

CHARLOTTE PLANNING COMMISSION

FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

William Hoyt and Christine Gahagan Final Plat Application For A 2-Lot Subdivision Application # PC-02-08

Background

Sketch Plan Review for this proposed subdivision was held on March 7, 2002.

The applicants and adjoining property owners Donald and Gertrude Ward have also applied for a Boundary Adjustment (application #PC-02-07). The survey submitted with this subdivision application is the same as that submitted with the boundary adjustment application. The hearing for the boundary adjustment was held just prior to the hearing for this application.

Application

The application consists of:

1. An application form and appropriate fee.
2. A survey map by Donald Johnston of South Mountain Surveying & Mapping entitled "Proposed Subdivision and Boundary Line Agreement, lands of William Hoyt Gahagan, Whalley Road, Town of Charlotte, Chittenden County, Vermont" dated April 22, 2002, no revisions.
3. A site plan by Lincoln Applied Geology entitled "William (Hoyt) & Christine Gahagan, 1071 Whalley Road, Charlotte, Vermont", dated April 2002, signed 4/26/02.
4. A copy of the applications to the State Wastewater Management Division for a Subdivision Exemption Permit for Lot 1 (described as Lot A in the application) and a Subdivision Permit for Lot 2 (described as Lot B in the application).
5. A letter from Dori Barton of Arrowwood Environmental, LLC to Mr. Jason Barnard of Lincoln Applied Geology, dated April 1, 2002 which describes the Class III wetland on the subject property.

Public Hearing

A public hearing for this application was held on May 16, 2002. Present at the hearing representing the applicant were William Gahagan and Tony Stout (a consultant for Mr. Gahagan).

Regulations in Effect

Town Plan as amended March 2002
Zoning Bylaws as amended March 2002
Subdivision Bylaws as amended March 1995

Findings

1. At the public hearing the applicant submitted a revised survey dated May 8, 2002.
2. At the public hearing the applicant submitted a draft property description to be included in a deed for Lot 2 (described as Lot B in the submission).
3. A Subdivision Exemption Permit (HE-4-0350) for Lot 1 and a Subdivision Permit (EC-4-2453) for Lot 2 were both issued by the State Wastewater Management Division on May 7, 2002.
4. The map submitted with the Sketch Plan Review application (PC-02-03) for this subdivision shows access for Lot 2 was proposed to be via Popple Dungeon Road.
5. The letter to the applicant following Sketch Plan Review included a recommendation that... “the access to the building lot be off of Popple Dungeon Road, if such access is approved by those who have rights to the road.”
6. At the public hearing the applicant stated that he believes that he has the right to use the right-of-way (known as Popple Dungeon Road) which crosses his property. The applicant did not provide any documentation indicating that he does not have rights to use Popple Dungeon Road. The applicant requested that the Planning Commission close the public hearing rather than keep it open to allow him to submit evidence which indicates that he does not have rights to use Popple Dungeon Road.
7. The Planning Commission reviewed prior and related deeds establishing the right-of-way (Popple Dungeon Road) on the applicant's property and concluded that there are no restrictions preventing the applicant from using Popple Dungeon Road to service Lot 2.
8. Chapter VII Section 9.H. of the Charlotte Subdivision Bylaws states “lots shall be laid out so as to avoid direct access to heavily traveled streets or highways. All subdivisions shall meet the access requirements in the Site Plan Approval section of the Zoning Bylaws.”
9. The Site Plan Approval provisions of the Charlotte Zoning Bylaws (Section 6.5.D.2.a.) state “the Planning Commission may require shared access to adjoining properties or may limit access to the property to a side road or secondary road.”
10. The Planning Commission, in consideration of the bylaws cited above, has historically acted to minimize the number of curb-cuts on town roads, especially when other options exist.
11. An additional curb-cut on Whalley Road is undesirable for safety and aesthetic reasons, particularly when another option exists (ie: access via Popple Dungeon Road).

Decision

Based on these Findings, the Planning Commission approves the Final Plat application for a two-lot subdivision with the following conditions:

1. Lot 2 will be accessed via Popple Dungeon Road. The site plan will be resubmitted within 30 days and prior to the sale of Lot 2 showing a revised driveway location for Lot 2.
2. The deed for Lot 2 will include the property description submitted by the applicant at the public hearing, except that “Lot B” will be changed to “Lot 2”.
3. The driveway for Lot 2 will be surfaced with non-white crushed stone.
4. All new utility lines resulting from this application, including distribution lines along the road, will be installed underground.
5. An 18” by 24” mylar of the Final Plat survey shall be submitted to the Planning

Commission within 60 days from the signing of this decision and recorded in the Charlotte Land Records within 90 days. The survey may also be used to satisfy the conditions of the Boundary Adjustment approval (PC-02-07).

Additional Conditions: All plats, plans, drawings, testimony, evidence and conditions listed above or submitted at the hearing and used as the basis for the Decision to grant permit shall be binding on the applicant, and his/her/its successors, heirs and assigns. Projects shall be completed in accordance with such approved plans and conditions. Any deviation from the approved plans shall constitute a violation of permit and be subject to enforcement action by the Town.

You and any interested parties are entitled to appeal this decision to the Environmental Court within 30 days of the signing of this Decision, as per requirements of 24 VSA Chapter 117, Sections 4471 and 4475.

Members Present at the Public Hearing: Jeff McDonald, Al Moraska, Jim Donovan, Gordon Troy and Martha Perkins.

Vote of Members Present after Deliberations:

AYES: Unanimous

NAYS: 0

ABSTENTION:

Date approved: June 6, 2002

Date mailed:

Signed: _____ (Chair/Vice Chair)

Date Signed: _____