



Town of Bolton Development Review Board

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

In re: **Mountain Operations & Development (d/b/a Bolton Valley Resort)
Automotive Services International, (d/b/a 4x4Center Off-Road Driving School)
Conditional Use Approval- 4x4 Course Expansion, Winter Use
December 8, 2009**

Applicants:

Automotive Services International
(d/b/a 4x4 Off-Road Center Driving Training School)
c/o Michael Hopwood
63 Ethan Allen Drive
South Burlington, VT 05403

Mountain Operations and Development, LLC
(d/b/a Bolton Valley Resort)
c/o Larry Williams, President
4302 Bolton Valley Access Road
Bolton Valley, VT 05477

Project Description

(See site plan, application materials on file at the Bolton Town Office)

An application was submitted on February 6, 2009 by Automotive Services International (4x4 Center) and Mountain Operations and Development LLC (Bolton Valley Resort), for conditional use approval by the Bolton Development Review Board (DRB) for:

1. Improvements to and expanded summer use by the 4x4 Center of existing alpine ski trails at the resort as established in 2008 and shown on Exhibit A of the initial application, and the "Proposed 4x4 Course Expansion Trail Slope Analysis" (dated 4/3/09).
2. Improvements to and summer use by the 4x4 Center of existing logging road segments to the south and southwest of the existing warmup area in the vicinity of Timberline Lodge, as shown on Exhibit E.2 of the initial application.
3. Winter use by the 4x4 Center of existing (as built) staging and expanded warmup areas in the vicinity of Timberline Lodge, as shown on Exhibit C of the initial application.

Also included under this application, as deemed relevant by the Development Review Board:

4. As-built manmade obstacles and features as described in applicant narratives dated July 27, 2009 and October 23, 2009, and as shown on "Timberline Area Summer Usage Obstacles" (dated 12/1/08) submitted on October 23, 2008.

The property in question includes parcels owned and managed by Bolton Valley Resort as an existing alpine ski facility (ID#s 4-3004250, 7-3003227, 7-3004250), located in the Resort Village, Resort Residential, Forest and Conservation Districts. The property is accessed from and includes 4,000+/- feet of road frontage along the Bolton Valley Access Road. The 4x4 Center application requests expanded use of and additional improvements to existing ski area facilities for their Off-Road Driving School, which provides supervised training in off-road driving. As described in the application, the school currently operates during daylight hours, Monday through Friday, from May 1 through October 31.

In a related decision on appeal issued by the Development Review Board on May 8, 2009,¹ the DRB affirmed that conditional use approval and a zoning permit were required under the Bolton Land Use

¹ See *in re Appeals of Zoning Administrator Determinations: 4x4 Off-Road Driving School, Bolton Valley Resort*, dated May 8, 2009.

and Development Regulations for the proposed expansion and winter operation of the 4x4 Center which, under the regulations, constitutes "development" (land development) to be reviewed as:

- An outdoor recreational use (Recreation/Outdoor) of an existing Alpine Ski Facility, as both are defined and listed in the regulations as principal, conditional uses, and which may be allowed as a Mixed Use, subject to conditional use review under Section 4.14 of the regulations (Mixed Use).
- Development on steep slopes, subject to conditional use review under Section 3.16 of the regulations (Steep Slopes).
- Development of land, ski area and parking facilities that are subject to permits and approvals previously issued by the Town of Bolton.

Grandfathering status under the May 2008 decision applies to use of and improvements to existing alpine ski facilities by the 4x4 Center as physically commenced in 2006. This application addresses all subsequent, previously undisclosed (as-built) and proposed uses and incidental improvements to existing facilities and infrastructure as required for 4x4 Center operations.

This application is also subject to review under applicable conditions of prior permits and approvals issued by the Town of Bolton

Bolton Development Review Board Decision

(See attached findings and conclusions)

- Denied**
- Approved**
- Approved with Conditions:**

1. The applicants shall obtain a zoning permit for all as-built improvements and proposed 4x4 Center use of existing facilities as herein approved by the Development Review Board. These include and are limited to the following, as specified under related conditions of approval:
 - Improvements to and expanded summer use by the 4x4 Center of existing alpine ski trails at the resort as established in 2008 and shown on Exhibit A of the initial application.
 - Improvements to and summer use by the 4x4 Center of existing logging road segments to the south and southwest of the warmup area in the vicinity of Timberline Lodge, as shown on Exhibits C and E.2 of the initial application, except for logging road segments with slopes in excess of 25% (Chute, Southern Dip).
 - Winter use by the 4x4 Center of the existing staging area (parking lot), warmup area, trails, and features in the vicinity of Timberline Lodge, as shown on Exhibit C of the original application, except for logging road segments with slopes in excess of 25% (Chute, Southern Dip).
 - As-built manmade obstacles and features as described in applicant narratives dated July 27, 2009 and October 23, 2009, and as shown on "Timberline Area Summer Usage Obstacles" (dated 12/1/08) as submitted by the applicant on October 23, 2009.

In the event that a zoning permit has not been obtained within one year of the date of this decision, DRB approval shall expire and reapplication will be required.

2. Conditions of all prior permits and approvals issued by the Town of Bolton for development on affected parcels at Bolton Valley Resort remain in full force and effect, except as amended herein.
3. Summer use of alpine ski facilities, staging and expanded warmup areas by the 4x4 Center shall extend from May 1 to October 31 of each year, and shall be limited to:


- Alpine ski trails shown on Exhibit A: "Proposed 4x4 Expansion" (dated 2/5/08).
 - Staging and warmup areas and trails in the vicinity of Timberline Lodge as shown for summer use on Exhibit E.2: "Timberline Summer Usage, Erosion Control" (dated 12/1/08), Exhibit C: "Timberline Area, Winter Usage Proposal" (dated 11/17/08), and Exhibit K: "Timberline Area Summer Usage Trail Slope Analysis" (dated 5/8/09) excluding logging roads/trails in this area with slopes over 25% (Chute, Southern Dip).
 - Trails above 2,800 feet in elevation (Bicknell Thrush Habitat) as shown on Exhibit G "Proposed 4x4 Course Expansion, Trail Slope Analysis," (dated 4/3/09) may be used by the 4x4 Center only from August 1 to October 31 of each year.
4. Winter use of alpine ski facilities by the 4x4 Center shall extend from December 15 to March 15 of each year and be limited to those facilities and areas shown on Exhibit C: "Timberline Area Winter Usage Proposal" (dated 11/17/08), excluding logging roads or trails within the mapped area that are over 25% slope (Chute, Southern Dip).
 5. Obstacles and features shall be limited to the eleven as-built obstacles and features within the warmup area identified in October 23, 2009 submittals, including Exhibit O: "Timberline Summer Usage Obstacles" (dated 12/1/08), and accompanying narrative descriptions.
 6. Improvements to existing alpine ski facilities (trails, parking areas) and logging roads for use by the 4x4 Center, including obstacles and features, waterbars and other erosion control measures, shall be completed and maintained in accordance with plans, exhibits and information filed with the application, including the following erosion control plans as submitted:
 - Exhibit D: Erosion Prevention & Sediment Control Description, Revision #5 (dated 10/20/07), prepared by Scott Moreau, Greenleaf Forestry, as reviewed by Bernard Chennette, PE.
 - Exhibit E.1: Erosion Prevention & Sediment Control/Warm-up Area Trails (dated 11/17/08), prepared by Scott Moreau, Greenleaf Forestry.
 - Exhibits E.2, P: Site Plan, Timberline Area Summer Usage Erosion Control (dated 12/1/08), prepared by J. Carroll and reviewed by Greenleaf Consulting, Inc.
 7. No development shall take place on slopes in excess of 25%, except as incidental to the 4x4 Center's use of existing alpine ski trails, which are specifically excluded from this limitation under the Bolton Land Use and Development Regulations (Section 3.16).
 8. No sediment shall be transported off-site. Stormwater and erosion shall be controlled on-site in accordance with submitted erosion control plans, and shall not result in damage to neighboring properties, uses or infrastructure or naturally occurring streams or wetlands.
 9. Use of all trails is prohibited in wet conditions. Trails, obstacles and erosion control devices shall be visually inspected after storm events and at the end of each season, and repaired as needed prior to resuming 4x4 Center operations. Repairs or improvements shall not significantly alter the location or slope of trails or parking facilities as approved herein for use by the 4x4 Center. A written log of all repairs shall be maintained by the applicants, and shall be made available to Bolton Town officials for inspection upon request.
 10. 4x4 Center activities within designated Source Protection Areas, including vehicle washing areas and trail use, shall be managed in accordance with Catamount/Bolton/Water & Sewer, LLC Source Protection Plan (WSID 5051), dated April 29, 2006 and as subsequently amended. Any vehicle accidents or incidents resulting in potential water supply contamination shall be reported

immediately to key personnel identified in the plan who are responsible for assessing the potential scope and severity of the contamination.

11. Except for trail stream crossings as approved herein and under prior approvals, 50-foot vegetated buffers shall be maintained along all surface waters and wetlands in the vicinity of the project.
12. Winter use of the Timberline Lodge parking area as a staging area for maintenance vehicles, driving activities, and 4x4 Center employee and customer parking shall be managed under a cooperative agreement between the applicants in accordance with the addendum to the *Bolton Valley Resort Parking Analysis and Management Plan* (dated 10/23/09), and all prior conditions of approval. Accordingly:
 - 4x4 Center use of the parking area shall be coordinated with ski area and events facility management to avoid potential parking conflicts with ski area operations and events at the Ponds.
 - Parking shall be managed by the applicants on-site, in accordance with prior conditions of approval, as necessary to avoid parking within town rights-of-way.
 - Cleared pedestrian paths shall be maintained across parking areas to access both the Timberline Base Lodge, and pedestrian crosswalks to the Ponds.
13. The 4x4 Center must adhere to applicable performance standards under Section 3.12 of the Bolton Land Use & Development Regulations. The driving school, under normal operation, shall not result in undue glare or noise, or safety hazards which constitute a nuisance to or endanger adjoining property owners or other facility users. The Development Review Board reserves the right to consider and impose additional performance standards as needed to address any future complaints resulting from 4x4 Center activities.
14. Except for development that is exempt from municipal regulation, or requires only a zoning permit issued by the Zoning Administrator under the Bolton Land Use & Development Regulations, no further subdivision or land development, including expansions, modifications or changes to approved uses and facilities, shall be undertaken without prior written approval from the DRB.
15. The conditions of this approval shall run with the land and shall be binding upon and enforceable against the landowner and all assigns and successors in interest. By acceptance of this permit, the applicants agree to allow authorized representatives of the town to access the properties subject to this approval, at reasonable times, for purposes of ascertaining compliance with the conditions of approval.

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

Dated at Bolton, Vermont this 8th day of December 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.

Procedural History

(Hearing notices, minutes on file at the Bolton Town Office)

On February 9, 2009 an application to the Development Review Board was received from Automotive Services International (dba the 4x4 Center Off-Road Driving Training School) and Mountain Operations and Development, LLC (dba Bolton Valley Resort), dated January 27, 2009, for conditional use review and approval of : 1) expanded 4x4 Center use pre-existing roads and trails located at the Bolton Valley Resort (2008), and 2) limited wintertime use of the "Warmup Area" from December 15th to March 15th of each year (2009). The application and fee was included in a transmittal, dated February 6, 2009 from Thomas G. Walsh Esq. and Liam L. Murphy Esq., representing the applicants. Application materials as filed included:

- Transmittal letter, dated 2/6/09, and application fee check (#1117).
- Application form, dated 1/27/09 and attached project description, and proposed findings.
- Exhibit A: Site Plan- "4 Wheel Drive Course Expansion" Bolton Valley, VT (ortho-based) dated 2/5/2008, prepared by Greenleaf Forestry.
- Exhibit B: "Off-Road Driving Trail Slope Analysis," dated May 19, 2008, prepared by Larry Williams, Bolton Valley Resort.
- Exhibit C: "4x4 Center Site Plan, Timberline Area Winter Usage Proposal," dated 11/17/08, prepared by J. Carroll and reviewed by Greenleaf Consulting Inc.
- Exhibit D: "Bolton Valley 4-Wheel Drive Test Area Recommendations for Erosion Prevention & Sediment Control," Revision #5, dated 10/20/07, prepared by Scott Moreau, Greenleaf Forestry, as reviewed by Bernard Chennette, PE. Includes erosion measures for existing and expanded trail network, including data collected through 10/13/07.
- Exhibit E.1: "Erosion Prevention & Sediment Control/Warm-up Area Trails," dated 11/17/08, prepared by Scott Moreau, Greenleaf Forestry, based on data collected on 11/12/08.
- Exhibit E.2: Site Plan - "Timberline Area Summer Usage Erosion Control," dated 12/1/08, prepared by J. Carroll and reviewed by Greenleaf Consulting, Inc.

On February 18, 2009 a determination was issued by Zoning Administrator Miron Malboeuf, by certified mail, that the application was incomplete because it 1) did not include the required fee for abutter notification, and 2) because municipal approvals were also required for the existing 4x4 Center, which was not addressed in the application.

On February 27, 2009 a notice of appeal was filed by Thomas G. Walsh, Esq, representing the 4x4 Center, appealing the Zoning Administrator's determination that permits were required for existing, as well as expanded 4x4 Center operations.

On March 7, 2009 Zoning Administrator Miron Malboeuf issued a letter indicating that under the regulations, Bolton Valley could bear the responsibility and cost of notifying adjoining owners, and as such was not required to pay notification fees to the town, rendering that portion of the appeal moot.

On March 25, 2009 a duly warned public hearing was held by the Development Review Board at the Bolton Town Office to hear consolidated appeals, as agreed to by the appellants, which was adjourned that evening. A decision on the appeal was issued by the Development Review Board on May 8, 2009² This decision, which was not appealed to Environmental Court, is binding with regard to this application. Specifically, it was determined that the physical expansion and winter operation of the off-road driving school using existing alpine ski facilities (as defined in the regulations) constitutes:

² See *in re Appeals of Zoning Administrator Determinations: 4x4 Off-Road Driving School, Bolton Valley Resort*, dated May 8, 2009.

- An outdoor recreational use (Recreation/Outdoor) - a conditional use as listed and defined in the regulations - which also may be allowed in association with the ski facility as a mixed use, subject to conditional use pursuant to Section 4.14 of the regulations.
- A change in the use of land from one conditional use to another, requiring conditional use review pursuant to Section 3.3 of the regulations.
- Development on steep slopes, subject to conditional use review under §3.16 of the regulations.
- Development of land, ski and parking facilities subject to previous municipal permits and conditions of approval.

The DRB affirmed the Zoning Administrator's determination that conditional use review and approval, and a zoning permit, were required for the proposed expansion and winter operation of the 4x4 driving school.

On March 25, 2009 a duly warned public hearing also was convened by the Development Review Board, with all members present, to hear the application for conditional use approval for 4x4 Center expansion and wintertime use of the warm-up area. No conflicts of interest or ex parte communications were reported. Application materials submitted to date were entered into the hearing record. The following persons attended and participated in the hearing on the application:

- Mike Hopwood, Automotive Services International, dba 4x4 Off-Road Center, applicant
- Thomas Walsh, Esq. Walsh & Monaghan, LLP, representing the applicant
- Larry Williams, Mountain Operations & Development, dba Bolton Valley Resort, owner/applicant
- Liam Murphy, Esq., Murphy Sullivan Kronk, representing the applicant
- Bert Lister, 233 Thatcher Road, Bolton Valley VT 05477
- Jamie Carroll, PO Box 168, Jericho, VT 05408
- Chris Doyle, 150 Thatcher Road, Bolton Valley, VT 05477
- Wynne Kirschbaum, 68 Snow Drift Lane, Bolton Valley, VT 05477

The hearing was continued until April 29, 2009 at the Bolton Town Office, pending the submission of additional information by the applicants, and the outcome of related appeal proceedings.

On April 6, 2009, a transmittal was received from Thomas Walsh, Esq. representing the applicants which included the following supporting materials:

- Exhibit F: Copies of Act 250 Permits, including findings and conclusions (#4C0436-26, #4C0436-26A, #4C0436-26B).
- Exhibit G: "Proposed 4x4 Course Expansion, Trail Slope Analysis" (dated 4/3/09), prepared by J. Carroll.

On April 29, 2009 the public hearing was reconvened at the Bolton Town Office, with all members of the DRB present. Information received on April 6, 2009 was entered into the hearing record. No ex parte communications or conflicts of interest were reported. The following persons attended and participated in the hearing:

- Mike Hopwood, Automotive Services International, dba 4x4 Off-Road Center, applicant
- Thomas Walsh, Esq. Walsh & Monaghan, LLP, representing the applicant
- Larry Williams, Mountain Operations & Development, dba Bolton Valley Resort, owner/applicant
- Liam Murphy, Esq., Murphy Sullivan Kronk, representing the applicant

The following information was also submitted by Larry Williams in support of the application:

- Exhibit H: Deed language ("Declaration of Protective Covenants, Restrictions and Reservations," #10, #18, #22) retaining Bolton Valley Resort's drainage rights, as applied to deeds on Thatcher and Wentworth Roads, but not Blackberry, Gardner, and Snowdrift Lanes.

At the request of the applicants, the DRB agreed to adjourn the hearing, pending the submission of additional documentation from the applicant, with the stipulation that the DRB retained the right to reconvene the hearing if necessary to take additional testimony on submitted information.

On May 12, 2009, the following information was transmitted by Thomas Walsh Esq. on behalf of the applicants:

- Exhibit I: Letter from Bernard Chennette, PE, dated 5/7/09, confirming his inspection and review of the plan, data collection, presentation, and recommended erosion controls prepared by Scott Moreau, dated 11/12/08, and his observation that there was no stormwater siltation from the site following a recent storm event.
- Exhibit J: "Bicknell Thrush Easement Area", dated 7/5/05, as prepared by the SE Group.
- Exhibit K: "4x4 Center Timberline Area Summer Usage Trail Slope Analysis," dated 5/8/09, prepared by J. Carroll.
- Exhibit L: Catamount/Bolton/Water & Sewer LLC, Source Protection Plan WSID 5051, revised 4/28/06.

On June 10, 2009 the Development Review Board sent a letter, by certified mail, to Attorneys Walsh and Murphy, representing the applicants, for clarification of the information submitted to date, and a request for additional information regarding constructed obstacles identified in Act 250 applications, but not addressed in the application.

On July 27, 2009 a letter from Thomas Walsh, Esq., representing the applicants, was received by the DRB responding to the request for clarifications and additional information, and was reviewed in deliberative session (Exhibit M).

On August 26, 2009 the Development Review Board voted 3-0 (with two members absent) to rewarn and reconvene the public hearing on the application to receive testimony on submitted information and to conduct a site visit prior to rendering findings and a decision.

On October 21, 2009 a duly warned public hearing was reconvened at the Bolton Town Office, with all members of the Development Review Board present. No ex parte communications or conflicts of interest were reported. DRB correspondence and Information received from the applicants after April 29, 2009 was entered into the hearing record. The following persons attended and participated in the hearing:

- Mike Hopwood, Automotive Services International, dba 4x4 Off-Road Center, applicant
- Thomas Walsh, Esq. Walsh & Monaghan, LLP, representing the applicant
- Larry Williams, Mountain Operations & Development, dba Bolton Valley Resort, owner/applicant
- Kurt Mehta, 4302 Bolton Valley Access Road, Bolton Valley, VT 05477
- John Tschernenko, 241 Wentworth Road, Bolton Valley, VT 05477
- Christine Geiler, 241 Wentworth Road, Bolton Valley, VT 05477

The hearing was recessed to October 24, 2009, 10:00 am at the Timberline Base Lodge, Bolton Valley Access Road, Bolton Valley Resort, to conduct a site visit and receive requested information from the applicants.

On October 24, 2009 the public hearing was reconvened at the Timberline Lodge and a site visit, attended by a quorum of the DRB, was conducted. The following persons also attended and participated in the site visit and hearing:

- Mike Hopwood, Automotive Services International, dba 4x4 Off-Road Center, applicant
- Thomas Walsh, Esq. Walsh & Monaghan, LLP, representing the applicant
- Larry Williams, Mountain Operations & Development, dba Bolton Valley Resort, owner/applicant

The following information was received from the applicants and entered into the hearing record:

- Exhibit N: Letter, dated 10/23/09, from Thomas G. Walsh, Esq. representing the applicants, including a narrative description of the existing obstacles, and tire wash area.
- Exhibit O: "4x4 Center Timberline Summer Usage Obstacles," dated 12/1/08, prepared by J. Carroll and reviewed by Greenleaf Forestry.
- Exhibit P: "4x4 Center Timberline Area Summer Usage Erosion Control," dated 12/1/08, prepared by J. Carroll, and reviewed by Greenleaf Forestry.
- Exhibit Q: "Addendum to the Bolton Valley Parking Analysis & Management Plan," dated 10/23/09, prepared by Larry Williams, Bolton Valley Resort.

The hearing was adjourned on October 24, 2009 following the site visit and receipt of additional information.

A decision on the application, including findings and conditions, was issued by the Development Review Board on December 8, 2009.

Findings & Conclusions

This request for conditional use approval was reviewed by the Bolton Development Review Board (DRB) for conformance with applicable provisions of the Bolton Land Use and Development Regulations (BLUDR) in effect as of January 5, 2005. Board findings and conclusions relating to applicable criteria under each section of the regulations are indicated as follows.

Zoning District Standards (District Tables)

The 4x4 Center expansion meets applicable district requirements under each of the zoning districts in which it operates.

1. The 4x4 Center operates within a previously developed alpine ski area owned and operated by Bolton Valley Resort, on existing alpine ski trails and parking facilities that extend over four zoning districts: Resort Village (Table 2.2), Resort Residential (Table 2.3), Forest (Table 2.6) and Conservation (Table 2.7).
2. The 4x4 Center generally conforms to the stated purposes of each district, which support outdoor recreational uses in association with the ski area (District Tables).
3. The 4x4 Center constitutes a type of outdoor recreational use (Recreation/Outdoor) as defined under the BLUDR, which is allowed as a conditional use in each of the zoning districts in which it operates (District Tables).

4. No additional development is proposed, except for improvements to existing facilities (including the installation of waterbars, culverts, and obstacles) that are incidental to their use by the 4x4 Center. No new trails or structures are proposed (Application, Testimony, Exhibits A, C, E.2, G, K).
5. Existing facilities and lots exceed minimum district dimensional standards, including applicable lot area, setback, and road frontage requirements for each of the four districts (Application, District Tables).
6. The 4x4 Center meets applicable supplemental district standards. Given the use of existing trail networks, 4x4 Center operations will not result in visual impacts or the fragmentation of wetlands, significant wildlife habitat, natural areas or timber stands in the Forest and Conservation Districts. Use of trails above 2,800 feet elevation (Bicknell Thrush Habitat) will be limited to August 1 to October 31, as recommended by the Agency of Natural Resources, and the Bicknell Thrush Conservation Easement Area, as previously approved will be avoided (Testimony, Exhibits G, J).

Source Protection Areas (Section 3.15)

4x4 Center operations, if managed as proposed in accordance with the existing Source Protection Plan, pose little risk to public water supplies.

7. 4x4 Center operations, including the use of vehicles and vehicle/tire washing areas, are within mapped Source Protection Areas (SPAs) for public water supplies serving the resort and surrounding neighborhoods, which are under the management of Catamount/Bolton Water & Sewer, LLC (WSID 5051). Vehicles are fueled off site (Application, Testimony, Exhibit L).
8. The proposed use is consistent with the Source Protection Plan (dated 4/28/06) which specifies that the risk from vehicles using or maintaining trails at the resort is low. Vehicles pose a risk only if they overturn or rupture a hydraulic line or fuel tank, which would result in limited loss of fluids (<50 gallons). The plan also specifies that any incidents should be immediately reported to key personnel, as identified in the plan (Exhibit L).
9. Limited vehicle and tire washing is done within staging (parking) and warmup areas with water which is managed on-site (Testimony, Site Visit).

Steep Slopes (Section 3.16)

4x4 Center operations on existing alpine ski trails, and logging roads with slopes of 25% or less, if managed in accordance with submitted stormwater management and erosion control plans, will not result in undue erosion, slumps or the transport of sediment off-site, or associated risks to surface and groundwater, public facilities and roads, or neighboring properties.

10. The project area includes steep (15+%) and very steep (>25%) slopes as defined under this section of the regulations (BLUDR).
11. Areas of steep slope, as proposed for use by the 4x4 Center, include both developed and maintained alpine ski trails, which are allowed on slopes in excess of 25%, and existing logging roads. Logging roads are exempt by statute from municipal review if used only for logging, but if used for other purposes - including development access or public trails - must meet the requirements of the regulations (BLUDR, Exhibits B, G, K).

12. Trails allowed on slopes in excess of 25% are limited under the regulations to alpine ski, hiking and rock climbing trails. Two sections of logging road proposed for expanded summer and winter use by the 4x4 Center - "Southern Dip" and "Chute" - which have slopes exceeding 25% and do not meet this requirement (BLUDR, Exhibit K).
13. Erosion control plans submitted in support of the application have been reviewed by a registered professional engineer and approved by the state. These identify existing and proposed trail improvements to support their use by the 4x4 center, including a number of water bars and culverts that direct runoff to vegetated areas located on-site (Application, Exhibits D, E.1., E.2, F, I, P, Testimony).
14. Culverts, water bars and trail surfaces will be regularly maintained and monitored, and will be inspected and repaired as needed following wet periods and at the end of the season(s) prior to the resumption of operations. As required under Act 250 permit conditions, trails will not be used during wet conditions and a written log, available for inspection, will be maintained of all trail maintenance and repairs (Application, Exhibits D, E.1., E.2, F, I, P, Testimony).

Surface Waters & Wetlands (Section 3.17)

4x4 Center use of existing trails and facilities, if managed in accordance with submitted stormwater management and erosion control plans, will not have an undue adverse impact on identified surface waters and wetlands in the project area.

15. The trails and areas used by the 4x4 Center are located within the Joiner Brook watershed which includes the brook, mapped tributaries and wetland areas identified for protection under previous permits and conditions of approval issued by the town. Existing protections include maintaining 50-foot vegetated buffers, except for stream crossings, as required under prior conditions of approval.
16. The 2008 4x4 Center expansion crosses four tributaries of Joiner Brook using existing and improved stream crossings. No stream alterations, new trails or trail realignments that would affect water quality are proposed (Application, Exhibits A, C, K, O, Testimony).
17. Trails will be maintained and monitored to direct and manage stormwater runoff on-site in accordance with submitted erosion control management plans (Application, Exhibits D, E.1, E.2, F, I, P, Testimony).
18. No amendment of the Resort's NPDES discharge permit was required by the state for 4x4 Center trail improvements (Application, Exhibit F, Testimony).

Mixed Use (Section 4.14)

The use of an existing Alpine Ski Facility by the 4x4 Center (Recreation/Outdoor) is a type of "Mixed Use" subject to conditional use review and the requirements of Section 4.14. The uses in combination meet applicable standards for the districts in which they are located, including lot area, frontage and setback requirements,

19. The 4x4 center will use existing alpine ski facilities at Bolton Valley Resort, including ski trails and parking facilities, as well as segments of existing logging roads on the property (Application, Testimony).
20. As previously decided by the DRB on appeal, the 4x4 Center constitutes a principal use (Recreation/Outdoor) as listed and defined in the regulations, which may be allowed in association with another principal use - an "Alpine Ski Facility" - as a "Mixed Use" as each are separately listed and defined under the BLUDR.

21. The uses in combination meet applicable standards for the zoning districts in which they are located, including lot area, frontage and setback requirements. See Findings #1- #6.
22. The uses in combination meet applicable general standards of the regulations, with the exception of some steep slope requirements. See Findings #10- #14.
23. 4x4 Center use of the Timberline Base Lodge parking area at as a staging area will be managed in accordance with the "Addendum to the Bolton Valley Parking Analysis and Management Plan (Application, Exhibit Q, Testimony).

Conditional Use Standards (Section 5.4):

The capacity of existing or planned community services or facilities. The proposed project will have no undue adverse effect on municipal services and facilities.

24. The 4x4 center will use existing alpine ski facilities at Bolton Valley Resort, including ski trails and parking facilities. No change is proposed that would affect existing or planned community services or facilities that serve the resort area (Application, Testimony).
25. The area is served by the Bolton Fire Department. The 4x4 Center will not increase the demand for fire services - no new structures are proposed. . The 4x4 Center will not increase school enrollment at the Smilie School. The town does not provide police protection, rescue or solid waste disposal services (Application, Testimony).
26. The project area is served by the Catamount/Bolton Water & Sewer System. The 4x4 Center will use an insignificant amount of water for vehicle/tire washing. As such, there will be no increased demand for or reduction in the existing capacity of water supply and wastewater systems (Application, Testimony).

The character of the area affected. The proposed project is compatible with and will have no under adverse effect on the existing and planned character of the area.

27. The 4x4 Center operates within a previously developed alpine ski area owned and operated by Bolton Valley Resort, on existing alpine ski trails, parking facilities and logging roads that extend over four zoning districts: Resort Village (Table 2.2), Resort Residential (Table 2.3), Forest (Table 2.6) and Conservation (Table 2.7).
28. The 4x4 Center generally conforms to the stated purposes of each district, which support outdoor recreational uses in association with the ski area (District Tables).
29. The 4x4 Center constitutes a type of outdoor recreational use (Recreation/Outdoor) as defined under the BLUDR, which is allowed as a conditional use in each of the zoning districts in which it operates (District Tables).
30. The project area is located within the Joiner Brook watershed and includes steep (15+%) and very steep (>25%) slopes, high elevation areas (>2,500 feet), surface waters, wetlands, and critical wildlife habitat. Environmentally sensitive areas have been addressed in the application. The 4x4 Center will use existing ski trails and facilities, improved only as necessary to accommodate the use. Trails above 2800 feet in elevation (Bicknell Thrush Habitat) will be used only between August 1 and October 31. See Findings#6, #10- #14, #15- #18.

Traffic on roads and highways in the vicinity. The project will have no undue adverse effect on traffic or roads in the vicinity of the project.

31. The 4x4 Center accesses ski trails, warmup and staging areas from the existing access (curb cut) on the Bolton Valley Access Road that serves the Timberline Base Lodge. No change to this access proposed. The 4x4 Center no longer access the trail network from other roads (Application, Testimony).
32. The school operates up to six vehicles at a time, including road (stock) and military vehicles. All vehicles are staffed by an instructor at all times. Attendees number 4 to 18 at a time. As represented, the driving school will not generate a noticeable amount of additional of traffic on roads and highways in the vicinity of the resort (Application, Testimony).
33. The 4x4 Center operates weekdays, Monday through Friday, and will therefore generate no additional peak period trips (Application, Testimony).
34. The town is responsible for winter road maintenance within the Bolton Valley Access Road right-of-way (travel ways), and does not allow parking within the public right-of-way. No additional road maintenance requirements have been identified as a result of expanded or winter use of existing ski area facilities by the 4x4 Center (Testimony, Prior Conditions of Approval).

Bylaws in effect. The project, if managed as represented, will have no undue adverse effect upon municipal bylaws and ordinances currently in effect.

35. Applicable municipal bylaws include the Bolton Land Use and Development Regulations (1/26/05) and the Bolton Motor Vehicle Ordinance (11/01/93). The 4x4 Center application and supporting documents address applicable requirements of the BLUDR. There are no changes to existing accesses that would require permit amendments under the vehicle ordinance (Application).
36. All required state permits have been obtained (Application).

The utilization of renewable energy resources. No change is proposed with regard to the use of, or access to, the utilization of renewable energy resources.

37. Renewable energy resources on site include solar access and forested stands. 4x4 Center operations will not interfere with solar access or involve any vegetation removal, except as required for regular trail maintenance (Application).

Site Layout & Design. No major changes to the layout of existing trails and facilities used by the 4x4 Center are proposed.

38. The 4x4 Center will use existing trails and facilities at the resort. No new structures or access modifications are proposed (Application).
39. Winter use of the Timberline Lodge parking area as a staging area for maintenance vehicles, driving activities, and 4x4 Center employee and customer parking shall be managed under a cooperative agreement between the applicants in accordance with the addendum to the *Bolton Valley Resort Parking Analysis and Management Plan*, and all prior conditions of approval. It is understood that no parking will be permitted within town highway rights-of-way (Application, Exhibits M, Q, Testimony).
40. No additional landscaping or outdoor lighting is proposed. Limited clearing incidental to regular trail maintenance is permitted under prior conditions of approval (Application).

41. Stormwater management and erosion control will be managed in accordance with submitted erosion control plans, as approved by the state. See Findings #10- #14.

Bolton Town Plan. The 4x4 Center generally conforms to the Bolton Town Plan as most recently adopted.

42. The 4x4 Center conforms to proposed land use districts and related development goals and objectives for the districts in which it is located (Application, Bolton Town Plan).
43. The 4x4 Center, if managed as proposed, will have no undue impact on wildlife habitat, natural areas, productive forests, surface waters, wetlands, farmland, water supply and aquifer areas, historic sites, and scenic resources as identified and described in the town plan (Application, Bolton Town Plan, Maps). See related findings #

Zoning Districts. The 4x4 Center expansion meets applicable district requirements under each of the zoning districts in which it operates. See Findings #1- #6.

Performance Standards. If managed as represented, the 4x4 Center project will not result in nuisances or hazards that will adversely affect neighbor properties and uses or public facilities.

44. The 4x4 Center operates on weekdays (Monday through Friday), during daylight hours (8 am to 5:30 pm), using trails and warm-up areas that are for the most part located away from residential neighborhoods. Winter use will be limited to warm up and staging areas in the vicinity of Timberline Base Lodge - no ski trails will be used. As such, it should not result in significant nuisances or safety hazards to nearby residential uses, skiers, or other uses and activities at the resort (Application, Testimony).
45. Past complaints from neighbors have been resolved by the Resort and 4x4 Center on a case by case basis. As a conditional use, the 4x4 Center is subject to related performance standards under Section 3.12 of the BLUDR, which are intended to limit potential nuisances and hazards to neighboring properties and uses (Testimony, BLUDR).

Legal Documentation.

46. Deed covenants grant Bolton Valley Resort drainage rights across neighboring properties on Thatcher and Wentworth Roads, but not on Blackberry, Gardner, or Snowdrift Lanes (Exhibit H, Testimony).
47. All required state permits, including amended Act 250 permits, have been obtained (Application, Exhibit F, Testimony).

ATTACHMENT: Exhibits List: 4x4 Center Expansion/Bolton Valley (2009)

- Transmittal letter, dated 2/6/09, and application fee check (#1117).
- Application form, dated 1/27/09 and attached project description, and proposed findings.
- Exhibit A: Site Plan- "4 Wheel Drive Course Expansion" Bolton Valley, VT (ortho-based) dated 2/5/2008, prepared by Greenleaf Forestry.
- Exhibit B: "Off-Road Driving Trail Slope Analysis," dated May 19, 2008, prepared by Larry Williams, Bolton Valley Resort.
- Exhibit C: "4x4 Center Site Plan, Timberline Area Winter Usage Proposal," dated 11/17/08, prepared by J. Carroll and reviewed by Greenleaf Consulting Inc.
- Exhibit D: "Bolton Valley 4-Wheel Drive Test Area Recommendations for Erosion Prevention & Sediment Control," Revision #5, dated 10/20/07, prepared by Scott Moreau, Greenleaf Forestry, as reviewed by Bernard Chennette, PE. Includes erosion measures for existing and expanded trail network, including data collected through 10/13/07.
- Exhibit E.1: "Erosion Prevention & Sediment Control/Warm-up Area Trails," dated 11/17/08, prepared by Scott Moreau, Greenleaf Forestry, based on data collected on 11/12/08.
- Exhibit E.2: Site Plan - "Timberline Area Summer Usage Erosion Control," dated 12/1/08, prepared by J. Carroll and reviewed by Greenleaf Consulting, Inc.
- Exhibit F: Copies of Act 250 Permits, including findings and conclusions (#4C0436-26, #4C0436-26A, #4C0436-26B).
- Exhibit G: "Proposed 4x4 Course Expansion, Trail Slope Analysis" (dated 4/3/09), prepared by J. Carroll.
- Exhibit H: Deed language ("Declaration of Protective Covenants, Restrictions and Reservations," #10, #18, #22) retaining Bolton Valley Resort's drainage rights, as applied to deeds on Thatcher and Wentworth Roads, but not Blackberry, Gardner, and Snowdrift Lanes.
- Exhibit I: Letter from Bernard Chennette, PE, dated 5/7/09, confirming his inspection and review of the plan, data collection, presentation, and recommended erosion controls prepared by Scott Moreau, dated 11/12/08, and his observation that there was no stormwater siltation from the site following a recent storm event.
- Exhibit J: "Bicknell Thrush Easement Area", dated 7/5/05, as prepared by the SE Group.

- Exhibit K: "4x4 Center Timberline Area Summer Usage Trail Slope Analysis," dated 5/8/09, prepared by J. Carroll.
- Exhibit L: Catamount/Bolton/Water & Sewer LLC, Source Protection Plan WSID 5051, revised 4/28/06.
- Exhibit M: July 27, 2009 letter from Thomas Walsh, Esq., representing the applicants
- Exhibit N: Letter, dated 10/23/09, from Thomas G. Walsh, Esq. representing the applicants, including a narrative description of the existing obstacles, and tire wash area.
- Exhibit O: "4x4 Center Timberline Summer Usage Obstacles," dated 12/1/08, prepared by J. Carroll and reviewed by Greenleaf Forestry.
- Exhibit P: "4x4 Center Timberline Area Summer Usage Erosion Control," dated 12/1/08, prepared by J. Carroll, and reviewed by Greenleaf Forestry.
- Exhibit Q: "Addendum to the Bolton Valley Parking Analysis & Management Plan," dated 10/23/09, prepared by Larry Williams, Bolton Valley Resort.