

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

**John & Lisa Hauenstein
for properties located at 6300 and 6373 Spear Street**

**Final Plan Application for a Subdivision / Planned Residential Development
Application #PC-14-23**

Background

The existing Lot 10 (6373 Spear Street) and Lot 13 (6300 Spear Street) were created through a Subdivision that was approved in 1987. The purpose of the current application is to further subdivide Lot 10 into Lots 10A and 10B. Wastewater utilities for Lot 10B will be located on Lot 13. Sketch Plan Review for the current project was held on March 20 and April 3, 2014 and a site visit occurred on April 3, 2014. The project was classified as a Minor Subdivision / Planned Residential Development.

Exhibits

1. Application package – signed form, list of abutters, Wastewater and Potable Water Supply plans, draft plat
2. Sketch review letter dated May 19, 2014
3. Staff report from Sketch review
4. Staff report from Final Subdivision
5. Revised plat brought to hearing on 10/16/14 identifying open space area

Public Hearing

A public hearing for this application was held on October 16, 2014. Applicants, John and Lisa Hauenstein were present. No interested parties 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. John & Lisa Hauenstein, the applicants, own a 30.98 acre parcel with an existing 3-bedroom single family dwelling located at 6373 Spear Street. John Hauenstein also owns a 5.02 acre parcel with an existing two family dwelling located at 6300 Spear Street.
2. The applicants propose to subdivide the 30.98 acre parcel at 6373 Spear Street into a 14.02 acre parcel (Lot 10A) and a 16.96 acre parcel (Lot 10B). The wastewater disposal system for Lot 10B will be located on the 5.02 acre parcel (Lot 13) at 6300 Spear Street.
3. The proposed Lot 10A is improved with a 3-bedroom single family dwelling. Lot 10B houses an existing historic barn and Lot 13 is improved with a two-family dwelling (2-2 bedroom units).
4. The subject parcels are primarily located in the Rural Zoning District. Approximately 7.5 acres of the proposed Lots 10A and 10B are adjacent to Lewis Creek and are located in the Flood Hazard Overlay District and / or Conservation District.
5. The applicant is proposing a Planned Residential Development (PRD) in which portions of the wastewater disposal system for Lot 10B will cross a town highway right-of-way. Additionally, the applicant is proposing modifications to frontage and lot size standards, is requesting a transfer of density to Lot 13 to accommodate the existing two-family dwelling, and is proposing an open space conservation area along Lewis Creek.

Relevant standards in Chapter VII of the Charlotte Land Use Regulations are reviewed below in Findings 6-21.

7.2 General Standards

6. The following Areas of High Public Value (AHPV) were identified on the subject parcels:
 - a. Land in agricultural use
 - b. Agricultural soils
 - c. Steep slopes
 - d. Flood Hazard Areas
 - e. Surface waters, wetlands and associated setback and buffer areas
 - f. Wildlife Habitat and
 - g. Historic Structures
7. The Planning Commission determined the riparian area along Lewis Creek (surface water, wetlands, etc and Flood Hazard Area) and the historic barn to be the AHPVs of greatest importance (see sketch letter to applicant dated May 19, 2014).
8. The Town Plan encourages the use of PRDs to cluster development and preserve important resources areas. With the dedication of open space along Lewis Creek and the fact that no new buildings are proposed as part of this project, the subdivision effectively meets this goal.
9. The proposed lots vary in size from 5.02 – 16.96 acres and follow the existing settlement pattern along Spear Street.
10. The total land area involved in this project is 36 acres. Five acres of land is required for each dwelling unit in the Rural Zoning District. Thus, the total allowable density for the subject parcels is 7 units (36 acres / 5 acres per unit). Five possible dwelling units are proposed resulting in 2 remaining density units on the project parcels.
11. There are no new building envelopes proposed as part of this subdivision. Future dwelling units on Lot 10B will be incorporated into the historic barn structure on that lot.
12. A draft subdivision plat submitted with the application identifies permanent surveying monuments and lot corner markers.

7.3 District Standards

13. The existing settlement pattern along Spear Street will be maintained as no new building envelopes are proposed as part of this application. Contiguous open space along Lewis Creek will be conserved through an open space agreement.
14. No new roads or driveways are proposed at this time. Future development on Lot 10B will require obtaining a Highway Access Permit from the Selectboard to change the use of the access from agricultural to residential.

7.4 Compatibility with Agricultural Operations

15. The applicant has indicated that Lot 10B will be used for some agriculture into the foreseeable future. With the development of residential uses on the property, agricultural use will likely cease and thus compatibility will not be an issue.

7.6 Water Supply and 7.7 Sewage Disposal

16. The applicant has obtained a State of Vermont Wastewater System and Potable Water Supply Permit (WW-138-1414).

7.8 Stormwater Management & Erosion Control

17. There is no new building development associated with this application. The conservation and maintenance of open space along Lewis Creek in its natural state will result in improved buffer functions.

7.10 Roads, Driveways, Pedestrian Access

18. No new roads or driveways are proposed at this time. Future development on Lot 10B will require obtainment of a Highway Access Permit from the Selectboard to change the use of the access from agricultural to residential.

7.11 Common Facilities, Common Land and Land to be Conserved

19. The Planning Commission believes that an Open Space Agreement is the appropriate means of protection of the AHPVs associated with this project. The revised draft subdivision plat delineated and identified the area as 'Conserved as Open Space'.

7.12 Legal Requirements

20. With the approval of this subdivision, portions of a forcemain serving Lot 10A will be located on Lot 10B and portions of a forcemain and the leachfield serving Lot 10B will be located on Lot 13. Documentation of easement agreements was not provided with the application.
21. Approximately 18 acres of open space will be conserved along Lewis Creek. Draft agreement language was provided to the applicant; however, final language will be subject to review and approval by the Selectboard and / or Town Attorney.

Relevant standards in Chapter VIII of the Charlotte Land Use Regulations are reviewed below in Findings 22-29.

8.2 Applicability

22. A Planned Residential Development is required per Section 7.7(A)(3) and is preferred to accommodate practical lot line placement around the historic barn and to preserve open space along Lewis Creek.

8.4(B) General Standards

23. 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

24. The project will result in the designation of at least 50% of the project area as open space (18 +/- acres). This area will be along Lewis Creek and will aid in the protection of wildlife habitat, improvement of water quality, and protection of flood and fluvial erosion hazard zones.

8.4(F) PRDs Involving Two or More Parcels

25. Development density has been aggregated into existing structures.
26. Approval of the application will result in the conservation of 18 +/- acres of open space along Lewis Creek.
27. The applicant has agreed to revise the subdivision plat to denote the allocated and remaining density for parcels in the subdivision.

8.6 Open Space & Common Land

28. Approval of the application will result in the conservation of 18 +/- acres of open space along Lewis Creek. This area includes flood hazard areas, surface waters and associated riparian area and wildlife habitat.
29. The Planning Commission finds these areas to be worthy of preservation and thus requests that it be left unimproved and 'maintained' in 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 Open Space Area will be delineated and labelled as such. The acreage of the Open Space Area will also be denoted as will the recording reference.
 - B. The following table will be added to the plat:

Total Allowable Density	7
Allocated density per lot:	
10A (existing single-family dwelling)	1
10B (proposed two-family dwelling)	2
13 (existing two-family dwelling)	2
Total allocated density	5
Total remaining density	2

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:
 - A. Submit a letter from the surveyor indicating he has set the survey markers or pipes in the field as indicated on the plat,
 - B. Execute and record an Open Space Agreement after review and approval by the Selectboard and Town Attorney,
 - C. Obtain and record all required state permits including Wastewater and Potable Water Supply Permit and Act 250 Permit.
4. Easement language pertaining to the wastewater system forcemain and / or leachfield will be included in the deeds of conveyance for all Lots.
5. Prior to any proposed change in use from agriculture on Lot 10B, the property owner will obtain a Highway Access Permit from the Selectboard.
6. Landowners shall maintain the Open Space Area in its natural state, in which no cutting, clearing, mowing, vehicle operation, grazing of animals or other disturbance is allowed.

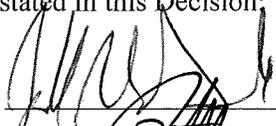
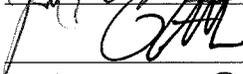
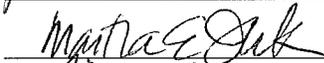
Additional Conditions: All plats, plans, drawings, documents, testimony, evidence and conditions listed above or submitted at the hearing and used as the basis for the Decision to grant permit shall be binding on the applicant, and his/her/its successors, heirs and assigns. Projects shall be completed 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 October 16, 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 / <input type="radio"/> Against | Date Signed: | <u>12/18/14</u> |
| 2. Signed: |  | <input checked="" type="radio"/> For / <input type="radio"/> Against | Date Signed: | <u>12/2/14</u> |
| 3. Signed: |  | <input checked="" type="radio"/> For / <input type="radio"/> Against | Date Signed: | <u>12.2.14</u> |
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