**CHARLOTTE PLANNING COMMISSION**
**SUBDIVISION REVIEW**
**FINDINGS OF FACT AND DECISION**

**In re: Jonathan Couture, Final Plan Application for a Major Subdivision / Planned Residential Development Amendment**
**Permit Application No. PC-15-16**

**Introduction and Procedural History**
This proceeding involves final review of an application for a Major Subdivision Amendment submitted by Jonathan Couture & Kim Anderson and Tom & Nancy Smith for approval under the Town of Charlotte Land Use Regulations.

The application was received on July 7, 2015. A notice of public hearing was published in The Citizen on July 16, 2015 and was posted at the following three locations: town offices, The Brick Store and Spear's Corner Store. A copy of the notice was also mailed to all adjoining landowners on July 16, 2015.

The application was considered by the Planning Commission at a public hearing on August 6, 2015. Jonathan Couture represented the applicants at the hearing. No other interested parties participated in the hearing.

**Exhibits**
1. Application form and two page document outlining proposed Subdivision Amendment and Waiver Requests; stamped, addressed envelopes for adjoining landowners; Wastewater and Potable Water Supply Site Development Plan, prepared by Lincoln Applied Geology, dated May 11, 2015; Final Survey Plat, prepared by Stuart Morrow, and dated April 2015; and required fee
2. Copy of PC-10-25 plat and decision
3. PC-15-14 Preliminary Plan decision
4. Letter from Steve Revell, Hydrogeologist with Lincoln Applied Geology Inc., Re: drainage easements, dated 7/28/15

**Regulations in Effect**
Town Plan, amended March, 2013
Land Use Regulations adopted November, 2010
Recommended Standards for Developments and Homes adopted September, 1997

**Findings**
Background
1. Jonathan Couture & Kim Anderson own 18.81 acres (previously approved Lots 3, 4 and 5 of the Windever Farm Subdivision) and Tom & Nancy Smith own 6.8 acres (previously approved Lots 1 and 2 of the Windever Farm Subdivision) located off of Vineyard View Drive in the Rural zoning district.
2. These lots were created via a Planned Residential Development (PRD) Subdivision that was approved in 2010 (PC-10-25).

3. The purpose of the current application is to amend the prior approval to allow for boundary adjustments among the lots to "better suit the space and needs of the owners and potential buyers of remaining lots". Lot 1 will acquire 2.2 acres of open space from Lot 3. Lot 1 will now be 4.08 acres in size. The old Lot 4 will merge with Lot 3 so that Lot 3 is now 14.94 acres. The old Lot 5 will now be split into two separate lots – Lot 4 which will be 1.52 acres and Lot 5 which will be 2.35 acres.
4. This preliminary plan application proposes no changes to the previously approved Open Space Area associated with the subdivision (equal to 13 acres). That area consisted of all of Lot 4 outside of the building envelope (now part of Lot 3 and applicant wishes to retain additional envelope on Lot 3), and the eastern portion of Lot 3 (now divided between Lots 1 and 3).
5. A Preliminary Plan application for this amendment was reviewed on July 2, 2015 and was approved on July 30, 2015.

*Relevant standards in Chapter VII of the Charlotte Land Use Regulations are reviewed below in Findings 6-20.*

<u>7.2 General Standards</u>

6. The following Areas of High Public Value (AHPV) were identified on the parcel:
    a. Scenic views from Mt. Philo State Park and Mt. Philo Rd
    b. Kimball Brook and the associated wetland and wildlife habitat linkage
    c. Active agriculture on parcel to West (Numondo America) and conserved status of that parcel
7. In their previous decision, the Commission determined these areas were effectively protected through layout and building envelope placement, conservation of open space and the inclusion of 'right-to-farm' language in property deeds.
8. In their sketch review letter dated October 16, 2014, the Commission accentuated the importance of the wildlife linkage and the Kimball Brook wetland and riparian area on Lot 4 (now part of Lot 3) and stated that no further development including that associated with facilities, services and utilities would be permitted on this lot[1].
9. The proposed, amended lot layout is consistent with the previous approval and meets the dimensional standards for the Rural Zoning District with the following exception: Lots 1, 4, and 5 do not meet the minimum lot size requirement.
10. The subdivision was previously approved as a Planned Residential Development which allows for flexibility in lot size among other things; thus, Lots 1, 4, and 5 are permitted to be less than 5 acres in size.
11. There is one new building envelope which is proposed on the newly defined Lot 5. During a site visit to this property in September of 2014, the Commission determined that the location of a building envelope in this location would not result in an undue, adverse impact to scenic views or vistas.
12. The locations of surveying monuments and lot corner markers were identified on the preliminary subdivision plat submitted at the hearing.

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[1] A trail easement has been granted along the southerly boundary of Lot 4 (now Lot 3). Any future trail will be designed so as to not create adverse impacts to this area.

7.2 General Standards

13. The applicant has proposed drainage easements on Lot 3 which will benefit Lots 4 and 5. The proposed easements terminate just west of a state mapped Class 2 wetland buffer area and if designed appropriately will not result in erosion and adverse effects to this resource.

7.6 Water Supply and 7.7 Sewage Disposal

14. The applicant has applied for an amendment to a previously approved Wastewater and Potable Water Supply permit (WW-138-1101-1).

7.8 Stormwater Management and Erosion Control

15. There is a new 75 foot by 115 foot building envelope and approximately 20 foot by 200 foot driveway / utility easement associated with the new Lot 4. This will result in the addition of 12,625 square feet (0.29 acre) of buildable area to the project.
16. The property in the vicinity of the buildable area is relatively flat and drains via sheet flow in a southeasterly direction towards the low, wetland area east of Vineyard View Drive.
17. The applicant has proposed drainage easements on Lot 3 which will benefit Lots 4 and 5. The proposed easements terminate just west of a state mapped Class 2 wetland buffer area and if designed appropriately will not result in erosion and adverse effects to this resource.
18. A state stormwater permit is not required for the proposed amendment.
19. The applicant has provided preliminary design information for the subsurface drainage system outlet which includes a 4 foot by 6 foot stone bed with 12 inches of 1.5 inch clean, crushed stone.

7.12 Legal Requirements

20. The Town Attorney has indicated the following documents do not need to be revised as the underlying rights associated with them have not changed:
    a. Trail Easement
    b. Open Space Agreement
    c. Roadway Agreement and Waiver
    d. Sewer Service Agreement and Waiver

*Relevant standards in Chapter VIII of the Charlotte Land Use Regulations are reviewed below in Findings 21-28.*

8.4 (B) General Standards

21. One new building envelope is proposed on the newly defined Lot 5. During a site visit to this property in September of 2014, the Commission determined that the location of a building envelope in this location would not result in an undue, adverse impact to scenic views or vistas.
22. Only one (1) principal use or structure shall be located on a single lot, unless otherwise allowed as an agricultural use under Section 4.2(B), or an adaptive reuse under Section 4.3, a mixed use under Section 4.12, or with the approval of the Planning Commission, as part of a planned residential or planned unit development under Chapter VIII.

23. The applicant has indicated that the building envelope previously situated on Lot 4 and now proposed as a second envelope on Lot 3 may be used for an accessory structure or principal structure via transfer of development right from Lot 2.
24. The applicant understands that a future transfer of development rights from Lot 2 and the siting of a second principal structure on Lot 4 will require a subdivision amendment. The applicant indicated a boundary adjustment would likely be part of that same amendment application.
25. The previously approved building envelope for the primary structure on Lot 3 has been reduced in size so that the net buildable area on Lot 3 equals that as approved under PC-10-25.

8.4 (C) Rural District Standards

26. This Final Plan application proposes no changes to the previously approved Open Space Area associated with the subdivision.
27. This application proposes the addition of one building envelope to the subdivision.
28. The location of the new envelope does not create an undue adverse impact on the identified areas of high public value.

**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 final application for a Major Subdivision / Planned Residential Development subject to the following conditions:

1. The survey plat will be revised as follows:
    a. The total acreage of open space area will be confirmed and denoted on the final plat.
2. The applicant will obtain necessary state permits.
3. The Wastewater and Potable Water Supply Plan(s) will be revised to denote the revised building envelope and the proposed second envelope (previous Lot 4 envelope) on Lot 3.
4. The applicant will provide a design for the proposed stormwater drainage outfall on Lot 4. The design will be prepared by an engineer or similar professional.

**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 Hearing on August 6, 2015:** Marty Illick, Charlie Pughe, Peter Joslin, Gerald Bouchard and Donna Stearns.

**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: 8/20/2015
2. Signed: _____ For / Against Date Signed: 8/20/2015
3. Signed: _____ For / Against Date Signed: 8/24/2015
4. Signed: _____ For / Against Date Signed: 8/25/2015
5. Signed: _____ For / Against Date Signed: _____
6. Signed: _____ For / Against Date Signed: _____
7. Signed: _____ For / Against Date Signed: _____