

**CHARLOTTE PLANNING COMMISSION
FINDINGS OF FACT AND DECISION IN RE APPLICATION OF**

**Jason & Jensa Bushey
for a property located at 648 Bingham Brook Road**

**Final Plan Application for a Subdivision / Planned Residential Development
Application #PC-14-22**

Background

The existing Lot at 648 Bingham Brook Road was created through a Subdivision that was originally approved in 1989 and amended in 2010 and 2012. The purpose of the current application is to further subdivide this Lot into Lots 1 and 2. Portions of the driveway serving Lot 2 will be located on Lot 1. A utility easement serving Lot 1 is located on Lot 2. Sketch Plan Review for the current project was held on October 13, 2013 and a site visit occurred prior to the meeting. The project was classified as a Minor Subdivision / Planned Residential Development. A second sketch plan review occurred on October 2, 2014 at which time the Planning Commission agreed to waive a full review given the short amount of time that had passed since the last sketch plan review of the project. The applicant was granted permission to apply for Final review.

Exhibits

1. Application package – signed form, list of abutters, Wastewater and Potable Water Supply plans, draft plat
2. Sketch review letter dated October 13, 2013
3. Staff report

Public Hearing

A public hearing for this application was held on November 6, 2014. Applicants Jason & Jensa Bushey were present. Peter Trono, an abutting landowner, participated in the hearing.

Regulations in Effect

Town Plan, amended March, 2013

Land Use Regulations adopted November, 2010

Recommended Standards for Developments and Homes adopted September, 1997

Findings

1. Jason & Jensa Bushey, the applicants, own a 10.35 acre parcel with an existing 4-bedroom single family dwelling located at 648 Bingham Brook Road in the Rural Zoning District.
2. The applicants propose to subdivide their parcel into a 7.68 acre with the existing 4-bedroom single family dwelling and a 2.67 acre parcel for a proposed 4-bedroom single-family dwelling.
3. The applicants are proposing a Planned Residential Development allowing for a reduced lot size of 2.67 acres and resulting in the delineation of 5.18 acres of open space on Lot 1.

Relevant standards in Chapter VII of the Charlotte Land Use Regulations are reviewed below in Findings 4-22.

7.2 General Standards

4. The following Areas of High Public Value (AHPV) were identified on the subject parcel:
 - a. Land in agricultural use – The Trono property to the south and fields north of Bingham Brook Road are in active agricultural use.
 - b. Agricultural soils – There are limited amounts of statewide soils mapped in the vicinity of Bingham Brook Road (NRCS data).
 - c. Wildlife Habitat – Most of the property is mapped as Forest Habitat (Town Plan Map 6).
 - d. Scenic view - Bingham Brook Road is depicted as a most scenic road on Map 13 of the Town Plan.
 - e. Conserved land: The Trono farm to the south is subject to a Conservation Easement with the Vermont Land Trust.
5. Considering the resources on the parcel, the Planning Commission finds that the Wildlife Habitat is the AHPV of greatest importance.
6. The Town Plan encourages the use of PRDs to cluster development and preserve important resources areas. With the location of the parcel lines and building envelope for the new Lot 2 adjacent to Bingham Brook Road, the reduced size of this lot, and the delineation of open space area, the subdivision effectively meets this goal.
7. The proposed lots are 2.67 acres and 7.68 acres and follow the existing settlement pattern along Bingham Brook Road and Meadowside Drive.
8. The total land area involved in this project is 10.35 acres. Five acres of land is required for each dwelling unit in the Rural Zoning District. Thus, the total allowable density for the subject parcel is 2 units. One dwelling unit exists on the property and 1 is proposed resulting in no remaining density on the property.
9. A 0.5 acre building envelope has been proposed for Lot 2. A 2.5 acre building envelope has been proposed for Lot 1.
10. A draft subdivision plat submitted with the application identifies permanent surveying monuments and lot corner markers.

7.3 District Standards

11. The proposed layout uses the planned residential development provisions of Chapter VIII of the Charlotte Land Use Regulations. In using these provisions, Lot 2 has been reduced to 2.67 acres which reduces its impacts on AHPV.
12. Lot 1, which is 7.68 acres, has a proposed 2.5 acre building envelope. The Commission requested the removal of the areas along the driveway from this envelope and additional considerations for reduction of the envelope to minimize impacts of this lot on AHPV.
13. The application indicates that the driveway serving the proposed new lot will be shared with Lot 1.

7.5 Facilities, Services and Utilities

14. The applicant has indicated that new utilities will be located underground and will use existing right-of-ways to the extent feasible.

7.6 Water Supply and 7.7 Sewage Disposal

15. The applicant has obtained a State of Vermont Wastewater System and Potable Water Supply Permit (WW-138-1314-1).

7.8 Stormwater Management & Erosion Control

16. The building envelope on Lot 2 has been revised to remove the area containing a swale as identified during the site visit. This will reduce the chances of channelization associated with an increase in impervious surface runoff from the new development.

17. The utilization of Low Impact Development practices will maximize opportunities for sheetflow and infiltration on each parcel.

18. The conservation and maintenance of forested areas on the parcels will also reduce stormwater runoff.

7.10 Roads, Driveways, Pedestrian Access

19. The application indicates that the driveway serving the proposed new lot will be shared with Lot 1. A Highway Access Permit was obtained by the applicant (13-10-HAP).

7.11 Common Facilities, Common Land and Land to be Conserved

20. The Planning Commission believes that an Open Space Agreement recorded in a deed is the appropriate means of protection of the AHPVs associated with this project. The applicant has made a notation regarding this area on the draft subdivision plat and is amenable to revisions proposed by the Commission.

7.12 Legal Requirements

21. With the approval of this subdivision, portions of a driveway serving Lot 2 will be located on Lot 1 and portions of a utility easement serving Lot 1 will be located on Lot 2. Documentation of easement agreements was not provided with the application.

22. A minimum of 5.18 acres of open space will be conserved outside of the building envelope on Lot 1. Draft agreement language was provided by the applicant for inclusion in future deeds.

Relevant standards in Chapter VIII of the Charlotte Land Use Regulations are reviewed below in Findings 23-27.

8.2 Applicability

23. The Planning Commission has determined that the modification of dimensional standards (lot size) will allow for the clustering of development and is preferred as a means to meet the standards set forth in Chapter VII of the Land Use Regulations.

8.4(B) General Standards

24. The project will minimize adverse effects to AHPV and is appropriate for the proposed density in terms of existing settlement patterns, the zoning district, and the standards in Chapter VII of the Charlotte Land Use Regulations.

8.4(C) Rural District Standards

25. The project will result in the designation of at least 50% of the project area as open space (5.18 acres). This area will be located on Lot 1 and will aid in the protection of wildlife habitat. The area will be denoted as a 'no build zone' and will be managed as a sugarbush.

8.6 Open Space & Common Land

26. Approval of the application will result in the conservation of 5.18 acres of open space within the forested area on Lot 1. This area includes mapped Forest Habitat (Town Plan Map 6).

27. The Planning Commission finds this area to be worthy of preservation and thus requests that it be managed to promote its natural state.

Conclusions

Based on the foregoing Findings of Fact, it is the conclusion of the Commission that the project described in the application and supporting materials, if completed and maintained in conformance with all of the terms and conditions of that application and as required below, will meet the development standards of the Charlotte Land Use Regulations.

Decision

Based on the foregoing Findings of Fact and Conclusions, the Planning Commission approves the application for a Minor Subdivision / Planned Residential Development subject to the following conditions:

1. The survey plat will be revised as follows:
 - A. The building envelope for Lot 1 will be revised by removing the area along the driveway and is to be no more than 1 acre in size.
 - B. The Open Space Area will be delineated (shaded) and labelled as such. The acreage of the Open Space Area will also be denoted.
2. One digital copy (pdf), two paper copies (one 11"x 17" and one full size) and a mylar (18" x 24") of the survey as amended by Condition #1 will be submitted to the Planning Commission for review and signature (of the mylar) 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,
4. Easement language pertaining to the shared driveway and utility easements will be included in the deeds of conveyance for all Lots.
5. The applicant will utilize Low Impact Development best management practices¹ to prevent or reduce the discharge of stormwater off parcel.
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.

¹ Vermont Low Impact Development Guide for Residential and Small Sites, Vermont Department of Environmental Conservation, 2007.

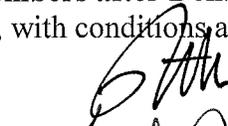
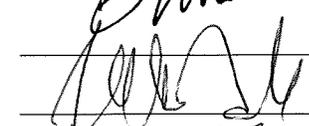
7. All new utility lines will be underground.
8. The driveway will meet the requirements of the Charlotte Volunteer Fire and Rescue Recommended Road Standards and will be surfaced with non-white crushed stone.

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 latest date of 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 Hearings on November 6, 2014: Marty Illick, Jeff McDonald, Linda Radimer, Peter Joslin, Donna Stearns, Gerald Bouchard and Paul Landler.

Vote of Members after Deliberations: The following is the vote for or against the application, with conditions as stated in this Decision:

1. Signed:		<input checked="" type="radio"/> For / Against	Date Signed:	<u>12/4/14</u>
2. Signed:		<input checked="" type="radio"/> For / Against	Date Signed:	<u>12/2/14</u>
3. Signed:	<u>Marty Illick</u>	<input checked="" type="radio"/> For / Against	Date Signed:	<u>12.4.14</u>
4. Signed:	<u>Linda Radimer</u>	<input checked="" type="radio"/> For / Against	Date Signed:	<u>12/4/14</u>
5. Signed:	<u>Gerald A. Bouchard</u>	<input checked="" type="radio"/> For / Against	Date Signed:	<u>12/4/14</u>
6. Signed:	_____	For / Against	Date Signed:	_____
7. Signed:	_____	For / Against	Date Signed:	_____