



# Town of Bolton

## Development Review Board

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

Green Mountain Club  
Conditional Use Review  
Application #2015-03-CU  
June 8, 2015

### Applicant

The Green Mountain Club  
c/o Dave Hardy, Trails Director  
4711 Waterbury-Stowe Road  
Waterbury Center, VT 05697

**Property:** 895 Duxbury Road & Rt 2 Cross

### Application

(Application materials on file at the Bolton Town Office)

The Green Mountain Club (GMC) has requested approval for the following amendments to a previously approved DRB decision (#2012-19-CU) issued on March 6, 2013 for relocation of the Long Trail, to include the construction of a pedestrian bridge across the Winooski River and associated site improvements:

1. Approval to retain and convert the temporary construction easement (bridge access road) across town land, from US Route 2 in Bolton to the pedestrian bridge over the Winooski River, to a permanent 'Long Trail south' easement to accommodate both trail relocation, and future bridge maintenance and repair;
2. Approval to modify the length of pedestrian rail crossing timbers from 5 ft to existing lengths of approximately 14' over the New England Central Railroad, to allow the existing crossing timbers to be retained;
3. Approval to erect small "stop" signs on planned post and bollard installations rather than alongside the trail on separate posts;
4. Approval to modify the number of bollards across the access from US Route 2 from the three shown on "Site Plan" (Sheet 1) to five, spaced a universally accessible 32" apart;
5. Approval to install two offset, overlapping rail fences approximately 25' south of the centerline of the railroad, to warn and direct trail users across the railroad;
6. Approval to install 3' x 3' kiosks at US Route 2 parking lot, at the edge of town forest south of the railroad crossing, and near the south end of the bridge for trail information as depicted on "Site Plan" (Sheet 2) and the site plan titled 'birds eye view Long Trail, Bolton bridge/kiosks/fence.'
7. Approval to install wood trail direction signs at parking lot, on the edge of town land south of the railroad crossing, and at both ends of the pedestrian bridge.

This project is located on town land (Sarah Holbrook Parcel) and within town, state and railroad rights-of-way, accessed from the Duxbury Road (south) and US 2 (North), in the Rural I and Floodplain II Districts.

The application has been reviewed by the Bolton Development Review Board (DRB) as an amendment to a previously approved conditional use under the Bolton Land Use and Development Regulations (BLUDRs) as amended, effective August 9, 2010, including applicable zoning district criteria (Tables 2.4, 2.8) conditional use review standards (Section 5.4), and relevant prior findings, conclusions and conditions of approval (2012-19-CU). The Development Review Board’s procedural history and findings are attached.

**Decision –Conditional Use Approval**

- Denied
- Approved
- Approved with Conditions

The DRB hereby approves site plan amendments and related improvements requested by the Green Mountain Club (GMC) as listed in the application and shown on Site Plan (Sheets 1 & 2) and site plan titled ‘birds eye view Long Trail Bolton bridge/kiosks/fence’ (no date), except as amended herein, subject to the following conditions of approval:

1. Prior to the issuance of any zoning permit by the Zoning Administrator, the Green Mountain Club shall:
  - a. File a revised site plan showing all listed improvements, as approved by the DRB, prior to the issuance of a zoning permit(s); and
  - b. Record the amended trail easement across town land, as approved by the DRB and the Bolton Select Board, in the Bolton land records.
2. The trail (and bridge access) easement area across town land, within the town forest and 75’ riparian buffer area, shall be reseeded and re-vegetated as described in the application, to re-establish ground cover and naturally occurring native floodplain vegetation. The Green Mountain Club shall be responsible for ongoing maintenance of the trail and riparian buffer within its easement area, to include the removal of invasive species.
3. All approved signs must meet applicable sign standards under Section 3.14 of the Bolton Land Use and Development Regulations and be in compliance with the Manual on Uniform Traffic Control Devices, unless otherwise approved by the state and railway for any signs placed within state highway and rail corridors. A zoning permit(s) shall be obtained for signs subject to town regulation prior to installation.
4. Approved 3’ x 3’ kiosks, shall be sited as generally shown on the revised site plan, subject to state approval if located within the state highway right-of-way US 2, and the Bolton Select Board if located within the town road right-of-way (Duxbury Road). The applicant shall obtain a zoning permit prior to kiosks installation. Clearing for a kiosk sited within required riparian setbacks shall be limited to that required for kiosk installation and maintenance.
5. The number of bollards used to exclude motor vehicle access to the trail from US Route 2 may be increased from the three shown on “Site Plan” (Sheet 1) to five, as requested by the GMC, to be spaced a universally accessible 32” apart across the 14’ wide access, as shown on the revised site plan.
6. The two offset, overlapping rail fences, to be located as a safety measure 25’ south of the centerline of the railroad shall be installed as shown on the revised site plan, outside of the

1 railroad right-of-way, or as otherwise approved by New England Central Railway, and shall be  
2 maintained in good condition by the Green Mountain Club.

3 7. All conditions of previous subdivision and conditional use approval remain in full force and  
4 effect except as amended herein.

5 8. These conditions of approval shall run with the land and are binding upon and enforceable  
6 against the permittee and his successors. By acceptance of this permit, the permittee agrees to  
7 allow authorized representatives of the Town of Bolton to access the property subject to this  
8 approval, at reasonable times, for purposed of ascertaining compliance with the conditions of  
9 approval.

10  
11 **Approved with conditions (4-0) by the Bolton Development Review Board:**  
12

Michael Rainville – Yea

John Devine – Yea

Stephen Diglio– Yea

Charmaine Godin – absent

Sharon Murray – Yea

**Dated at Bolton, Vermont this 8th day of June, 2015.**

**For the Development Review Board:**



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Michael Rainville, Chair

**NOTICES:**

1. In accordance with 24 V.S.A. § 4449(e), 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. The applicant or another interested person may request reconsideration of this decision by the Development Review Board, including associated findings and conditions, within 30 days of the date of this decision by filing a notice of appeal that specifies the basis for the request with the Secretary of the Development Board. Pursuant to 24 V.S.A. § 4470, the board may reject the request within 10 days of the date of filing if it determines that the issues raised on appeal have already been decided or involve substantially or materially the same facts by or on behalf of the appellant.
3. This decision may also be appealed to the Environmental Division of the Vermont Superior Court by the applicant or another 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.
4. In accordance with 24 V.S.A. § 4455, on petition by the municipality and after notice and opportunity for hearing, the Environmental Division may revoke this permit based on a determination that the permittee violated the terms of the permit or obtained the permit based on misrepresentation of material fact.

## **Review Process**

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

An application to retain the temporary construction easement access from US Route 2 in Bolton to the pedestrian bridge over the Winooski River and amendments to a previously approved DRB decision (#2012-19-CU) was filed by David Hardy on 4-2-2015. The application was accepted as complete by Bolton Zoning Administrator Miron Malboeuf and referred to the Bolton Development Review Board for a public hearing. A public hearing of the DRB was scheduled for April 28, 2015 and warned by the Zoning Administrator in accordance with Section 9.8(D)(1) of the regulations and 24 V.S.A. §4464.

The public hearing to consider the application convened on 4-28-2015, 6:30 PM at the Bolton Town Office with a quorum of the DRB present. No ex parte communications or conflicts of interests were reported. The following persons attended and participated in the hearing process, and may be afforded status as interested persons with rights to appeal:

- David Hardy, Applicant- 4711 Waterbury-Stowe Road, Waterbury Center, VT 05697
- David Parot, 127 Sports Club Drive #124, Bolton Valley, VT 05477

The following materials were submitted in support of the application and entered into the hearing record:

1. Conditional Use Application (2015-03-CU) dated 4-2-2015;
2. Grant of Right-of-Way for Long Trail on Town of Bolton Sara Holbrook Town Forest;
3. Map of Adjustments to Long Trail as depicted on Sara Holbrook Long Trail Right-of-Way;
4. Email from Rebecca Pfeiffer VT Dept. of Conservation, dated 2-4-2014;
5. "Pedestrian Crossing with Railroad" details (Sheet R-3) as revised November 30, 2010;
6. Right-of-way for the Long Trail and Footbridge Easement (Exhibit A), Town of Bolton to the GMC, no date;
7. "Site Plan" (Sheets 1,2) prepared by Chris Haggerty (License No. 741), Button Professional Surveyors, dated 6/20/12;
8. ECI sketch of overlapping fences south of Railroad Crossing;
9. Application (Building/Zoning Permit Application- 2015-03-ZP) including site plan titled 'birds eye view Long Trail Bolton bridge/kiosks/fence (no date);
10. DRB Decision #2012-19-CU dated March 6, 2013.

The DRB adjourned the hearing that evening, following the submission of testimony and evidence, marking the start of the 45-day period for the issuance of written findings and a decision.

## **Findings & Conclusions**

The applicant's request for amended conditional use approval was reviewed by the Bolton Development Review Board (DRB) for conformance with applicable requirements of the Bolton Land Use and Development Regulations (BLUDR) in effect as of January 5, 2005, and amended through August 9, 2010, and specifically under the following relevant prior conditions of approval #2012-19-CU:

Condition #8. The footbridge and trail shall be constructed and maintained on town land as specified under easements granted to the Green Mountain Club by the Town of Bolton, dated October 24, 2011, and recorded in the land records of the town. No motorized use of the trail shall be allowed except as permitted for bridge construction and maintenance by the Green Mountain Club.

**Findings:**

1. The proposed change in the status of the temporary construction easement to a permanent trail and access easement will not significantly alter the location or extent of the hiking trail across town land, and will allow for limited vehicle access by the GMC for future bridge repair and maintenance work.
2. The change in the status of the construction easement to a permanent trail easement of equal width, and associated easement language, were approved by the Bolton Select Board on March 9, 2015 for recording in the land records of the town.
3. The change in easement will result in a wider permanent trail/access easement through the riparian setback and buffer areas on the Winooski River. The easement area will be revegetated to trail width following the completion of bridge construction.
4. The GMC will continue to be responsible for maintaining the trail and easement area, including the re-establishment of naturally occurring, native vegetation within riparian setback and buffer area.

**Conclusion:** The requested change in easement, if revegetated and maintained in a natural state, will not adversely affect town land or the riparian buffer, and will not substantively alter prior conditions of approval.

Condition #9. The pedestrian crossing over the New England Central Railroad (RailAmerica Inc.) shall be installed as shown on "Pedestrian Crossing with Railroad" details (Sheet R-3), as revised November 30, 2010, and as indicated on the "Site Plan" (Sheet 1) dated 6/20/12, prepared by Chris Haggerty (License No. 741), Button Professional Surveyors, to include pedestrian crossing signs on Route 2, as approved by the Vermont Agency of Transportation, and bollards that limit vehicle access and use of the rail crossing.

**Findings:**

5. The request to modify the length of pedestrian rail crossing timbers over the rail crossing, from 5 ft to the existing length of approximately 14 ft, will allow for use of existing crossing timbers without affecting pedestrian safety.
6. Increasing the number of bollards from three to five, to be evenly spaced to allow for pedestrian but prevent motor vehicle trail access, will further limit vehicle access to and use of the trail and rail crossing, and thereby improve trail user safety.
7. Other proposed site improvements on town land south of the rail line, including the installation of fencing and railroad crossing warning signs, will improve trail user safety within the vicinity of the rail crossing.
8. Any fencing or signs within railroad or state highway rights-of-way will also require state and/or railway approval prior to installation.

9. Rail crossing signs and fencing/gates should be consistent with relevant federal trail rail crossing standards in the current Manual on Uniform Traffic Control Devices (MUTCD).

**Conclusion:** Requested site improvements, including additional bollards, fencing and signs in the vicinity of the rail crossing, if sited and installed as proposed, will improve pedestrian safety, and will not substantially alter prior conditions of approval. Other approvals may be required prior to the issuance of a zoning permit(s).

Condition #12. A zoning permit issued by the Bolton Zoning Administrator must also be obtained for any kiosks or signs (other than state or municipal highway signs) erected by the GMC within the project area. Signs shall meet applicable requirements under Section 3.14 (Sign Requirements) of the Bolton Land Use and Development Regulations.

**Findings:**

10. Proposed 3'x3' kiosks and trail signs were generally addressed under prior conditions of DRB approval.
11. Any site clearing and disturbance for signs and kiosks located within the required 75' riparian setback of the Winooski River will be limited in extent to that required for installation, visibility and maintenance.
12. Signs subject to permits under Section 3.14 of the regulations will require the issuance of a zoning permit by the Zoning Administrator prior to installation, as previously noted.
13. Kiosks and signs erected within highway rights-of-way will also require approval from the Bolton Select Board (Duxbury Road) and state (US Route 2) as applicable.

**Conclusion:** Proposed trail kiosks and signs, to be shown on a revised site plan, are consistent with and to not substantially alter prior conditions of approval. Zoning permits are required for signs subject to permitting under Section 3.14 of the regulations. Other approvals may be required for signs located within highway rights-of-way.

Condition #14. The Green Mountain Club shall be solely responsible for ongoing monitoring, maintenance and repair of the footbridge, parking area, trail, pedestrian crossings, and associated signs, structures and equipment, to include the crossing alert system installed at the Notch Road underpass.

**Finding:**

14. The GMC will be solely responsible for maintaining all requested site improvements in safe condition, including easement areas, signs, kiosks, fencing, and the pedestrian rail crossings

**Conclusion:** Proposed improvements add to, but do not substantively alter, GMC's long-term maintenance responsibilities under prior conditions of approval.