

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

**Thomas & Kristine Larson
for a property located on Lake Road (M04B02L05)**

**Final Plan Application for a Subdivision / Planned Residential Development
Application #PC-14-28**

Background

Thomas & Kristine Larson own a 75 acre parcel¹ that has not been previously subdivided. The purpose of the current application is to subdivide the 75 acre parcel into Lot 1 which will be 2.67 acres in size and Lot 2 which will be 72.33 acres in size. Sketch Plan Review for the current project was held on May 1, 2014 and a site visit was conducted prior to the meeting. The project was classified as a Minor Subdivision / Planned Residential Development in accordance with Section 6.1(C)(1) of the Charlotte Land Use Regulations (“Regulations”).

Exhibits

1. Application form.
2. List of abutters.
3. A plan entitled ‘Proposed Lot 1 & Lot 2 Subdivision and Lot 2 Site Development Plan’, prepared by Stephen Revell of Lincoln Applied Geology, and dated October 24, 2014.
4. Staff report dated November 28, 2014.
5. Sketch letter from Commission dated May 29, 2014.
6. Areas of High Public Value (AHPV) map dated April 26, 2014.

Public Hearing

A public hearing for this application was held on December 4, 2014. Tom & Kristine Larson, the applicants, were present. Kristopher & Sarah Larson were also present and 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. Tom & Kristine Larson, the applicants, own a 75 acre parcel improved with an existing 4 bedroom home located at 1007 Lake Road.
2. The applicants propose to subdivide the 75 acre parcel into a 2.67 acre lot (Lot 1) for a future 4 bedroom single-family dwelling and a 72.33 acre lot (Lot 2) with the existing dwelling.

¹ The acreage of the property is listed as 80 acres in the application but has been reduced to 75 acres following a recently approved boundary adjustment involving the same property.

3. The subject parcel is primarily located in the Rural Zoning District. Approximately 30 acres of the 75 acre parcel are located in the Shoreline and / or Conservation District. Three of the 30 acres are also located in the Flood Hazard Overlay District.
4. The applicant is proposing a Planned Residential Development (PRD) and is requesting a waiver to the minimum lot size standard.

Relevant standards in Chapter VII of the Charlotte Land Use Regulations are reviewed below in Findings 5-24.

7.2 General Standards

5. The following Areas of High Public Value (AHPV) were identified on the parcel:
 - a. Land in active agricultural (silvicultural) use (per applicant)
 - b. Primary agricultural soils (NRCS data)
 - c. Flood hazard areas
 - d. Surface waters, wetlands and associated setback and buffer areas (Town Plan Map 7 and ANR Atlas)
 - e. Mapped wildlife habitat (Town Plan Map 6)
 - f. Historic districts, sites and structures - archaeological sensitive areas along Holmes Creek
 - g. Scenic views and vistas – scenic road (Town Plan)
 - h. Conserved land on adjacent parcels – Town beach and park is an abutting property.
6. The Planning Commission determined the Holmes Creek tributaries and associated large wetland complex and the continued agricultural / silvicultural use of the land to be the most significant AHPV on the property (see sketch letter to applicant dated May 29, 2014).
7. There is a seasonal drainage that flows from the agricultural field north of Lake Road through a culvert and runs southerly into Holmes Creek.
8. The Town Plan encourages the use of PRDs to cluster development and preserve important resource areas. By reducing the size of the new lot and locating it near Lake Road, the subdivision effectively meets this goal.
9. The new lot will be 2.67 acres in size and will follow the existing settlement pattern along Lake Road.
10. The total land area involved in this project is 75 acres. Five acres of land is required for each dwelling unit in the Rural and Shoreline Zoning District. One unit of density has been allocated to the existing dwelling and an additional unit will be allocated to the newly proposed dwelling.
11. A building envelope was delineated on the plan and the size and shape were established in accordance with the regulations and applicable standards. See Finding 13 below regarding envelope location.
12. The locations of surveying monuments and lot corner markers were not provided on the plan submitted with the application but can be provided on the final subdivision plat.

7.3 District Standards

13. The existing settlement pattern along Lake Road will be maintained. Contiguous open space south of the new lot and containing AHPVs will be located almost entirely on the

parent parcel and the management of this area will be the responsibility of a single landowner.

14. The proposed building envelope is located within 15 feet of an area identified as an intermittent drainage swale. Kristopher Larson said it was his understanding that the siting of the envelope was restricted by the location of the wastewater system. The applicants were, however, amenable to moving it eastward and away from the drainage area should the move prove to be compatible with the existing wastewater design. Staff has confirmed the envelope can be moved eastward but should not be located down gradient of the proposed mound system.
15. The Commission indicated a preference for a shared driveway during sketch review but the siting of the wastewater system which is dependent on soil type, limits the reasonable placement of a shared driveway relative to the building envelope. A Highway Access Permit (HAP-14-05) has been obtained for the newly proposed driveway.
16. The creation of lots with an area less than the minimum lot size for the district is to be off-set with the dedication of open space. The Commission recommended a reduced lot size for Lot 1 as a means to protect the AHPVs on the property. The applicant proposed a smaller lot and is requesting a deferral of open space designation at this time.

7.4 Compatibility with Agricultural Operations

17. The building envelope and well for the new lot are located within 200 feet of a lot line shared with a parcel currently used for agriculture. The agricultural parcel is also owned by the applicant. The applicant's son and daughter-in-law intend to build their house on the new lot and are aware of the historical and ongoing agricultural use of the family property.

7.6 Water Supply and 7.7 Sewage Disposal

18. The applicant has obtained a state Wastewater System and Potable Water Supply permit (WW-138-1416).

7.8 Stormwater Management & Erosion Control

19. The applicant did not provide information as relates to this standard.
20. The building envelope on Lot 1 was proposed as a 40' x 40' area and all structures and parking areas are to be located within this area per Section 7.2(E). The Commission recommended enlarging this envelope to allow for some flexibility in layout. The enlargement of the envelope to 5000 square feet would result in a potential maximum coverage of the lot by structures and parking areas of 4.2 percent.
21. Lot 1 slopes gradually from Lake Road back towards the Holmes Creek area.
22. There is a seasonal drainage that flows from the agricultural field north of Lake Road through a culvert and runs southerly into Holmes Creek.
23. The utilization of Low Impact Development practices will maximize opportunities for sheetflow and infiltration practices on the parcel and will avoid or reduce accelerated runoff into the drainage area.

7.10 Roads, Driveways, Pedestrian Access

24. The Commission indicated a preference for a shared driveway during sketch review but the siting of the wastewater system, which is dependent of soil type, limits the reasonable

placement of the driveway relative to the building envelope. A Highway Access Permit (HAP-14-05) has been obtained for the newly proposed driveway.

25. The applicants have indicated they are not interested in providing an easement for pedestrian access to the park at this time.

7.11 Common Facilities, Common Land and Land to be Conserved

26. The creation of lots with an area less than the minimum lot size for the district is to be off-set with the dedication of open space. The Commission recommended a reduced lot size for Lot 1 as a means to protect the AHPVs on the property. The applicant thus requests a deferral of open space designation at this time.

Relevant standards in Chapter VIII of the Charlotte Land Use Regulations are reviewed below in Findings 25-27.

8.2 Applicability

27. A Planned Residential Development is proposed and preferred to preserve contiguous areas of open space containing AHPVs.

8.4(B) General Standards

28. 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

29. By reducing the size of the new lot and locating it near Lake Road, the subdivision will minimize adverse effects to AHPV. The applicant is requesting a deferral of open space designation at this time.

8.6 Open Space & Common Land

30. The applicant is requesting a deferral of open space designation at this time.

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. A survey plat will be prepared in accordance with Table 6.2 and Section 6.7 of the Regulations.
2. The plat will include a proposed building envelope for Lot 1 that will be no more than 0.5 acre in size. The building envelope will be moved away from the drainage swale and will be no closer than 50 feet from the top of bank of said swale.

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 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.
4. Prior to the submission of the mylar in accordance with Condition 3 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.
5. The Planning Commission will not require open space to be designated at this time; however, any future subdivision of either Lot 1 or Lot 2 will require the designation of open space. The total of 75 acres will be considered when calculating the percentage of required open space as provided for in Chapter VIII. Section 8.6 of the Charlotte Land Use Regulations (or succeeding town regulations in effect).
6. New driveways shall be surfaced with non-white crushed stone.
7. No pole-mounted light fixture will be taller than 8' off the ground (measure to bottom of light), and no building-mounted light fixture will be taller than 20' off the ground. Fixtures will be shielded to direct light downward.

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 December 4, 2014: Marty Illick, Jeff McDonald, Linda Radimer, Peter Joslin, and Gerald Bouchard.

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

- | | | |
|--------------------------------------|--|----------------------------|
| 1. Signed: <u>[Signature]</u> | For / <input checked="" type="radio"/> Against | Date Signed: <u>1/8/15</u> |
| 2. Signed: <u>Marty Illick</u> | For / <input checked="" type="radio"/> Against | Date Signed: <u>1-8-15</u> |
| 3. Signed: <u>Linda Radimer</u> | For / <input checked="" type="radio"/> Against | Date Signed: <u>1-8-15</u> |
| 4. Signed: <u>Gerald A. Bouchard</u> | For / <input checked="" type="radio"/> Against | Date Signed: <u>1-8-15</u> |
| 5. Signed: _____ | For / Against | Date Signed: _____ |
| 6. Signed: _____ | For / Against | Date Signed: _____ |
| 7. Signed: _____ | For / Against | Date Signed: _____ |