

# CHARLOTTE PLANNING COMMISSION

## FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

**Ed Everts and Raven (Deborah) Davis**

**Final Plan Hearing  
For A  
Two-Lot Subdivision  
Application # PC-10-03**

### **Background**

The Planning Commission held a Sketch Plan Review for the proposed subdivision on January 7, 2010, and classified the project as a Minor Subdivision.

### **Application**

Materials submitted with the application are listed in Appendix A.

### **Public Hearing**

The Planning held a public hearing for this application on February 18, 2010. Raven Davis and Joan Allen of The Nature Conservancy were present representing the applicant. No other interested parties were present or submitted written comments to the Planning Commission regarding the application.

### **Regulations in Effect**

Town Plan amended March, 2008

Land Use Regulations amended March, 2009

Recommended Standards for Developments and Homes adopted September, 1997

### **Findings**

1. The applicant owns a 74.3 acre parcel ("subject parcel"). This subject parcel is adjacent to a 30.7 acre parcel in Charlotte owned by the applicant, and other lands owned by the applicant located in Hinesburg.
2. The current configuration of the subject parcel was approved by the Planning Commission in 1990 via an application for a Boundary Adjustment.
3. The subject parcel has an existing single family dwelling located on it.
4. The application proposes to create one lot of 7.8 acres ("Lot 1"), which is to include the existing single family dwelling, and a second lot of 66.5 acres ("Lot 2").
5. The application indicates that it is the intent of the applicant to convey by donation Lot 2 to the Nature Conservancy.
6. At the hearing, Joan Allen stated that the applicant desires to slightly change the proposed lot configurations in order to incorporate a buffer to an existing shallow well on Lot 1, in order to allow tree removal near the well.

7. At the hearing, Joan Allen stated that during the title search it was discovered that a previous owner placed a covenant on the parcel requiring that any lot that is conveyed from the parent parcel must be at least 10 acres. She stated that the applicant is not currently intending to convey Lot 1—so they are proposing to leave the lot in its currently proposed size (except for providing a buffer for the well), and that if they decide to convey Lot 1 in the future, they will apply for a boundary adjustment with their other land (30.7 acres) to the north.
8. Since the application proposes to create one lot (Lot 1) where development has already occurred and a second lot (Lot 2) for the purpose of permanently conserving it, the application will not create any impacts on areas of high public value on or adjacent to the parcel.
9. The subject parcel is currently accessed via Toad Road, a private roadway that connects to Roscoe Road, which is a town highway (TH 39). The applicant has a deeded right-of-way over Toad Road.
10. The application proposes that Lot 1 will have access via a right-of-way over Toad Road and also via a right-of-way over the adjoining parcel owned by the applicant, centered on the existing driveway.
11. The applicant proposes that Lot 2 will have a deeded right-of-way for management purposes only over Toad Road and also a right-of-way over an existing woods road located on Lot 1. Additionally, the application proposes that Lot 2 will have a public pedestrian access via an adjoining parcel in Monkton, which is also proposed to be conveyed to The Nature Conservancy, which has frontage on Rotax Road, a public highway maintained by the Town of Monkton.
12. The existing dwelling on proposed Lot 1 is served by an existing wastewater disposal system. The plans for the existing wastewater disposal system were submitted with the application.
13. In memos dated January 26, 2010 and February 17, 2010, the applicant's consultant, Civil Engineering Associates, certified that the existing water supply and wastewater disposal system serving the dwelling on Lot 1 are functioning, and a viable replacement area has been designated.
14. In memos dated February 1, 2010 and February 15, 2010, the Town's wastewater consultant, Vermont Contours, indicated that a wastewater permit can be issued.
15. The applicant requested a waiver from the requirement for demonstrating sewage disposal capability and submitting a design for a sewage disposal system for Lot 2.
16. The Planning Commission finds that, as Lot 2 is to be conveyed to The Nature Conservancy, an exemption from the requirements to demonstrate sewage disposal capability and to submit a design for a sewage disposal system is warranted.

## **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 survey plat will be revised as follows:
  - A. If desired by the applicant, Lot 1 may be slightly enlarged to provide a buffer around the well.
  - B. The label "Lot 3" will be deleted. The label will indicate "30.7 acres, other lands

of Everts & Davis”.

- C. A building envelope will be added to Lot 1 as it is depicted on the plan entitled “Final Application: Subdivision of a Portion of Everts-Davis Property, Lot 1 Configuration.” The dimensions of the building envelope and the distances to the two closest property lines will be included.
  - D. A statement will be added that Lot 2 is not approved for development or for sewage disposal.
  - E. A revision date will be added.
2. One paper copy (11”x 17”) and one mylar (18” x 24”) of the revised plat will be submitted to the Planning Commission for review and signature within 160 days. The applicant will record the signed mylar in the Charlotte Land Records within 180 days.
  3. Prior to the submission of the mylar in accordance with Condition 2 above, the applicant will submit a letter from the surveyor indicating he has set the survey markers or pipes in the field as indicated on the plat. If the survey markers or pins cannot be set at this time because of frozen ground, the applicant shall submit a letter from the surveyor indicating that he will set the markers or pins when the ground thaws and has been paid to do so.
  4. Any deed conveying Lot 1 will include access easement language similar to what was submitted with the application.
  5. Any deed conveying the 30.7 acres parcel owned by Everts and Davis (in Charlotte) will include a corresponding access easement in favor of Lot 1.
  6. No new pole-mounted light fixture will be taller than 8’ off the ground, and no new building-mounted light fixture will be taller 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.
  7. All new utility lines will be underground.
  8. All new driveway and roadway sections shall be surfaced with non-white crushed stone.
  9. Any proposed change of use to the management right-of-way serving Lot 2 requires prior approval by the Planning Commission.

**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 4<sup>th</sup> 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 February 18, 2010:** Jeff McDonald, Jim Donovan, Linda Radimer, John Owen, Eleanor Russell and Peter Joslin

**Vote of Members after Deliberations:**

The following is the vote for or against the application, with conditions as stated in this Decision:

- 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 with the application:

- 1. An application form submitted on January 27, 2010 and appropriate fees.
- 2. A letter dated November 18, 2009 to Tom Mansfield and Dean Bloch from Edward Everts and Raven (Deborah) Davis authorizing Joan Allen of Vermont chapter of The Nature Conservancy to submit a subdivision application on their behalf.
- 3. A survey by Ronald LaRose entitled “plat showing a proposed subdivision survey of lands of Edward A. Everts & Deborah C. Davis, Toad Road, Charlotte & Hinesburg, Chittenden County, Vermont” dated January 19, 2010, no revisions.
- 4. A plan by J. Allen of The Nature Conservancy entitled “Final Application: Subdivision of a Portion of Everts-Davis Property and Donation to The Nature Conservancy” dated 1/23/10, no revisions.
- 5. A plan by J. Allen of The Nature Conservancy entitled “Final Application: Subdivision of a Portion of Everts-Davis Property, Lot 1 Configuration” dated 1/26/10, no revisions.
- 6. A plan by Civil Engineering Associates, Inc. entitled “The Nature Conservancy, Davis-Everts Properties, Hinesburg & Charlotte Vermont, Overall Site Plan” dated January 26, 2010, no revisions.
- 7. A plan by William Lowe entitled “Guest House Septic Design, 90 Acre +/- Parcel With One House Existing. Off Roscoe Road, T.R. 39 Charlotte Vermont, Site Plan” dated November 28, 1990, no revisions.
- 8. A memorandum to Joan Allen, The Nature Conservancy, from David Rath, Esq., dated January 26, 2010 regarding “Easement language requested by Charlotte Planning Commission in paragraph 1 of letter dated January 22, 2010 to Edward Everts and Deborah (Raven) Davis.”
- 9. A memorandum dated January 25, 2010 to Dean Bloch from Joan Allen regarding “Application PC-09-35, Sewage disposal system for Lot 2.”
- 10. A memorandum dated January 26, 2010 to Tom Mansfield from David Marshall regarding “Davis-Everts Subdivision: Raven Ridge Conservation, The Nature Conservancy, Parcel 00119-0385, 385 Toad Road, Charlotte, State Wastewater & Potable Water Supply Permit Application.”
- 11. A memorandum dated February 17, 2010 to Tom Mansfield from David Marshall

regarding “Davis-Everts Subdivision: Raven Ridge Conservation, The Nature Conservancy, Parcel 00119-0385, 385 Toad Road, Charlotte, State Wastewater & Potable Water Supply Permit Application.”