 2012 and considered at a regular meeting of the Bolton Development Review Board (DRB) held on May 22, 2012. It was determined that, because the parcel to be subdivided had previously been subdivided as approved by the DRB, the subdivision would qualify as a major subdivision as defined under the regulations. Issues raised and guidance provided by the Development Review Board regarding the proposed subdivision are referenced in the minutes of the meeting on file at the Bolton Town Office. Given the nature of the proposed subdivision, the DRB agreed (4-0) at this meeting to waive the preliminary hearing requirement, allowing the applicant to apply for final subdivision approval, and indicated that the DRB, on request, could also waive survey requirements for the larger parcel to be conveyed to the Vermont Land Trust.

Final Subdivision Review. An application for final subdivision approval, dated June 21, 2012, was received by Zoning Administrator Miron Malboeuf and referred to the DRB. A public hearing was scheduled for July 24, 2012, and warned in accordance with Section 9.8 of the Bolton Land Use & Development Regulations (BLUDRs), and 24 V.S.A. § 4464.

The public hearing to consider the application was convened as warned, on July 24, 2012, 6:30 pm at the Bolton Town Office with a quorum of the DRB present. Ms. Murray, DRB Chair, disclosed that, prior to the submission of an application she had been contacted by Gil Livingston of the Vermont Land Trust as a member of the VLT and former member of Bolton Conservation Commission regarding the proposed subdivision. At that time she indicated that she could not participate in or discuss the project as a member of the DRB, in order to avoid any ex parte communications. The applicants agreed that this did not represent a concern or conflict of interest. No other ex parte communications or conflicts of interest were noted.

The following persons attended and participated in the hearing process and may be afforded status as interested persons with rights to appeal this decision:

- Catamount/Bolton Land, LCC, Applicant 210 College Street, Suite 201, Burlington, VT 05401
 Represented by Bernard X. Chennette, PE Chennette Associates, PC 69 Plateau Drive, Barre, VT 05641
- Vermont Land Trust PO Box 850, Richmond, VT 05477
 Represented by Bob Heiser, Champlain Valley Regional Co-Director
- Green Mountain Club 4711 Waterbury-Stowe Rd. Waterbury Center, VT 05677
 Represented by Will Wiquist, Executive Director
- Town of Bolton 3045 Theodore Roosevelt Hwy, Waterbury, VT 05401
 Represented by Ronald Lafreniere, Jr., Select Board Chair

In addition to the application form, the following materials were submitted in support of the application:

1. Transmittal Letter from Bernard Chennette, PE, dated June 25, 2012.
2. Purchase and Sale Agreement between Catamount /Bolton Land, LLC and the Vermont Land Trust, Inc., dated February 12, 2012.
3. "Sketch Map" prepared by the Vermont Land Trust, no date.
4. "Subdivision Plat, Bolton, Vermont" prepared by Little River Survey Company, LLC, Patricia Kules, Licensed Surveyor (#808), dated June 2012.
5. "Shelter Management in Bolton Valley" submitted by the Green Mountain Club, dated July 24, 2012.

The public hearing was continued through and adjourned on November 28th, 2012 pending receipt of requested documentation regarding emergency access to the property as requested by the Town of Bolton; and the long-term maintenance of shelters, including the historic Bolton Lodge, on the property. The following documentation in support of the application was submitted:

6. "Letter of Intent to Convey Rights of Way to Green Mountain Club" dated December, 2012 as signed by representatives from the Vermont Department of Forests, Parks and Recreation, the Vermont Land Trust, and the Green Mountain Club.
7. "Irrevocable Offer of Dedication" as signed by the applicant, dated December 21, 2012 and "Easement Deed" as signed by the applicant, dated January 2, 2013.

The final requested documentation was forwarded to the DRB on January 9, 2013, adjourning the hearing.

Findings & Conclusions

The applicants' request for subdivision approval has been reviewed by the Bolton Development Review Board (DRB) for conformance with applicable subdivision review standards under Article 7 of the Bolton Land Use and Development Regulations (BLU&DR) in effect at the time of application, and under previous conditions of subdivision approval issued by the DRB on May 18, 2006. DRB findings and conclusions under each of these standards are presented as follows.

Section 7.2 General Standards

The proposed subdivision reflects the land's development suitability, conforms to applicable policies of the Bolton Town Plan currently in effect, and desired settlement patterns for the districts in which it is located. Lot layout is consistent with site topography and the intended use of the parcel for conservation and outdoor recreation.

1. The 1,499± parcel to be subdivided is located in the Resort Residential, Forest and Conservation Districts (Tables 2.3, 2.6, 2.7) and Conservation Districts, with the following minimum district dimensional standards:

	Resort Residential	Forest (> 1500' msl)	Conservation (>2,500' msl)
Lot Area	2.0 acres	25 acres	25 acres
Road Frontage	100 feet	NA	NA
Lot Width	NA	1000 feet	NA
Setback/Front	15 feet	NA	NA
Setback/Rear	25 feet	NA	NA
Setback/Side	25 feet	NA	NA

2. The lot to be subdivided and conveyed, as shown on the sketch map and subdivision plat submitted with the application, is a largely forested, undeveloped 1,144± acre parcel with 300± feet of frontage along the Bolton Valley Access Road in the Resort Residential District. As such it meets applicable minimum requirements under each of the above zoning districts.
3. The parcel to be subdivided and conveyed to the Vermont Land Trust includes very steep (>25%) and steep (15+%) forested slopes, riparian areas along Joiner Brook and its tributaries, wetlands, and significant biological areas and wildlife (bear) habitat that are not suitable for most forms of development, as referenced in application materials and determined from the Bolton Resource

Map. The parcel is to be conveyed to the VLT and ultimately the state for purposes of resource conservation and management, consistent with purpose statements under each zoning district – i.e., to “protect significant natural features and environmentally sensitive areas” and “to protect Bolton’s more remote and inaccessible forested upland areas from fragmentation, development and undue environmental disturbances” – and associated policies under the Bolton Town Plan to prohibit or limit the amount and type of development in these areas.

4. The parcel to be subdivided and conveyed also includes an established network of backcountry Nordic trails, portions of the Catamount and Long Trails, two shelters, and public water supply sources and source protection areas, as referenced in application materials and shown on the Subdivision Plat, dated June 2012. Existing uses are consistent with allowed uses under each zoning district, including passive outdoor recreation. No additional development is proposed.
5. The proposed subdivision will not preclude or adversely affect access to renewable energy resources, which may include the harvesting of cordwood or woody biomass.

Section 7.3 Protection of Natural & Cultural Resources

The proposed subdivision will not adversely affect environmentally sensitive areas or natural and cultural resources identified on the property, which will be conserved through conveyance to the Vermont Land Trust and the State of Vermont.

6. Environmentally sensitive areas identified on the parcel to be subdivided from available maps, inventories and property descriptions include high elevation areas, steep and very steep slopes, wetlands, surface waters and associated riparian and fluvial erosion hazard areas (including Joiner Brook and its tributaries), significant wildlife habitat and biological areas. The parcel to be subdivided also includes forestland that is suitable for sustainable timber and wildlife management. Natural resources will be protected through conveyance to the Vermont Land Trust, and subsequently the state as an addition to the Mount Mansfield State Forest.
7. Cultural resources identified on the property include the backcountry Nordic trail system and portions of the Catamount and Long Trails (protected through existing easements), which provide public access to undeveloped, scenic open space for passive outdoor recreation. Public access to and managed use of these resources will continue under VLT as described under the purchase and sale agreement dated February 17, 2012.
8. Cultural resources on the parcel to be subdivided and conveyed also include the Bolton Lodge which was built by the Green Mountain Club in 1928 and is listed on the State Register of Historic Places, and the Bryant Shelter which is not currently part of the official Long Trail System. The Green Mountain Club in its filing of July 24, 2012 indicated that it welcomes and has the capability to manage Bolton Lodge, and is interested in participating in joint management of Bryant Camp, contingent upon securing a right-of-way for a side trail to access the facility that can be incorporated into the Long Trail system. A letter of intent to this effect, signed by representatives of the Vermont Department of Forests, Parks and Recreation, the Vermont Land Trust, and the Green Mountain Club in December 2012 was submitted in support of the application.
9. Minimum stream setbacks for Joiner Brook (100 feet from top of bank or slope) and its tributaries (50 feet from top of bank or slope), as required under Section 3.17 of the Bolton Land Use & Development Regulations are to be shown on the final subdivision plat. Undisturbed vegetated

buffer areas shall be maintained as required under Section 3.17, as a condition of subdivision approval.

10. No additional development on the lot to be subdivided and conveyed to the Vermont Land Trust is proposed. Any subsequent development within required surface water setback areas or on slopes of 15% or more shall require DRB approval.
11. The parcel to be subdivided and conveyed constitutes a large block of largely undeveloped forestland that will be permanently conserved for sustainable, long-term forest management through the Vermont Land Trust and eventual incorporation as part of the adjoining Mount Mansfield State Forest.

Section 7.4 Open Space

The proposed subdivision provides for the continued preservation of contiguous open space, under the ownership and management of the Vermont Land Trust, and eventually the State of Vermont as part of the Mount Mansfield State Forest.

12. The 1,144± parcel to be subdivided and conveyed to the Vermont Land Trust is contiguous to 37,000 acres of state-owned land in the Mt. Mansfield State Forest. The stated intent of the Vermont Land Trust is to eventually convey this land to the State of Vermont for incorporation in the Mount Mansfield State Forest.

Section 7.6 (A) Access

No additional access from the Bolton Valley Access Road is proposed to serve the subdivided lot. The applicant has agreed to dedicate an easement to the town granting emergency access across the parcel to be conveyed, via the Broadway Trail, in the event that the Bolton Valley Access Road becomes temporarily impassable.

13. The parcel to be subdivided and conveyed is currently accessed from the Bolton Valley Access Road below the "s-curve" where the road crosses Joiner Brook, and above via the Broadway Trail (Old Access Road) which also crosses the brook. No additional accesses (highway curb cuts or stream crossings) are proposed to serve the subdivided lot.
14. The Broadway Trail (Old Access Road) which crosses the parcel to be subdivided and conveyed, has been used by the town as an emergency access route to reach the Bolton Valley Resort and adjoining neighborhoods located above the "s-curve" when the Bolton Valley Access Road has washed out. This was identified in hearing by both the town and the applicant as the only alternative route available in the event that the road becomes impassable.
15. At the town's request, and consistent with Section 3.2 of the BLUDR for the provision of emergency access as necessary to ensure public safety and welfare, the applicant has agreed to dedicate, for formal acceptance by the Bolton Select Board, a nonexclusive easement over the Broadway Trail for emergency access and any maintenance necessary to facilitate such access, as identified on the subdivision plat and in supporting documentation, including the "Irrevocable Offer of Dedication" as signed by the applicant, dated December 21, 2012, and the "Easement Deed" as signed by the applicant, dated January 2, 2013.

Section 7.7 Facilities and Utilities

Public wastewater systems, water supply systems and associated source protection areas located on the parcel to be subdivided will not be adversely affected by the subdivision and conveyance of land.

16. The parcel to be subdivided and conveyed to the Vermont Land Trust excludes 19.3± acres to be retained by Catamount/Bolton Land, LLC, as shown on the Subdivision Plat dated June 2012 that includes the wastewater system and leach field serving Bolton Valley.
17. The applicant also has retained rights on the parcel to be subdivided and conveyed to backup well sites and to access a pump house serving the Catamount/Bolton Water System, as indicated on the Subdivision Plat dated June 2012, and described in the Purchase and Sales Agreement between the applicant and the Vermont Land Trust, dated February 17, 2012.
18. No development is proposed within mapped Source Protection Areas as shown on the town's Resource Map.

Bolton Town Clerk's Office
Received For Record
May 22 20 13 A.D.
at 1 o'clock 30 minutes P M
Recorded in Book 86 Page 190-197
Attest: June Alwood
Asst. Town Clerk