



Town of Bolton

Development Review Board

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

Automotive Service International- 4 x 4 Center
Application #2014-31-CU: Request for Reconsideration
September 30, 2015

Request for

Applicant

Automotive Services International, Inc.
(d/b/a the 4x4 Center)
Michael Hopwood, President
c/o Claudine C. Safar, Esq.
Monaghan Safar Ducham PLLC
156 Battery Street
Burlington, VT 05401

Owner of Record

Catamount/Bolton Land LLC and
Mountain Operations and Development, LLC
c/o Larry Williams, President
210 College Street, Suite 201
Burlington, VT 05401

Property: 4 x 4 Center, Bolton Valley Access Road

Parcel ID # 7-3003227 & 6-3003227

Reconsideration

(Application materials on file at the Bolton Town Office)

The Applicant, Automotive Services International, Inc., (d/b/a the 4 x 4 Center) has requested reconsideration of conditions # 1, 3, 6, 8, 11, 23, 34, 36, 48, and 51 of site plan and conditional use approval under DRB decision #2014-31-CU issued on May 7, 2015 for expansions at the 4 x 4 Center, as specified in motions filed on May 28, 2015 and June 8, 2015, within the prescribed 30-day period for appeal.

The request to amend the above conditions of approval has been reviewed by the Bolton Development Review Board (DRB) under the Bolton Land Use and Development Regulations (BLUDRs) as amended, effective August 9, 2010, including applicable zoning district standards (Article II), General Standards (Article III), Conditional Use review standards (Section 5.4), and relevant findings, conclusions and conditions of approval under #2014-31-CU. The Development Review Board's procedural history and relevant findings are attached.

Decision – Reconsideration

The DRB hereby incorporates the following amended conditions of approval under DRB decision #2014-31-CU, issued dated May 7, 2015:

1. All site clearing and disturbances are limited to the 'limits of disturbance' as indicated on the revised Exhibit 45A 'Site Plan (Sheet 1 of 6), The 4 x 4 Driving School, prepared by Grover Engineering, dated 9/12/2014, last revised 7/23/2015'. Areas to be cleared shall be clearly marked on the site prior to the start of site clearing and disturbance.

3. For the purpose of slope stabilization, all cut and fill slopes exceeding 33% in the vicinity of the winter skid pad area shall be replanted with live stakes, conservation mix, and native plants and grasses. No screening of this area is required.
6. The Board denies the request to revise Condition #6 as listed in the May 7, 2015 DRB decision. The drainage ditch within the right-of-way of the Bolton Valley Access Road shall be excavated and armored with VTrans Type II stone fill from the outlet of the offsite (parking area) flow diversion channel down gradient to the outlet of Stormwater Pond #1.
8. The permittee shall file with the Zoning Administrator the following per the recommendations of the independent engineer review, prior to the issuance of a zoning permit. These documents shall be reviewed and approved by the Town Engineer or other qualified professional.
 - a. Additional detail to ensure that the earthen berms that are holding back stored water in the ponds are constructed appropriately to prevent leakage and potential collapse;
 - b. Details for the waterproofing method that will be used for each pond to ensure that the collected stormwater is hydrologically separated from the SPA groundwater. It is strongly recommended that any groundwater recharge practices occur after stormwater treatment to minimize the potential for introducing salt and fertilizer compounds;
 - c. Details on the type of stabilization that is proposed for the proposed berms to ensure that the slope does not erode during extreme storm events;
11. Per Section 3.15(C)(3) of the BLUDR, operations or activities that use, process, store or dispose of hazardous materials or wastes in amounts that could threaten public water supplies are specifically prohibited within the mapped Source Protection Area. These include floor drains or sumps that drain directly into the ground; above and below ground fuel storage tanks that lack an adequate impervious containment area; the outdoor storage of de-icing materials, pesticides and herbicides; snow storage areas and dumps; and the onsite storage of uninspected vehicles unless stored in an enclosed structure, parked on an impervious surface, or drained of all fluids.
23. Onsite vehicle maintenance, including vehicle maintenance within the shop, is limited to light vehicle maintenance and repair activities associated with normal vehicle operation. All other vehicle repair, including major engine and body work, shall be conducted off site. Onsite customer vehicle repair is strictly prohibited.
34. All 4 x 4 Center fleet vehicles are required to be covered and regularly inspected under the applicant's dealer registration. Fleet and other maintenance vehicles stored on site, within the Source Protection Area, must be stored inside the shop, on an impervious surface or in fleet storage areas indicated on the site plan. A 30 mil HDPE liner shall be installed below the ground surface in designated fleet storage areas to collect and contain any leaks or spilled fluids. These areas shall be regularly maintained and inspected for spills. Contaminated soils shall be disposed of off-site, in accordance with state law.
36. The DRB approves the two side slope trails leading up to the parking area, as proposed on fill slopes (Exhibit 45A). The Applicant is required to line the trails with 3' wide boulder tread strips on slopes greater than 50% and stabilize the side trails with 6-12" tabular rocks placed in an interlocked pattern so they stay in place with the 4 x 4 traffic.

1 48. Approved improvements shall be installed as specified under the construction schedule included
2 in the application (Exhibit 23), with all work to be completed by December 2017, unless
3 otherwise extended for reasonable cause, including delays in applicable state permitting
4 processes, under an administrative amendment issued by the Zoning Administrator. Zoning
5 permits shall be obtained prior to each phase of construction.
6

7 All conditions of previous subdivision and conditional use approval remain in full force and effect except
8 as amended herein.
9

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

Michael Rainville – Yea
John Devine – Yea
Stephen Diglio– Yea
Sharon Murray – Yea
Charmaine Godin – Absent

Dated at Bolton, Vermont this 30th day of September, 2015.

For the Development Review Board:



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 for reconsideration of a previously approved DRB decision (#2014-31-CU) was filed by Claudine C. Safar, Esq., on behalf of Automotive Services International, Inc., on June 8, 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 July 9, 2015. Due to a deficiency in the public warning, the application was rescheduled for July 23, 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 July 23, 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 DRB continued the hearing to August 20, 2015 for the purpose of conducting a site visit. A site visit was held at the 4 x 4 Center on August 20, 2015. At the completion of the site visit the DRB continued the hearing to the next regularly scheduled DRB meeting on August 27, 2015 at 6:30 PM.

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

- Claudine C. Safar, Esq., Monaghan Safar Ducham PLLC, 156 Battery Street, Burlington, VT 05401
- Dean Grover, Grover Engineering, 2044 Main Road, Huntington, VT 05462
- Mike Hopwood, 63 Ethan Allen Drive, S.Burlington, VT 05403
- Darlene Autery, 128 Sports Club Dr. #126, Bolton Valley, VT 05477
- Paul Growald, PO Box 459, Shelburne, VT 05482
- Bryan Rowell, 17 Thatcher Road, Bolton Valley, VT 05477
- Jack Stand- 'Lodge at Bolton'

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

1. Correspondence from Claudine Safar to DRB, Re: Motion to Reconsider/To Alter the 4 x 4 Center Conditional Use Application/Site Plan Review, dated 5/28/15 including:
 - o Exhibit A: Letter from Denis Chavalier, Class 3 Water Operator (ID #2906) dated 5/27/15;
2. Correspondence from Claudine Safar to DRB, Re: Motion to Reconsider/To Alter the 4 x 4 Center Conditional Use Application/Site Plan Review, dated 6/8/15;
3. Application for Appeal/Request for Reconsideration Decision 2014-31-CU, dated 6/8/15;
4. List of Abutters (8 pages); [Not included in packet staff provided to DRB]
5. Correspondence from the DRB to Automotive Services International, Inc. c/o Claudine Safar, Re: Automotive Services International, Inc. (4 x 4 Center), #2014-31-CU Request for Reconsideration, dated 6/8/15;
6. DRB Decision 2014-31-CU, dated 5/7/15;
7. DRB Hearing Notice for 7/23/15;
8. Correspondence from Claudine Safar to DRB, Re: Motion to Reconsider/To Alter the 4 x 4 Center Conditional Use Application/Site Plan Review, dated 7/21/15;
9. Exhibit 45A [Revised]: Site Plan (Sheet 1 of 6), The 4 x 4 Driving School, prepared by Grover Engineering, dated 9/12/2014, last revised 7/23/2015;

10. Memo from Grover Engineering 'Existing & Proposed Stormwater Calculations' dated 8/20/2015.

The DRB adjourned the hearing on August 27, 2015, 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 reconsideration of 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 #2014-31-CU:

Condition #1 [As originally stated]. Site clearing and disturbance shall be limited to those areas as shown on Exhibit 45A, prepared by Grover Engineering, last revised 3/27/2015. Areas to be cleared shall be clearly marked on the site prior to the start of site clearing and disturbance.

Findings:

1. The Applicant provided a revised Exhibit 45A 'Site Plan (Sheet 1 of 6), The 4 x 4 Driving School, prepared by Grover Engineering, dated 9/12/2014, last revised 7/23/2015' which indicates amended site clearing and disturbance areas.
2. The limits of disturbance are clearly indicated on the revised site plan and include areas surrounding the proposed improvements.

Conclusion: Amending the site clearing and disturbance areas to the areas defined on the revised Exhibit 45A 'Site Plan (Sheet 1 of 6), The 4 x 4 Driving School, prepared by Grover Engineering, dated 9/12/2014, last revised 7/23/2015' will not substantively alter prior conditions of approval.

Condition #3 [As originally stated]. All cut and fill slopes exceeding 33% shall be replanted with vegetation as indicated on Exhibit 38E, Planting Details, prepared by Grover Engineering, last revised 3-20-2015, in order to stabilize the slope. For purposes of slope stabilization, planting areas shall also include the cut slope east of the Winter Skid Pad.

Findings:

3. During the site visit on August 20, 2015, the Board viewed the cut/fill slopes in the areas surrounding the winter skid pad and the existing conditions of the slopes.
4. The landscaping and screening details indicated on Exhibit 38E, Planting Details, prepared by Grover Engineering, last revised 3/20/2015, was not intended for slopes exceeding 33% in the vicinity of the winter skid pad.

Conclusion: Requested revisions to the vegetation and planting details in the vicinity of the winter skid including live stakes, conservation mix, and grasses, if planted as discussed, will improve slope stability, reduce soil erosion, and will not substantially alter prior conditions of approval.

Condition #6 [As originally stated]. The drainage ditch within the right-of-way of the Bolton Valley Access Road shall be excavated and armored with VTrans Type II stone fill from the outlet of the offsite (parking area) flow diversion channel down gradient to the outlet of Stormwater Pond #1.

Findings:

5. During the site visit held on August 20, 2015, the Board inspected the drainage ditch within the right-of-way of the Bolton Valley Access Road.
6. It is unknown when or who constructed the ditch.
7. The ditch runs beyond the town's right-of-way and is lined with fabric and stone, which is uncommon practice for the town's road crew.

Conclusion: The Board concludes that this condition shall remain as originally stated.

Condition # 8 [As originally stated]. The permittee shall file with the Zoning Administrator the following per the recommendations of the independent engineer review, prior to the issuance of a zoning permit:

- a. Additional detail to ensure that the earthen berms that are holding back stored water in the ponds are constructed appropriately to prevent leakage and potential collapse;
- b. Details for the waterproofing method that will be used for each pond to ensure that the collected stormwater is hydrologically separated from the SPA groundwater. It is strongly recommended that any groundwater recharge practices occur after stormwater treatment to minimize the potential for introducing salt and fertilizer compounds;
- c. Details on the type of stabilization that is proposed for the proposed berms to ensure that the slope does not erode during extreme storm events;

Findings:

8. During the July 23, 2015 public hearing Ms. Safar requested that the condition be clarified as to whether or not the required submissions simply need to be filed with the Zoning Administrator or if they need to be reviewed and approved. Ms. Safar requested that the condition be clarified to require review and approval by the Town Engineer or other qualified professional.

Conclusion: The Board concludes that clarifying the original condition to include the language 'as approved by the Town Engineer or other qualified professional' will not substantially alter prior conditions of approval.

Condition # 11 [As originally stated]. Per Section 3.15(C)(3) of the BLUDR, operations or activities that use, process, store or dispose of hazardous materials or wastes in amounts that could threaten public water supplies are specifically prohibited within the mapped Source Protection Area. These include floor drains or sumps that drain directly into the ground; above and below ground fuel storage tanks that lack an adequate impervious containment area; the outdoor storage of de-icing materials, pesticides and herbicides; snow storage areas and dumps; and the onsite storage of unregistered vehicles unless stored in an enclosed structure, parked on an impervious surface, or drained of all fluids.

Findings:

9. During the July 23, 2015 public hearing, the applicant, Mike Hopwood provided testimony that the 4 x 4 Center vehicles are all inspected however are not individually registered. The 4 x 4 Center vehicle fleet is registered with dealer plates. Mr. Hopwood also testified that the 4 x 4 Center vehicles are in new condition and do not pose an environmental risk.

Conclusion: The Board concludes that amending the language of the original condition to prohibit the onsite storage of 'uninspected' vehicles, will not substantially alter prior conditions of approval or pose threat to the public water supply.

Condition # 23 [As originally stated]. Onsite vehicle maintenance, including vehicle maintenance within the shop, is limited to light vehicle maintenance and repair activities associated with normal vehicle operation. All other vehicle repair, including engine and body work, shall be conducted off site.

Findings:

10. During the July 23, 2015 public hearing, Ms. Safar and the applicant provided testimony that all major vehicular repair is performed in South Burlington.
11. The applicant's engineer, Mr. Dean Grover, provided testimony that the proposed repair shop has been engineered with a floor drain and holding tank to mitigate any potential spills or accidents.
12. During the July 23, 2015 public hearing, the Board and the applicants concurred that adding the word 'major' in front of engine and body work would alleviate the applicants concerns.

Conclusion: The Board concludes that amending the condition to prohibit 'major' engine and body work will not substantially alter prior conditions of approval or pose threat to the public water supply.

Condition # 34 [As originally stated]. Unregistered vehicles must be stored inside the shop, on a concrete or paved surface, or drained of all fluids. Fleet storage areas used to store unregistered vehicles shall have an impervious paved or concrete surface.

Findings:

13. During the July 23, 2015 public hearing, the applicant's engineer, Mr. Dean Grover, requested that the board consider allowing the installation of a HDPE liner below the ground surface rather than requiring additional impervious surfaces for parking the fleet.

Conclusion: The Board concludes that allowing the storage of vehicles in an area with a HDPE liner installed below the ground surface, if installed and maintained properly, will not pose environment threat or impacts to the source protection area.

Condition # 36 [As originally stated]. The DRB denies approval of the two side slope trails leading up to the parking area, as proposed on fill slopes (Exhibit 45A). These trails were presented after the board's independent technical review and sufficient details to support approval were not provided during the public hearing. The applicant can ask for reconsideration of these two trails, if additional details are provided with regard to stormwater runoff and slope stabilization.

Findings:

14. During the July 23, 2015 public hearing, the applicant's engineer, Mr. Dean Grover, noted that the existing trails are on fill and the proposed trails will have a finished grade of roughly 50%. He also provided testimony that stormwater will be collected above the trails and will be directed away to prevent stormwater from running down the trails.
15. The Applicant provided information indicating that the proposed shop bank trails will be lined with 3-foot wide boulder tread strips on 50% or greater slopes and that the boulder tread strips will be composed of 6 to 12-inch interlocking tabular rocks.

Conclusion: The Board concludes that approval of the two trails on cut and fill slopes, if constructed and stabilized as required, will not adversely impact previous conditions of approval.

Condition # 48 [As originally stated]. Approved improvements shall be installed as specified under the construction schedule included in the application (Exhibit 23), with all work to be completed by December 2017, unless otherwise extended for reasonable cause under an administrative amendment issued by the Zoning Administrator. Zoning permits shall be obtained prior to each phase of construction.

Findings:

16. During the July 23, 2015 public hearing Ms. Safar provided testimony that the permitting process is taking longer than expected. She requested for the condition to be revised to allow longer construction time-frame, approximately 2 ½ years after completing the Act 250 permitting process.

Conclusion: The Board concludes amending the previous condition to allow a longer construction timeframe will not will not substantially alter prior conditions of approval.

Condition # 51 [As originally stated]. Upon substantial completion of the project, the permittee shall provide an affidavit from a licensed engineer that all site, stormwater and driveway improvements have been constructed per approved plans.

Findings:

17. During the July 23, 2015 public hearing Ms. Safar agreed that Condition # 53 provided requested flexibility for review and approval of minor deviations in project plans.

Conclusion: The Board concludes that no change to this condition of approval is warranted, given the flexibility offered under Condition # 53, a standard condition of approval. [See DRB decision dated May 7, 2015.]