

CHARLOTTE PLANNING COMMISSION

FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

**Gregg and Elizabeth Beldock
Spear Street**

**Final Plan Review
For A
Two-Lot Subdivision
Application # PC-13-10**

Background

The Planning Commission conducted a Sketch Plan Review for a proposed three-lot subdivision on September 6, 2012. An application for a Boundary Adjustment which involved the parcel that is the subject to this subdivision application was approved by the Planning Commission on May 23, 2013.

Application

Materials submitted with the applications are listed in Appendix A.

Public Hearing

The Planning Commission held a public hearing for this application on June 20, 2013. The applicant was represented by Patrick O'Brien. Robert Hyams from the Conservation Commission was also present and participated in the hearing.

Regulations in Effect

Town Plan amended March, 2013

Land Use Regulations amended March, 2010.

Recommended Standards for Developments and Homes adopted September, 1997

Findings

Background

1. The existing parcel of 22.44 acres is located on Spear Street in the Rural and Conservation zoning districts. The parcel is currently undeveloped.
2. The application proposes the creation of two building lots.
Applicable standards in Chapter VII of the Charlotte Land Use Regulations ("Regulations") are reviewed below in Findings 3-27.

Sections 7.2 and 7.3—Areas of High Public Value

3. The parcel includes, or is adjacent to, the following areas of high public value:
 - a. Land in active agricultural use: the westerly and central portions of the parcel have been used for hay and, in the past, feed corn (from applicant's testimony, site visit and ortho-photos).
 - b. Primary agricultural soils: portions of the parcel have prime agricultural soils and

- portions have statewide agricultural soils (from NRCS data).
- c. Steep slopes: the westerly and easterly portions of the parcel have slopes equal to or greater than 15% (from application and CCRPC)
 - d. Surface waters: Mud Hollow Brook runs through the westerly portion of the parcel, and there are Class II and Class III wetlands adjacent to portions of the stream (from the application). The Charlotte Land Use Regulations require a 100 foot setback from streambanks of named streams, and state wetland rules require a 50 foot setback from the edge of Class II wetland. The Conservation Zoning District encompasses land within 100 feet of the centerline of named streams.
 - e. Wildlife habitat: Map 6 in the Town Plan indicates the easterly and westerly portions of the parcel host forested wildlife habitat and the northeasterly portion of the parcel has a wildlife corridor associated with the LaPlatte River. Map 13 in the Town Plan depicts a wildlife crossing of Spear Street in the vicinity of the southwesterly portion of the parcel (from Town Plan Map 6 and 13)
 - f. Scenic views: Spear Street in the vicinity of the parcel is depicted as a “most scenic road” in Town Plan Map 13.
 - g. Conserved land: the Beldock parcel to the south is conserved via an easement held by the Vermont Land Trust. A portion of the adjacent parcel on the west side of Spear Street is conserved via an easement held by the Vermont River Conservancy.
4. Considering the resources on and adjacent to the parcel, the Planning Commission finds that all of the areas of high public value associated with the parcel are important. All are resources that strongly characterize the property, and which the Planning Commission feels are important to protect during the subdivision process. However, the Planning Commission recognizes private property cannot be completely restricted from development without compensating land-owners.

Conclusion 1: Although all areas of high public value are important, the Planning Commission finds that the resources related to potential hazards, such as flooding and erosion, which can affect public health and safety, are particularly critical to avoid. Therefore, the highest priority will be given to protecting Mud Hollow Brook, the LaPlatte River, wetlands, and the associated setbacks of both, as well as steep slopes.

5. It's noted that Section 3.15(A) of the Regulations indicates that the 100 foot setback from all named streams is to be measured from the top of the streambank.
6. The plan entitled “Proposed Two-Lot Subdivision Site Plan” appears to use the Conservation District boundary as a proxy for the 100 foot setback from Mud Hollow Brook, and measures the district boundary from the centerline of the stream.

Conclusion 2: The 100 foot setback area should be added to the plan, and the building envelope and possibly the wastewater disposal area on Lot 1 should be adjusted accordingly.

7. The building envelope on Lot 1 will impact prime agricultural soil and land that has been used for agriculture. However, the agricultural field is approximately one acre in size.
8. The building envelope on Lot 2 is just inside an area mapped as forested wildlife habitat on Map 6 of the Town Plan. The building envelope will also impact statewide

agricultural soils. The wastewater disposal system for Lot 2 will be a mound system and will impact prime agricultural soils. The driveway to the building envelope on Lot 2 will impact prime and statewide agricultural soils.

9. The building envelopes for both lots will avoid areas with 15% slope.
10. After the building envelope for Lot 1 is adjusted as discussed above, both building envelopes will avoid required setbacks from surface waters.

Conclusion 3: Although the proposed building envelopes for both lots and the wastewater disposal system and driveway for Lot 2 will impact areas of high public value, they will not be impacting the prioritized areas of high public value (once the building envelope for Lot 1 is adjusted). Also, the agricultural area on Lot 1 is relatively small, and the encroachment of the building envelope on Lot 2 into the forested wildlife habitat is relatively minor (i.e. it is just inside the edge of the forest habitat). The wastewater disposal system for Lot 2 will impact a relatively small area, and the driveway will probably be located where there is an existing farm road. Therefore, the proposed building envelopes (once the building envelope for Lot 1 is adjusted), wastewater disposal system and driveway have been minimized, and thus will not create undue adverse impacts.

Section 7.4—Compatibility with Agricultural Operations

11. As discussed above in Findings 7 and 8, the building envelopes for both lots will impact agricultural land, but this land is not currently part of an agricultural operation. The building envelopes are not directly adjacent to other agricultural operations on neighboring parcels.
12. The proposed well and protection zone for Lot 1 is not located within an agricultural area on the lot, but the protective distance does encroach on the Holmes' parcel to the east, where there appears to be prime agricultural soils.

Conclusion 4: Neither building envelope will impact an active agricultural operation, however, the protective distance for the proposed well on Lot 1 could. Either the location of the proposed well for Lot 1 should be shifted so that the protective distance is entirely on the subject parcel, or the applicant should obtain an easement from the Holmes for the protective distance on their property.

Section 7.5—Facilities, Services & Utilities

13. The project proposes to create two residential lots, each with a single family dwelling.

Conclusion 5: The project will not create an unreasonable burden on existing or planned municipal or educational facilities or services and does not trigger the requirement for providing a fire pond and dry hydrant.

Section 7.6—Water Supply

14. There is no known shortage of suitable groundwater in the vicinity of the project.
15. As discussed above in Finding 12, the protective distance for the proposed well on Lot 1 encroaches on the Holmes' parcel to the east.
16. A proposed well site for Lot 2 has not been provided, but Lot 2 is relatively large (17.42 acres), so a location can likely be found for which the protective distance will not

encroach on a neighboring parcel can most likely be found.

Conclusion 6: It appears likely that a water supply can be developed without adversely impacting existing water supplies in the vicinity.

Conclusion 7: Either the location of the proposed well for Lot 1 should be shifted so that the protective distance is entirely on the subject parcel, or the applicant should obtain an easement from the Holmes for the protective distance on their property.

Section 7.7—Sewage Disposal

17. The Town's wastewater consultant has viewed the soils and wastewater disposal plans, and has indicated in a memo dated April 1, 2013 that there is sufficient capacity for the proposed systems, and that (with regard to wastewater disposal), the subdivision can be approved with a condition that wastewater permitting be completed prior to the final mylar filing.
18. The applicant will need a Wastewater System and Potable Water Supply Permit for the project.

Conclusion 8: The parcel appears to have sufficient wastewater disposal capacity for the proposed lots. The applicant should complete wastewater permitting prior to submitting the mylar for the subdivision.

Section 7.8—Stormwater Management & Erosion Control

19. The project will create two single family dwellings and associated accessory structures, driveways and parking on 22.44 acres. This is a relatively low density development.
20. The project will not affect steep or very steep slopes, however, development is proposed adjacent to surface water and adjacent sensitive areas which are prone to inundation flooding.

Conclusion 9: Considering the above finding, erosion and stormwater run-off are concerns. Accordingly, as provided in Section 3.15(D), the building envelope on Lot 1 should be adjusted to provide an additional 10 feet (minimum) to the 100 foot setback from the top of bank of Mud Hollow Brook; and stormwater management measures that maximize on site infiltration and treatment of stormwater and minimize surface runoff should be implemented.

Section 7.9—Landscaping and Screening

21. The application does not propose removing important specimen trees, or tree lines or wooded areas of particularly natural or aesthetic value.
22. The development sites are not adjacent to surface waters.
23. The Proposed Site Plan depicts existing roadside trees that are to be retained.

Conclusion 10: The project will not have a significant impact on existing vegetation, and will not have impacts that necessitate vegetative screening. The project is not of a density or intensity that warrants buffering from adjoining uses.

Section 7.10—Roads, Driveways & Pedestrian Access

24. Due to its low density, the proposed subdivision will not create a significant increase in

- traffic on public roads in the vicinity of the project over what currently exists.
25. One new shared access is proposed and was approved by the Selectboard (HAP-13-04). Lot 2 will need an easement over Lot 1, as is indicated on the plat.
 26. The driveway appeared to have a slope of greater than 8%. The applicant stated at the hearing that he would accept a condition requiring a sprinkler system within the dwelling on Lot 2 if the driveway slope were to be greater than 8%.

Conclusion 11: The project is unlikely to create unreasonable traffic congestion or unsafe traffic conditions.

Conclusion 12: Sprinklering is appropriate for the dwelling on Lot 2 if the driveway grade is greater than 8%.

**Section 7.11—Common Facilities, Common Land, & Land to be Conserved; and
Section 7.12—Legal Requirements**

27. No common or public land or facility or designated open space is proposed.

Conclusion 13: Given the proposed number of lots, the designation of open space is not required by the Regulations.

Decision

Based on these Findings, the Planning Commission approves the Final Plan Application for the proposed two-lot subdivision with the following conditions:

1. The plan entitled “Proposed Two-Lot Subdivision Site Plan” will be revised as follows:
 - A. The required 100 foot setback will be depicted from the top of bank of Mud Hollow Brook.
 - B. The building envelope will be set back at least 10 feet from the 100 foot regulatory setback, it will be trapezoidal in shape, and it will be pinned at the corners by the surveyor.
 - C. If necessary, due to the correction of the 100 foot setback to the top of the bank, the wastewater disposal area on Lot 1 will be adjusted accordingly.
2. The survey plat will be revised as follows:
 - A. The building envelope for Lot 1 will be revised to match the building envelope on the Proposed Two-Lot Subdivision Site Plan as revised by Condition #1 above.
 - B. The linear dimensions of the building envelopes will be added.
 - C. The distances between the building envelopes and the two nearest lot boundaries will be added.
3. One digital copy (pdf), two paper copies (one 11”x 17” and one full size) and a mylar (18” x 24”) of the survey plat and the Proposed Two-Lot Subdivision Site Plan, as amended by Conditions #1 and #2, will be submitted to the Planning Commission for review and signature (of the mylars) within 160 days. The applicant will record the signed mylars in the Charlotte Land Records within 180 days.
4. Prior to the submission of the mylars in accordance with Condition #3 above, the applicant will complete the following steps:
 - A. Submit a letter from the surveyor indicating he has set the survey markers in the

- field as indicated on the plat
- B. Either submit a revised Site Plan with a revised well location on Lot 1, so that the protective distance is entirely on the subject parcel, or execute and record an easement from the Holmes for the proposed protective distance on their property.
 - C. Obtain a Wastewater Disposal and Potable Water Supply Permit for the project with the well location as depicted in the Site Plan.
5. The zoning permit application for the dwellings on both Lot 1 and Lot 2 will include a grading plan for the driveways, and stormwater and erosion plans prepared by a licensed professional.
 6. There shall be no vegetation removed within the 100 foot setback from Mud Hollow Brook.
 7. No foundation drains for the dwelling on Lot 1 shall be installed within the 100 foot setback from Mud Hollow Brook.
 1. If any portion of the driveway to Lot 2 has a final grade greater than 8%, the primary dwelling and any accessory dwellings or living space on Lot 2 will have a 13-D sprinkler system, a central station monitored fire alarm, smoke detectors and carbon monoxide detectors. Prior to the submission of a Zoning Permit for the dwelling, the applicant will submit a sprinkler system design to the Fire Department for review and approval; the design will be able to maintain an acceptable flow rate for residential fire loads for all occupied spaces, including the basement, for a minimum of 20 minutes.
 8. The deeds conveying both lots will include an access and utilities easement serving Lot 2.
 9. No new pole-mounted light fixture will be taller than 8' off the ground, and no new building-mounted light fixture will be higher than 15' off the ground. Fixtures will be shielded to direct light downward, and will not direct light onto adjacent properties or roads, and will not result in excessive lighting levels that are uncharacteristic of the neighborhood.
 10. All new utility lines will be underground.
 11. All new driveways will be surfaced with non-white crushed stone.

Additional Conditions: All plats, plans, drawings, documents, 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.

This decision may be appealed to the Vermont Environmental Court by the applicant or an interested person who participated in the proceeding. Such appeal must be taken within 30 days of the date of the 4th signature below, pursuant to 24 V.S.A. Section 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.

Members Present at the Public Hearing on June 20, 2013: Jeff McDonald, Peter Joslin, Gerald Bouchard, Donna Stearns and Marty Illick

Vote of Members after Deliberations:

The following is the vote for or against this Findings of Fact and Decision as written:

- 1. Signed: _____ For / Against Date Signed: _____
- 2. Signed: _____ For / Against Date Signed: _____
- 3. Signed: _____ For / Against Date Signed: _____
- 4. Signed: _____ For / Against Date Signed: _____
- 5. Signed: _____ For / Against Date Signed: _____
- 6. Signed: _____ For / Against Date Signed: _____
- 7. Signed: _____ For / Against Date Signed: _____

APPENDIX A

The following items were submitted in association with the application:

- 1. A Final Plan application form and appropriate fee.
- 2. An e-mail from Gregg Beldock authorizing Patrick O’Brien to represent Beth and Gregg Beldock relative to the subdivision of their property.
- 3. A survey plat by Lamoureux & Dickinson entitled “Lands of Gregg H. & Elizabeth Beldock, Spear Street Extension, Charlotte, Vermont” dated March 4, 2013, revised on May 30, 2013.
- 4. A plan by Brian Tremback of Lamoureux & Dickinson entitled “Beldock Parcel, Spear Street, Charlotte, Vermont; Site Plan” dated February 27, 2013, no revisions.
- 5. A plan by Lamoureux & Dickinson entitled “Beldock Parcel, Spear Street, Charlotte, Vermont; Proposed Two-Lot Subdivision Site Plan” dated May 29, 2013, no revisions.
- 6. A plan (no author indicated) entitled “Proposed Lot 2 Building Envelope” dated February 28, 2013, no revisions.