



# Town of Bolton

## Development Review Board

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

In re: **John Devine, Minor, 3-Lot Subdivision**  
**Application #2013-1-SD**  
**Final Subdivision Approval, July 12, 2013**

### Applicant

John Devine  
4387 Notch Road  
Jericho, VT 05465

### Application

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

The applicant has requested approval for a 3-lot subdivision located at 4387 Notch Road in West Bolton, to include the re-subdivision of two existing, adjoining parcels owned by the applicant (Lots #74, #95) totaling 62± acres into three lots: a 58± acre retained lot, with an existing single family dwelling and barn (Lot #1) and two lots to be conveyed as residential lots (Lots #2, #3) of 2.02 acres and 2.0 acres respectively. The parcels to be merged and re-subdivided (Tax Map ID#06-033.00) are located at the corner of Notch and Stage Roads in the Rural 1, Rural 2 and Forest Districts with frontage, for purposes of access, along the Notch Road. The residential lots to be conveyed are located entirely within the Rural 1 District. Lot #1 will be accessed via an existing private driveway on the Notch Road, Lot #2 will be accessed via a new driveway on the Notch Road, and Lot#3 will be accessed via an existing trail located on Lot #1, the lower portion of which will be upgraded to driveway standards for shared access to Lot#2 and the upland portion of Lot #1. An existing access near the Stage Road will be removed.

The property to be subdivided includes existing structures and a whiffle ball field, steep slopes, cleared and wooded acreage, an existing stream and Class III wetland, and a significant biological area on the upper portion of Lot #1 (in the Forest District). It is encumbered by a 50-foot VELCO power line easement that generally follows the Notch Road and crosses each of the three proposed lots. It is also located entirely within a portion of the Source Protection Area (SPA) serving the water supply for the West Bolton Golf Club (WSID VT 0005640).

This application has been reviewed by the Bolton Development Review Board (DRB) as a minor, 3-lot subdivision under the Bolton Land Use and Development Regulations (BLUDRs) as amended, effective August 9, 2010, including applicable zoning district criteria (Tables 2.4–2.6), general standards (under Article 3) and subdivision standards (Article 7). The Development Review Board's procedural history and relevant findings are attached.

### Decision – Final Subdivision Approval, 3-lot subdivision

- Denied  
 Approved  
 **Approved with Conditions:**

1. The survey plat dated May 21, 2013, as herein approved by the DRB, shall be submitted as amended 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.

2. In addition to the information shown on the draft plat, dated 5/21/13, the final plat, as recorded in the land records of the Town of Bolton, shall also include the following:
  - a. Approximate location of iron pins marking the boundaries of designated building envelopes.
  - b. The elimination of the existing highway access to Lot #3, as proposed.
  - c. General note specifying that all new structures and parking areas shall be located within designated building envelopes as show on the plat.
  - d. General note specifying that no site disturbance, removal of vegetation or development is allowed within the 50-foot stream setback and buffer, as shown on the plat, without the approval of the Bolton Development Review Board.
3. The final survey plat shall carry the following endorsement:  
*Approved by the Development Review Board of the Town of Bolton, Vermont, on the 10th day of July, 2013, subject to all requirements and conditions of subdivision approval. Signed this \_\_\_\_ day of \_\_\_\_\_, 2013, by \_\_\_\_\_, for the Bolton Development Review Board.*
4. All survey monuments and corner markers shown on the final plat, as submitted for recording, shall conform to the draft survey plat, dated May 21, 2013.
5. Building envelopes shall be marked on the ground with iron pins in locations indicated on the subdivision plat.
6. All new principal buildings, accessory structures and parking areas shall be sited within designated building envelopes, as indicated on the subdivision plat.
7. Access to approved lots shall be located and installed as shown on the subdivision plat dated 5/21/13; and the existing access near the corner of Notch and Stage Road (Lot #3) shall be removed, as indicated on the site plan dated 5/15/13. All new highway accesses and driveways shall be located, designed and upgraded as necessary to meet B-71 standards and the Town of Bolton Highway Ordinance. A highway access permit from the town is also required. The Bolton Zoning Administrator is authorized to review and permit minor modifications to the location of an access, as required by the town, in association with the issuance of a zoning permit.
8. Easement language and the executed "Shared Road Maintenance Agreement" for the 60-foot shared access and utility easement shown on Lot #1, for shared access, use and maintenance by Lots #1 and #3, shall be recorded in the land records of the town prior to or in association with the recording of a deed for Lot #3.
9. Potable water supply and wastewater systems serving the two lots to be conveyed (Lots #1 and #2) and system replacement areas for Lot #1 shall be located as generally shown on the site plan dated 5/5/13 and draft survey plat dated 5/21/13, outside of required stream setbacks. Potable water supply and wastewater system permits for Lots #2 and #3 shall be obtained from the state prior to any further development.
10. Utility lines serving Lots #2 and #3 shall be buried, unless otherwise approved by the Development Review Board.

11. The Development Review Board agreed to waive the requirement for the submission of a stormwater management and erosion control plan; however stormwater and soil erosion during site development and construction, particularly on slopes of 15% or more, shall be managed in accordance with *The Low Risk Site Handbook Erosion Prevention and Sediment Control* as most recently issued by the Vermont Department of Environmental Conservation. Silt fencing shall be installed as necessary to prevent stream sedimentation.
12. No site disturbance, removal of naturally occurring, native vegetation or development is allowed within the 50-foot stream setback, as indicated on the draft survey plat dated 5/23/13, without the approval of the Bolton Development Review Board under Section 3.17 (Surface Waters and Wetlands) of the regulations. This area shall be established and maintained as an undisturbed, vegetated stream buffer.
13. Subsequent development on approved lots is subject to all applicable requirements of the Bolton Land Use and Development Regulations in effect at the time of application, including outdoor lighting standards under Section 3.10, parking standards under Section 3.11, and performance Standards under Section 3.12. All municipal and state permits, including zoning, highway access, and potable water supply and wastewater permits, must be obtained prior to development.
14. No changes, modifications or other revisions that alter the approved plat, including the location of subdivision boundaries, lot lines, building envelopes, or conditions of plat 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.
15. The conditions of this subdivision approval are binding upon and enforceable against the applicant as permittee and his successors. By acceptance of this approval, the permittee agrees 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:**

Jen Andrews – Absent

Charmaine Godin – Absent

Sharon Murray – Yea

Margot Pender – Yea

Michael Rainville – Yea

**Dated at Bolton, Vermont this 12th day of July, 2013.**

  
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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)

**Sketch Plan (Pre-Application) Review.** An initial request for sketch plan review from the applicant, dated November 20, 2012, was received by the Zoning Administrator on December 8 2012 and forwarded to the Bolton Development Review Board (DRB) for consideration at its next regularly scheduled meeting, held on January 22, 2013. At this meeting the DRB agreed that the proposed 3-lot subdivision would be classified and reviewed as a minor subdivision under the regulations, to include one public hearing with notice to abutters. It was also recommended that the draft survey plat, as submitted for review, show the location of existing and proposed accesses and driveways designed to meet B-71 standards; required setback distances from property lines, road rights-of-way, streams and wetlands; and the location of proposed building envelopes and utilities on each lot. The applicant was also asked to consult with the Bolton Fire Chief regarding driveways and turnaround areas.

**Subdivision Review.** The application for subdivision review and approval, and supporting information, was forwarded to the DRB on April 6, 2013, and warned for public hearing on April 23, 2013 in accordance with Section 9.8 of the Bolton Land Use and Development Regulations (BLUDR) and 24 V.S.A. § 4464. Due to the lack of a quorum that evening, the hearing was rescheduled and noticed for a special meeting of the DRB, held on May 7, 2013.

The public hearing to consider the application was convened by the DRB 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 continued until May 28, 2013, pending the receipt of additional information and a draft subdivision plat from the applicant. Having received the requested information from the applicant, 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:

- John Devine, Applicant           4387 Notch Road Jericho, VT 05465
- Justin Willis, for the applicant Willis Design Associates, Inc., PO Box 1001, Jericho, Vermont 05465

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

1. Completed application form and required application fees.
2. Project Narrative and Draft Findings of Fact (no date).
3. "John Devine Site Plan: 3-Lot Subdivision" (S1) dated 5/7/13 (revised 5/15/13), prepared by Justin Willis, Designer (VT License No. 344-B).
4. "3 Lot Subdivision Showing a Portion of the Lands of John Devine" (draft survey plat), dated 4/2/13 (revised 5/21/13), prepared by Button Professional Land Surveyors PC, Christopher Haggerty (VT License No. 741).
5. Vermont Wetlands Program Field Letter, dated 7/25/12, from Julie Foley, District Wetlands Ecologist.
6. Correspondence, dated 4/22/13, from Dennis Nealon, Vermont ANR Drinking Water and Groundwater Protection Division, regarding proposed development within the source protection area for WSID VT0005640.
7. Letter, dated May 20, 2013, from Mike Gervia, Bolton Fire Chief, regarding the suitability of access for emergency vehicles.
8. Draft "Shared Maintenance Agreement and Easement Language" and associated deed language for a shared access and utility easement for the shared driveway serving Lots #1, #3 (no date).

## Findings and Conclusions

The applicants' request for a minor, 3-lot subdivision was reviewed by the Bolton Development Review Board (DRB) for conformance with applicable zoning district requirements (Rural I, Rural II, Forest Districts), General Requirements (Sections 3.2, 3.6, 3.15–3.18) and Subdivision Standards (Article VII) of the Bolton Land Use and Development Regulations (BLU&DR) as amended, effective August 9, 2010. Board findings and conclusions under applicable standards under each of these standards are presented as follows.

### Zoning District Standards (Tables 2.4, 2.8)

**Conclusion:** Based on the following findings, the proposed subdivision will result in parcels that conform to minimum zoning district requirements and allowed uses for the districts in which they are located.

1. The re-subdivision of the two existing parcels owned by the applicant, totaling 62± acres, will result in the creation of a 58± acre parcel with an existing dwelling, to be retained by the applicant, which is located in the Rural I, Rural II and Forest Districts; and two parcels (2.0 and 2.02 acres respectively) to be conveyed for residential use, which are located in the Rural 1 District, as shown on the draft survey plat as revised, dated May 21, 2013.
2. Residential uses, existing and as proposed within the Rural I District, are allowed as permitted uses within this district.
3. The minimum dimensional requirements for these districts are as follows:

	<b>Rural I (Table 2.4)</b>	<b>Rural II (Table 2.5)</b>	<b>Forest (Table 2.6)</b>
Lot Area	2.0 acres	10.0 acres	25 acres
Road Frontage	200 feet	300 feet	NA
Setback/Front (ROW)	35 feet	35 feet	NA
Setback/Rear	35 feet	50 feet	NA
Setback/Side	35 feet	50 feet	NA

4. All three proposed lots, including the two lots located in the Rural I District to be conveyed for residential use, meet the minimum 2-acre lot size requirement for that district. The 58-acre parcel to be retained by the applicant also meets the minimum lot sizes for the Rural II and Forest Districts; however only 4.9± acres are located within the Forest District, as shown on the site plan dated 5/15/13.
5. Each proposed lot has required frontage along the Notch and/or Stage Road in the Rural 1 District, as shown on the revised survey plat dated 5/21/13: Lot #1 – 752.56 feet, Lot #2 – 200.01 feet, Lot #3 – 200 feet.
6. A 35-foot setback from the road right-of-way and adjoining property boundaries, as required in the Rural I District, is shown on the draft survey plat only for that portion of Lot #1 that includes existing development within the setback area. However designated building envelopes on all three lots, as shown on the draft survey plat as revised, are clearly outside of the required 35-foot setbacks from the road and property lines.
7. The 50-foot stream setback, as shown on the draft survey plat, conforms to the setback requirements for unnamed streams under Section 3.17 of the regulations. The existing Class III

wetland area on Lot #1 is also located within the stream setback area and clearly located outside of the area proposed for development, as shown on the draft survey plat dated 5/21/13.

**General Standards (under Article III)**

**Conclusion:** Based on the following findings, the proposed subdivision will conform to applicable general standards under Article III of the regulations.

8. **Access (Section 3.2).** The existing parcels to be subdivided currently access Bolton Notch Road in three locations. One access, nearest Stage Road (located on Lot #3) is proposed for elimination, as shown on the site plan dated 5/15/13, in part due to the lot configuration at the intersection of Stage and Notch Roads. As proposed, the two existing accesses to Lot #1, separated by a distance of 294 feet, will be retained. Lot #2 will have a new access onto the Notch Road. Lots #1 and #3 will share a new access and driveway, located on Lot #1 farther from the Stage Road intersection. As such, only one additional access point is proposed.
9. Approximately 400 feet of an existing woods road on Lot #1 will be upgraded to B-71 standards, as required under the regulations, to serve as both a driveway for Lot #3, and to maintain existing access to the upland portion of Lot #1. The applicant has submitted draft easement language for a 60-foot access and utility easement on Lot #1, to be conveyed with Lot #3, as required under the regulations and shown on the draft survey plat dated 5/21/13; and a draft maintenance agreement to accommodate shared use of the access and driveway.
10. The new driveway serving Lots #1 and #3 (woods road) will cross slopes in excess of 15%, as determined from contour lines shown on the site plan and subdivision plat. No slopes over 25% will be disturbed. Portions of the new driveway will be re-graded as necessary to achieve an average finished grade of no more than 15% over any 50-foot section, as required under the regulations.
11. Bolton Fire Chief Mike Gervia reviewed proposed driveways and, as stated in his letter of 5/20/13, determined that they will accommodate emergency vehicles. Highway access permits from the town will also be needed prior to any development.
12. Proposed driveways on Lots #1 and #2 also cross the VELCO power line corridor. According to the applicant, VELCO has granted permission to cross their 50-foot easement as indicated and noted on the draft survey plat dated 5/23/13, to allow access these lots for residential development. No structures are permitted within the VELCO right-of-way.
13. **Source Protection Areas (Section 3.15).** The lots to be re-subdivided are located within the groundwater source protection area (SPA) for the public water supply serving the West Bolton Golf Club (WSID VT 0005640), as indicated on the site plan dated 5/15/13 and referenced in application materials. Correspondence from Dennis Nealon of the VT DEC Drinking Water and Groundwater Protection Division, dated April 22, 2013, indicates that, based on the information supplied by Justin Willis, the applicant's system designer, proposed wastewater systems are located far enough away that they pose no threat to the public water system, and the topography is such that groundwater will not flow toward the water source.
14. **Steep Slopes (Section 3.16).** The lots to be subdivided include steep (15+%) and very steep slopes (>25%) as determined from contour lines indicated on the site plan and draft survey plat. No development is proposed on slopes in excess of 25%. House sites on Lots #2 and #3 will be located on slopes having a natural grade of less than 15%. As noted above (#10), a short section of the

driveway on Lot #1, which also serves Lot #3, will be installed on slopes in excess of 15% and re-graded to a slope of less than 15%. Given the limited amount of development proposed on steep slopes, the applicant has requested that the DRB waive the requirement for the submission of an engineered erosion prevention and sediment control plan.

15. **Surface Waters (Section 3.17).** Lots #1 and #2 are crossed by an intermittent stream (“seasonal losing stream”) as indicated on the site plan dated 5/15/13, and the draft survey plat dated 5/23/13, along with a 50-foot setback from the stream as required under the regulations. As indicated on the site plan and draft survey plat, the area within this setback will be established and maintained as a “vegetative buffer.”
16. **Wetlands (Section 3.17).** A field inspection of the property within 300 to 500 feet of the Notch Road, in areas proposed for future residential development, was conducted by Julie Foley, VT DEC District Wetland Ecologist. Based on this review she identified one Class III wetland within the project area, adjacent to the stream (Field Letter, dated 7/25/13). This wetland is located within the required stream setback, as indicated on the site plan dated 5/15/13 and the draft survey plat dated 5/23/13. No other wetlands were identified within the areas to be developed.
17. **Water Supply and Wastewater Systems (Section 3.18).** Locations for onsite potable water supply and wastewater disposal systems on Lots #2 and #3, and replacement areas for existing systems on Lot #1 are shown on the “Site Plan: 3 Lot Subdivision” dated 5/15/13, as prepared by Justin Willis, Designer (License No. 344-B). These are located outside of required surface water and wetland setback areas. As noted above (#13), according to the state these systems, though located within a designated public water supply source protection area, will result in no adverse impact to the drinking water supply serving the West Bolton Golf Club. State permits must be obtained prior to the development of a subdivided lot for residential use, as noted on the draft survey plat, and for the issuance of a certificate of occupancy by the Zoning Administrator.

#### **General Subdivision Standards (Section 7.1)**

**Conclusion:** Based on the following findings, the DRB has determined that land being subdivided is suitable for its intended residential use, and that the subdivision as proposed conforms to specific policies of the Bolton Town Plan, district settlement patterns for the zoning districts in which it is located, and lot and building envelope requirements.

18. **Development Suitability.** The land to be subdivided includes moderate to steep and very steep slopes, a stream channel, a Class III wetland, and a significant biological area (as identified from the Bolton Natural Resource Map). That portion to be subdivided and developed for residential use excludes the wetland area, the biological area, very steep slopes and land within the 50-foot setback from the stream channel. No development is proposed in areas characterized by periodic flooding, poor drainage, very steep slopes (>25%) or other hazardous conditions.
19. **Bolton Town Plan.** The current Bolton Town Plan, as readopted in 2011, contains the following goals and polices under Section 3.2 (Natural Resources) that apply to this parcel:
  - Maintain, restore and conserve habitats and natural communities that support rare, threatened and endangered species; and manage rare and irreplaceable natural areas in Bolton so as to minimize the adverse effects of development.
  - Ensure that permits issued for development near sensitive areas, such as steep slopes, high elevations, wetlands, scenic vistas and wildlife habitats, contain conditions assuring conformance to the goals set forth in this plan.

- Identify and manage pollution, flooding and fluvial erosion hazards along rivers and streams.
- Protect sensitive habitat and water resources with strict regulations governing land at elevations above 1500 feet [Forest District], and especially above 2500 [Conservation District].
- Reduce flood hazard and repetitive road and driveway washout, through strict regulations governing development on steep slopes (15% slope) and prohibiting development on slopes of 25% or more, and through investigation of the impact of stormwater runoff on flood hazards.

The subdivision has been configured, as noted above, to avoid or minimize impacts to areas of steep slope, surface waters, wetlands, and biological areas of significance identified on the portion of the property to be subdivided, as indicated on the site plan dated 5/15/13, the draft survey plat dated 5/21/13 and in related application materials.

20. **District Settlement Pattern.** That portion of the existing lots to be re-subdivided and developed for residential use is located within the Rural I Zoning District. Existing and proposed development (single family dwellings on 2-acre lots, forestry, and passive recreation) are consistent with the purpose of this district (Table 2.4) to allow for moderate densities of residential development along existing roads, while also maintaining traditional uses such as forestry and agriculture. The subdivision as shown on the site plan and draft survey plat has been designed and configured to reinforce the rural character and historic working landscape in this district, characterized by forested hillsides, open fields and moderate to low densities of residential development.
21. **Lot Layout.** The lots to be subdivided, retained and conveyed, as shown on the site plan and draft survey plat, are regularly shaped, are consistent with site topography and the suitability of the land for development, and have been configured to meet district dimensional requirements and to conform to desired settlement patterns as noted above (#1-#7, #18, #21).
22. **Building Envelopes.** Building envelopes that limit the location of structures, parking areas and associated site improvements (excluding driveways, water and wastewater systems), though generally not required in the Rural I District, have been designated by the applicant for each of the three lots, along with additional clearing limits and an indication of suitable locations (footprints) for new principal structures on Lots #2 and #3, as shown on the site plan and draft survey plat dated 5/21/13.
23. **Survey Monuments.** Survey monuments, as shown on the draft survey plat dated 5/21/13 will also be shown on the final plat. The locations of iron pins used to mark and identify building envelopes on the ground are not shown on the draft survey plat.
24. **Landscaping and Screening.** A 50-foot wide vegetated buffer is proposed along the western boundary of Lot #3, between the designated building envelope and the adjoining parcel, as shown on the site plan and draft survey plat, to minimize any adverse visual or physical impacts to the house located downslope on the adjoining lot. As noted above, a 50-foot vegetated buffer is also proposed along either side of the naturally occurring stream that crosses Lots #1 and #2.
25. **Energy Conservation.** Building envelopes are situated in relation to surrounding topography to allow for a reasonable southern exposure, however additional clearing may be required. Access to the existing "wood road" on Lot #1, as shown on the site plan and draft survey plat, will be retained for use by Lot #1, subject to a shared access easement with Lot #3, to maintain access to upland woods for wood production or agriculture.

**Protection of Natural & Cultural Resources (Section 7.3)**

**Conclusion:** Based on the following findings, the DRB has determined that the proposed 3-lot subdivision has been designed and configured to avoid undue adverse impacts to natural resources identified on the property.

26. **Resource Identification.** Natural resources identified on or in the vicinity of the property to be subdivided include forested hillsides, steep and very steep slopes, an intermittent stream, a Class III wetland, a groundwater source protection area, and a significant biological area – as indicated on the Bolton Natural Resources Map, the site plan dated 3/15/13 and as referenced in related application materials.
27. **Surface Waters, Wetlands and Floodplains.** As shown on the site plan and draft survey plat, proposed building envelopes have been configured to exclude the Class III wetland on Lot #1 and the stream channel and the associated 50-foot vegetated riparian buffer on Lots #1 and #2, to avoid adverse impacts to these resources from subsequent residential development (see #7, #15).
28. **Rock Outcrops, Steep Slopes, Hillsides and Ridgelines.** Lot lines, driveways and building envelopes, as shown on the site plan and draft survey plan, have also been configured to avoid areas of very steep slope (>25%), ridgelines and rock outcrops, and to minimize development on steep slopes (15% or more). As noted above (#10, #14), portions of the existing wood road on Lot #1 on slopes greater than 15% will be re-graded to reduce the existing slope for use as a driveway to Lot #3. House sites on Lots #1 and #2 will be located on slopes of less than 15%.
29. **Natural Areas and Wildlife Habitat.** The subdivision has been configured to avoid the fragmentation of existing natural areas and wildlife habitat on the property by limiting the lot size of the two lots to be conveyed for residential development (Lots # 2 and #3) to two acres – the minimum required for the Rural I zoning district – and by maintaining 58 acres in Lot #1 to be retained by the applicant, to include contiguous upland forest habitat, wetlands and one “significant biological area” (located above 1400 feet) as indicated on the Bolton Natural Resources map and the subdivision site plan, dated 5/15/13, but unconfirmed in the field. These areas also are all located outside of the designated building envelope on Lot #1. No further development is currently proposed on Lot #1.
30. **Forestland.** The subdivision, including lot lines and building envelopes, has been configured to minimize the fragmentation of potentially productive forestland. Upland portions of the 58-acre parcel (Lot#1) to be retained by the owner are mostly wooded. This land is not currently enrolled in the state’s Use Value Appraisal Program but, based on parcel size alone, will remain eligible for enrollment following subdivision. Lot #1 will also retain the right, under the shared easement agreement with Lot #3, to use the existing wood road to access this area for future forestry or agricultural use.
31. As noted in the application, the majority of trees located on that portion of the property to be subdivided for residential development (Lots #2 and #3) are red pines planted for soil conservation purposes in 1962. Clearing limits are proposed in addition to designated building envelopes in these areas, as shown on the site plan and draft subdivision survey, which will minimize impacts to existing tree cover.

#### **Open Space (Section 7.4)**

**Conclusion:** Based on the following findings, the DRB has determined that the proposed subdivision as shown on the site plan and draft survey plat dated 5/23/13, will result in the retention of approximately 56± acres of contiguous, undeveloped open space on Lot #1 (excluding existing structures and yard areas included within the designated building envelope) as well as a 50-foot vegetated buffer along the stream that crosses Lots #1 and #2, which will provide for the protection of natural features identified on the property.

32. Lot #1, following subdivision, will consist of approximately 56± acres of contiguous, undeveloped open land, excluding an approximately 2-acre building envelope located between the Notch Road and the VELCO right-of-way that includes existing structures and yard areas. Portions of the lots to be subdivided and conveyed (Lots #1 and #2) will also remain open and undeveloped outside of designated building envelopes.
33. The undeveloped portion of Lot #1 to be retained by the applicant has not been surveyed, and has not been formally designated on the draft survey plat as protected open space; however the intended use of Lot #1, outside of the designated building envelope, is for forestry or agriculture. No additional subdivision is proposed at this time, and no additional residential development on the lot may occur outside of the designated building envelope.

#### **Stormwater Management and Erosion Control (Section 7.5)**

**Conclusion:** Based on the above findings pertaining to development on steep slopes (#14, #28), the designation of a stream setback and buffer on Lots #1 and 2 (#15), and the designation of building envelopes to exclude these areas (#22, #27, #28), the DRB has agreed to waive the submission of an engineered erosion control and sediment plan, with the understanding that subsequent development on approved lots will adhere to stormwater management and erosion control practices included in *The Low Risk Site Handbook Erosion Prevention and Sediment Control* as most recently issued by the Vermont Department of Environmental Conservation.

#### **Transportation (Section 7.6)**

**Conclusion:** Based on the above findings under Section 3.2 (#8–#11), the DRB has determined that access to the proposed subdivision and to individual lots will meet applicable access and driveway standards under Section 3.2, as also referenced in Section 7.6. Access to the Notch Road is also subject to approval by the Town of Bolton. No development roads are proposed.

#### **Facilities and Utilities (Section 7.7)**

**Conclusion:** Based on the above findings pertaining to proposed water supply and wastewater systems (#17), source protection areas (#13), and other facilities and utilities as follows, the DRB has determined that existing and planned infrastructure and services serving the proposed subdivision will be adequate, and conform to applicable standards under this section of the regulations.

34. The proposed subdivision will result in the creation of two additional residential lots on the Notch Road. As such, it will not create an undue burden on existing municipal or community facilities and services, including town highways or the school.
35. The Bolton Fire Chief, Mike Gervia, indicated in his letter of 5/20/13 that the proposed subdivision does not pose any additional burdens on the Bolton Volunteer Fire Department with regard to fire protection or fire service, and that proposed accesses and driveways will accommodate emergency vehicles.

36. Utility lines serving Lot #3 will be located within the shared access and utility corridor easement on Lot #1, as identified on the draft survey plat dated 5/21/13.
37. All utility lines serving new residential development will be buried, unless otherwise subsequently approved by the DRB in association with the development of an individual lot.
38. No additional outdoor lighting is proposed; new outdoor lighting must meet the requirements of Section 3.9 of the regulations (Outdoor Lighting).

**Legal Requirements (Section 7.8)**

**Conclusion:** Based on the above finding (#9) regarding the draft easement language and shared maintenance agreement filed by the applicant that governs shared use of a new access and driveway on Lot #1, the DRB has determined that the associated right-of-way will be adequately maintained by the owners of Lots #1 and #3 under the terms of the easement and agreement, to be recorded in the land record of the town. No other legal documents are required.