



# Town of Bolton Development Review Board

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

In re: **CRAG-VT/Upper West Cliffs  
Final Subdivision Approval/3-Lot Subdivision  
January 30, 2009**

## Applicant:

CRAG-VT  
c/o Travis Peckham, President  
PO Box 614  
Richmond, VT 05477

## Landowners:

Ken and Nancy Remsen  
3055 Notch Road  
Jericho, VT 05465

Michael Ringuette  
3161 Notch Road  
Jericho, VT 05465

## Application

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

The applicant has requested final subdivision approval of a proposed 3-lot conservation subdivision consisting of the subdivision and subsequent merger of a 7-acre parcel from the Ringuette property (an existing 22-acre parcel) and an 11-acre parcel from the adjoining Remsen parcel (an existing 23-acre parcel) to create a separate 18-acre parcel under the ownership and management of the Climbing Resource Access Group of Vermont (CRAG-VT). The purpose of the subdivision is to protect and conserve the Resin Ridge cliff area, also known as "Upper West Cliffs," as protected open space for rock climbing and other passive outdoor recreation.

The two existing parcels (Tax Parcel ID #s 06-016, 06-017) are located on the Notch Road in the RII District, and are currently occupied by single family dwellings. The proposed 18-acre parcel to be created from these existing lots will be located behind the existing parcels, adjacent to the conserved Preston Pond parcel owned by the town. The parcel, as an interior lot, will not have frontage on the Notch Road, but may be accessed by existing trail networks (Long Trail, Preston Pond Trails) from the Notch and Stage Roads. The land is to be protected as permanent open space, subject to deed restrictions and as shown on the plat. No further development, except for a possible sign board, picnic table, park bench or similar outdoor furniture is proposed.

This application has been reviewed by the Bolton Development Review Board under applicable zoning district and subdivision review criteria in the Bolton Land Use and Development Regulations (in effect January 26, 2005). The Development Review Board's procedural history and relevant findings are attached.

## Decision – Final Subdivision Approval:

- Denied  
 Approved  
 Approved with Conditions:

1. The final survey plat, and supporting legal documents, as herein 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 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).

2. The final subdivision plat shall carry the following endorsement (Section 6.6) :

*Approved by the Development Review Board of the Town of Bolton, Vermont, on the 30th day of January, 2009, subject to all requirements and conditions of subdivision approval. Signed this \_\_\_\_ day of \_\_\_\_, 2009, by \_\_\_\_\_, DRB Chair.*

3. All lots, survey monuments and corner markers shown on the final plat, as submitted for recording, shall conform to the draft survey plat, dated November 2008, with the notation that the lots to be conveyed to CRAG-VT shall be merged into a single lot (Finding # 13).
4. The lot(s) conveyed to CRAG-VT shall be identified as "Protected Open Space" on the final plat, as submitted for recording, with the notation that no further subdivision is allowed (Finding #21).
5. The lots conveyed to CRAG-VT shall be maintained by CRAG-VT and subsequent owners in accordance with the following agreed to deed restriction, to be included in deeds of conveyance as recorded in the land records of the Town of Bolton (Finding # 21):

*Land Use Restriction. The herein described land is conveyed subject to the restriction that the property conveyed by this Deed may be used only for outdoor recreation, including rock climbing and ice climbing. No residential, commercial, industrial or mining activities shall be permitted. No structures shall be constructed on the premises, with the exception of small accessory structures that are customary and incidental to recreational use of the property, such as a bulletin board, picnic table or park bench. No further subdivision of the land shall be allowed.*

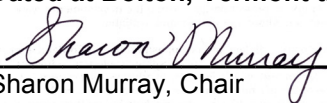
6. No cutting or removal of any trees or other vegetation is allowed within 50 feet of any wetland or 25 feet of any stream on the property, in accordance with Section 3.17 of the Bolton Land Use & Development Regulations (Finding # 16).
7. Parking is not allowed within town rights-of-way. Use of the property for organized outdoor recreation (e.g., for classes or guided trips) that will exceed existing available parking capacity at trail heads shall require conditional use approval by the Development Review Board (Finding # 8).
8. Signs installed on the property shall meet applicable requirements under Section 3.14 of the Bolton Land Use & Development Regulations, and may require a zoning permit (Finding # 21).
9. No changes, modifications or other revisions that alter the approved plat, including the location of subdivision boundaries, lot lines, or conditions of plat approval, with the exception of trail or conservation easements established after the date of plat recording, shall be made without prior approval from the DRB. Any changes, modifications or revisions recorded without DRB approval shall be considered null and void (Section 6.7).

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

Jerry Chabot – Yea  
Sharon Murray – Yea  
Michael Hauser – Yea

Margot Pender – Yea  
Michael Rainville – Yea

**Dated at Bolton, Vermont this 30th day of January, 2009.**

  
\_\_\_\_\_  
Sharon Murray, Chair  
Bolton Development Review Board

**NOTICE:** This decision may be appealed to the Vermont Environmental 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 Court Proceedings.

## **Review Process:**

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

An application for sketch plan review, dated 10/8/08, was received by the Bolton Zoning Administrator on 10/8/08 and referred to the Bolton Development Review Board (DRB) for consideration at its next regular meeting, held on 10/22/08 at the Bolton Town Office.

CRAG-VT (applicant) and the owners of the properties to be subdivided were represented at the meeting by Travis Peckham, President. At that meeting, the DRB agreed that the proposed subdivision generally conformed to district dimensional requirements, and to treat the 3-lot subdivision as a minor subdivision as defined under the regulations. Give the applicant's stated intent to maintain the newly created parcel as protected, undeveloped open space, the DRB also agreed to waive the district road frontage requirement. The applicant was asked to submit a draft subdivision plat and associated deed or easement language with the application for final subdivision approval. No separate DRB letter was issued.

A draft plat and supporting documentation were received by the Zoning Administrator on 12/1/08 and referred to the DRB. A public hearing was scheduled for 12/17/08 and warned in accordance with Section 9.8(D)(1) of the Bolton Land Use & Development Regulations and 24 V.S.A. §4464. In anticipation of receiving the application, the hearing notice was:

- Submitted for warning in the *Mountain Gazette* on 11/26/08 for publication.
- Mailed to the applicant for posting on the property within view of the Notch Road on 11/26/08
- Mailed to abutting property owners on 11/26/08.
- Posted at the Bolton Town Office, Bolton Store, and Jonesville Post Office on 11/26/08

The public hearing to consider the application was convened on 12/17/08, 6:00 pm at the Bolton Town Office with a quorum of the DRB present. There were no reported ex parte communications or conflicts of interest, or recusals. 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:

- CRAG-VT (applicant) represented by Travis Peckham, President
- Kenneth Remson (property owner) 3055 Notch Road, Jericho, VT 05465
- Michael Ringuette (property owner) 3161 Notch Road, Jericho, VT 05465
- Lars and Jen Botzjourns (abutters) 60 Duck Brook Circle, Jericho, VT 05465

The following materials were submitted in support of the application:

- Application forms, dated 10/8/08, and required application fees
- Letter from Travis Peckham, dated 10/7/08, describing the project.
- Orthophoto with property boundaries (no date) prepared by the Vermont Land Trust, showing the proposed subdivision in relation to the Preston Pond Property, adjoining parcels and the Notch Road.
- Resource/Site Assessment Map (no date, orthophoto base) prepared by the Vermont Land Trust, showing the proposed subdivision at a larger scale.
- Transmittal letter from Travis Peckham, dated 12/1/08, describing the intent of deed language.
- Draft deed language, transmitted 12/1/08
- Draft subdivision plat, dated November 2008, prepared by Paul Hannan, Land Surveyor, Calais, VT

Following the submission of testimony and evidence, the hearing was adjourned on the same day.

## **Findings**

The applicant's request for final subdivision approval for a minor, 3-lot subdivision was reviewed by the Bolton DRB for conformance with applicable zoning district requirements (Table 2.5, Rural II District) and subdivision standards (Sections 7.2-7.4) of the Bolton Land Use and Development Regulations (BLU&DR) in effect at the time of application. Board findings and conclusions under each of these standards are presented as follows.

### **Zoning District Standards (Table 2.5)**

1. The two parcels proposed to be subdivided are located within the Rural II district, which has a minimum lot area requirement of 10 acres, and a minimum road frontage requirement of 300 feet.
  2. The parcels to be subdivided include the 22.6-acre Remsen parcel, with 279 feet of frontage along the Notch Road, and the 22.1 acre Ringuette parcel, with 324 feet of frontage along the Notch Road. Each parcel is occupied by a single family dwelling, as shown on the draft subdivision plat.
  3. The subdivision will result in the creation of a 12.2-acre parcel, to be retained by Remsen, a 14.7-acre parcel to be retained by Ringuette, and a 17.8-acre parcel, resulting from the merger of the subdivided portions of the existing lots, to be transferred to CRAG-VT. The three lots established by the proposed subdivision and merger all conform to minimum district lot size requirements.
  4. The newly created lot held by CRAG-VT will be an interior lot, without frontage along the Notch Road and therefore, as proposed, will not conform to district frontage requirements.
  5. The land to be subdivided is located adjacent to the protected Preston Pond Parcel, owned by the town, and is currently used for climbing and outdoor recreation, with landowner permission. It is currently accessed on foot by an existing trail network that includes the Long Trail and the Preston Pond Trails. There is no existing or proposed vehicular access.
  6. The intended purpose of the subdivision is to protect identified natural resources (Resin Ridge), as undeveloped open space, for rock climbing and other passive outdoor recreational pursuits.
  7. Given the existing character of the land (cliffs, steep slopes), the intent to maintain the land as undeveloped, protected open space for passive recreation that does not require vehicular access, and the fact that there currently is no vehicular access to this area, the DRB, in accordance with 6.2 of the regulations, finds that:
    - the lack of road frontage is not requisite in the interest of public health safety and welfare (e.g., for access spacing or traffic safety) since no vehicular access is proposed, and an alternative means of access, consistent with the proposed use, is available;
    - there currently is no vehicular access to the area of land to be subdivided, in part due to topographic constraints; and
    - the lack of lot frontage will not have the effect of nullifying the intent and purpose of applicable provisions of the zoning regulations, including the stated purpose of this zoning district to "...protect significant natural resources, and to discourage subdivision and development in areas with limited access to public roads and facilities," which also conforms to town plan policies.
- The DRB therefore has agreed to waive the lot frontage requirement, only as it applies to the newly created lot. The proposed subdivision also will not increase the degree of nonconformance with regard to required frontage for the Remsen parcel.
8. There is no on-site parking. Limited parking is available at existing trail heads and, according to the applicant, is sufficient to accommodate current levels of use. Use of the property in excess of available parking capacity will trigger the need for subsequent review and approval from the DRB as a conditional use (Recreation/Outdoor) under the current regulations.

**General Subdivision Standards (Section 7.2)**

9. The land to be subdivided, consisting of undeveloped forested land with steep topography, cliffs, rock outcrops, and a boulder field, is suitable for rock climbing and other outdoor recreation and has historically supported this use. Much of the land is not suitable for other types of development, due to topographic and access constraints.
10. The intent to preserve the land as undeveloped open space is consistent with Bolton Town Plan policies for this district, for natural resource conservation, and for limiting development in inaccessible upland areas characterized by steep slopes.
11. The intended use of the land for outdoor recreation is consistent with the stated purpose of and desired settlement pattern within the Rural II zoning district (see Finding #7).
12. Lot layout is consistent with site topography, the proposed use, and the lack of suitability of the land for other types of development.
13. Permanent survey monuments and corner markers will be located as shown on the draft plat.

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

14. The intent of the proposed subdivision is to protect identified natural resources, including Resin Ridge (the Cliffs) as undeveloped open space. A detailed natural resource inventory of the parcel has not been conducted however, according to the applicant, the Vermont Natural Heritage Program recognizes the cliff area as a rare ecosystem because of the red pine stand. For this reason it is also shown as being within a "Significant Biological Natural Area" on the town's natural resource maps.
15. The proposed lot is located adjacent to the conserved Preston Pond Property, and would functionally extend the protected area to include adjoining resources.
16. The proposed subdivision will not impact surface waters and wetlands in the area (e.g., the Duck Brook drainage). Stream and wetland buffers on the property have not been identified, but must be maintained in accordance with the regulations (Section 3.17). There are no mapped floodplains.
17. The proposed subdivision is specifically intended to protect existing rock outcrops, steep slopes, cliffs, wildlife and natural areas as undeveloped open space, and will therefore not adversely affect these areas. No buildings or other structures, except for small accessory structures such as sign boards, will be allowed under proposed deed restrictions.

**Open Space & Common Land (Section 7.4)**

18. The entire parcel to be created, now in residential use, will be protected as undeveloped open space. The parcel as configured functionally extends adjoining conserved open land (the Preston Pond Parcel), and will be open and accessible to the general public through existing trail networks (Long Trail, Preston Pond Trails).
19. Provision has been made for protection of the lot as undeveloped open space through deed restrictions. The applicant is also pursuing the sale or donation of conservation easements to a qualified organization such as the Vermont Land Trust, as funding allows.
20. The location, shape, size and character of the open space is suitable for its intended use for rock climbing and other passive outdoor recreation.
21. Proposed deed language identifies allowed uses of the land consistent with the stated intent to limit future the use of the property to outdoor recreation, including rock and ice climbing, and to prohibit all but incidental structures (e.g., bulleting boards, picnic tables, benches) and other types of development. It does not however state in the deed – or on the draft plat – that the subdivided parcel is protected open space and shall not be further subdivided, as required under the regulations.