

**TOWN OF CHARLOTTE
PLANNING COMMISSION
FEBRUARY 6, 2014**

APPROVED

MEMBERS PRESENT: Jeff McDonald, Chair; Peter Joslin, Gerald Bouchard, Paul Landler (departed 9:06 p.m.), Linda Radimer, Marty Illick. **ABSENT:** Donna Stearns.

ADMINISTRATION: Jeannine McCrumb, Town Planner/Zoning Administrator.

OTHERS: Liam Murphy, Barbara McGinnis, Clark Hinsdale III, Tim Hunt, Ellie Russell, Joanna Cummings, Sue Moraska, Trina Bianchi, David Marshall, Sarah Thompson, Tom Thompson, Tom Hergenrother, John Butnor, Jeffrey Small, and others.

AGENDA ITEMS:

- **PC-13-31 Final Subdivision application by Michael & Barbara McGinnis for a 2-lot subdivision located at 4658 Mt Philo Road. Proposed access for the new lot is off of Higbee Road**
- **PC-13-32 Sketch Plan Review for Tim & Martha Hunt/Nordic Holsteins LLC for a Subdivision Amendment to the previously approved “Varney Farm” lot located on the west side of Ethan Allen Highway approximately 2 miles north of Ferry Road. The amendment request is to move the location of the house and building envelope north and west of the existing location.**
- **PC-13-33 Sketch Plan Review for Beatrice Dike Trust for a 3-lot subdivision located at 3015 Guinea Road.**
- **PC-13-30 Continuation of Sketch Plan Review for Thomas Hergenrother/Black Rock Construction for an 8-lot Planned Residential Development (PRD) and a common road at 2369 Spear Street. Note: Discussion on this application will occur after a site visit has occurred. If the site visit does not occur before 2/6, the Commission will continue the review to the next available date.**

CALL TO ORDER

Mr. McDonald, Chair, called the meeting to order at 7:08 p.m.

APPROVE REGULAR AGENDA AND CONSENT AGENDA

The Regular Agenda was approved with the addition of approval of the PC 12/05/2013 minutes.

Consent Agenda: none.

PUBLIC COMMENT

None.

MINUTES: December 05, 2013, January 16, 2014

Approval of the PC minutes was deferred to the next PC meeting.

PC-13-31 Final Subdivision application by Michael & Barbara McGinnis for a 2-lot subdivision located at 4658 Mt Philo Road. Proposed access for the new lot is off of Higbee Road

Barbara McGinnis, owner, and Liam Murphy, attorney, appeared on behalf of the application.

STAFF NOTES

Mr. McDonald reviewed staff notes.

APPLICANT COMMENTS

Mr. Murphy addressed points outlined in the PC Sketch Plan letter and issues identified during a site visit as follows:

- Regarding a suggestion to conserve land versus selling a lot, the McGinnis' had hired Jeff Parsons to conduct a wildlife study. Mr. Parsons' report, dated 11/07/2013, included recommendations related to preserving a wildlife corridor. The McGinnis' would re-locate a building envelope and house site to the northwest corner of the lower lot to maintain a 325' wildlife buffer.
- Abutting neighbors had no interest in sharing an existing driveway to the proposed McGinnis lots.
- A driveway access would come off of Higbee Road. The driveway would be 12' wide with 1' shoulders, and a utility corridor would follow along the driveway. A pull off was designed as required.
- The proposed access would cross a small Class II wetland via culverts. The isolated wetland was formed as a result of roadside drainage issues. A wetland application was filed by Arrowwood.
- There would be a separation between the McGinnis house and a new house.
- The septic would be located on a side hill in a white pine forest versus down hill. There would be no impacts to neighbors as per the Town ordinances.
- Spencer Harris recommended a 10' wide cleared septic easement. There would be a small isolated area in the pines when the system was done.
- The water well was moved to the other side of the building envelope to conform with isolation distances. There would be a 10' wide cleared path to get the water drilling truck to the site. The water pipe did not need to be kept free of vegetation.
- A written document with proposed conditions was submitted related to a Wildlife Mitigation Plan, clearing a 150'X150' building envelope, retaining a dense multi-layer vegetation buffer between the building envelope and wildlife corridor, etc.
- There would be no lights along the driveway. A down-shielded element with lighting of no more than 75 watts would be installed on the building.
- Any fencing on the lots could be removed, with the exception of existing fences on the boundary lines.

PLANNING COMMISSION QUESTIONS/COMMENTS

Ms. Radimer expressed concern regarding a wildlife corridor on the McGinnis lot and proposed subdivided lot. Ms. McGinnis explained that not much could be done around her existing house. The steep hillside didn't have much underbrush and Jeff Parsons didn't recommend anything in that area, said Ms. McGinnis. Mr. Murphy noted that there

was a 40 degree elevation from the boundary line to the McGinnis house. The steep hill went from pine to hardwood where nothing much could be done, said Mr. Murphy.

Ms. Illick suggested that language could be added to the deeds to “memorialize” the corridor on both properties. A condition could state to “...keep the natural area in its natural vegetated state.” Also, the lot owners could provide for some invasive work “as needed” outside of the building envelopes, said Ms. Illick. Mr. Murphy said that unless there was a specific plan regarding invasive specie removal the property owners would not touch the vegetation.

Ms. Radimer asked if there was anyway to address loose dogs in the area, such as “...there would be no unleashed dogs. It could be stressed that an attempt should be made to minimize pet impacts to wildlife, said Ms. Radimer. Mr. Murphy pointed out that if dogs were unleashed and there were no fences then that would be a problem, and suggested the word “encouraged.”

Ms. McGinnis submitted a site map of the area showing the density of all existing houses (red dots) and the proposed house site on the subdivided lot (blue dot). Ms. Radimer said that the area was densely built out. The new proposed home would be a ‘plug’ in the wildlife corridor, which was a problem, said Ms. Radimer.

Mr. Bouchard reviewed the written proposed conditions and suggested putting the clearing of the driveway and building envelope conditions on one line.

Ms. Illick asked if any trails would be maintained. Ms. McGinnis explained there were existing trails on her lot with gardens and benches.

There was further discussion regarding proposed the wildlife buffer/corridor that would be located on both lots at 150’ wide on the upper westerly lot and 175’ wide on the lower lot.

The Planning Commission members suggested adding language that a 325’ wide corridor would be maintained across both the lots. A proposed building envelope should be defined on the upper lot.

MOTION by Ms. Radimer, seconded by Mr. Joslin, to continue the PC-13-31 Final Subdivision application by Michael & Barbara McGinnis for a 2-lot subdivision located at 4658 Mt Philo Road to 02/20/2014, at 7:00 p.m., for the purpose of reviewing a proposed building envelope on Lot 1.

VOTE: 6 ayes, 1 absent (Ms. Stearns); motion carried.

PC-13-32 Sketch Plan Review for Tim & Martha Hunt/Nordic Holsteins LLC for a Subdivision Amendment to the previously approved “Varney Farm” lot located on the west side of Ethan Allen Highway approximately 2 miles north of Ferry Road. The amendment request is to move the location of the house and building envelope north and west of the existing location.

Clark Hinsdale III, owner, and Tim Hunt, potential purchaser, appeared on behalf of the application.

STAFF NOTES

Mr. McDonald reviewed staff notes.

APPLICANT COMMENTS

Mr. Hinsdale explained that there were three sets of overlaying interests assigned to the 11.47 acre "Varney Farm" property that included the Town of Charlotte, Vermont Land Trust and the Historic Preservation Trust. The Town held a horse trailer parking lot easement, there was a view easement and restricted building envelope created by the Vermont Land Trust, and the façade of the existing barn was preserved by the Historic Preservation Trust. The 11.47 lot along Route 7 was created and 300 acres were donated to the Town for a park and wildlife refuge, said Mr. Hinsdale.

Mr. Hunt said that the existing house was 100' from Route 7 and that was a concern. The proposal would be to move the house north and west out of the view coming south on Route 7, restore the barn and grow pumpkins. The Vermont Land Trust determines what could be done with the barn. A view easement cuts the building envelope in half, and the parking lot easement reduces the building envelope to one-fourth. That limits the options of where the house could be relocated. The western property line does not go up to the ridge, said Mr. Hunt.

Mr. Hinsdale said that the Vermont Land Trust would allow a farm stand area and options for more farm structures behind the barn.

There was further discussion regarding the function of the 11.47 acre lot and existing buildings. Mr. Hinsdale pointed out that an existing garage and old shed were not protected/preserved.

Mr. Hinsdale said that he donated an access easement off Greenbush Road to the Charlotte Park. The horse community could use that access and park trailers there versus at the Varney Farm, said Mr. Hinsdale.

PLANNING COMMISSION QUESTIONS/COMMENTS

Mr. Landler asked if there would be more homes planned if Mr. Hunt purchased the property. Mr. Hunt replied none. The plan was to move the Varney house further from Route 7. The farm would stay as is, said Mr. Hunt. Mr. Hinsdale said that when the house was originally built Route 7 was a one lane horse track.

Mr. McDonald asked if Mr. Hinsdale was seeking to modify a building envelope. Ms. McCrumb clarified that it was the Planning Commission that applied a view easement as a condition for creating the lot, which was shown in yellow on the site plan drawing. Mr. Hinsdale said that the house could be moved without Planning Commission permission. The proposal was to move the house where the site plan was marked by a 'star' on the site drawing and that would require Vermont Land Trust approval. The Historic

Preservation said they were fine with moving the house and would hope the Hunt's would save the barn. The east barn front was close to and hidden by the house. If the house was moved then the barn would be visible and more useable for an adaptive reuse for the public. He was asking for a dialog that resulted in a single conversation with all the entities. The Charlotte adaptive reuse ordinance was supportive of the proposal, said Mr. Hinsdale.

Mr. McDonald asked why that spot was selected for the house. Mr. Hunt said that the charm was the view of the barn looking westerly from Route 7 and coming into the barn area. The silo protected the northwest corner of the lot.

Mr. Hinsdale pointed out that the view from Route 7 heading south comes across the corner of the property and looking at the Four Brothers Islands in the lake westerly.

Mr. McDonald asked if the lot was flat, or sloped up to the ridge. If the house was relocated would you see the lake from the upstairs bedroom, asked Mr. McDonald. Mr. Hunt said that there was a lake view at ground level now.

Mr. McDonald suggested that a site visit was in order to see if the house would still be in the west view shed.

Ms. Radimer asked if the house roof would be above the ridge line when moved. Mr. Hinsdale explained that a condition of the Historic Preservation easement was that nothing could be above the barn. That would follow the house even when moved, said Mr. Hinsdale.

There was discussion regarding physical features of the property that included the low spot at the pond. Mr. Hunt said that the Vermont Land Trust did not want to see the building envelop shifted.

PUBLIC COMMENTS

Ms. Russell explained that the horse trailer easement was created as access to the Thorpe barn as well as access to the park trails. In the long term the Town would want to keep that possibility. If there was a farm stand then the Town could keep that easement and use the stand parking lot, suggested Ms. Russell.

Mr. Hunt said he was looking to push the easement away from the western most windows of the barn.

Ms. McCrumb said that a letter from Mr. Metropolis, dated 01/31/2014, was received regarding the proposal. Mr. Hunt said that he had met with Mr. Metropolis and they had walked the lot together. There were no issues, said Mr. Hunt.

Mr. Hunt said that he would like to move the house while the ground was frozen. The parking lot easement could co-exist with a future farm stand parking lot, said Mr. Hunt.

Mr. Landler asked who could amend the parking lot easement. Ms. Radimer replied the Planning Commission, or Selectboard would make a recommendation to the Charlotte Park to amend the site plan.

Mr. Hunt said that he had staked the area with red flags where he would like to move the house, and the west boundary line.

MOTION by Mr. Joslin, seconded by Mr. Landler, to continue the hearing regarding a Sketch Plan Review for Tim & Martha Hunt/Nordic Holsteins LLC for a Subdivision Amendment to the previously approved "Varney Farm" lot located on the west side of Ethan Allen Highway approximately 2 miles north of Ferry Road, the amendment request is to move the location of the house and building envelope north and west of the existing location to Thursday, 02/20/2014, at 6:30 p.m., and to schedule a site visit for Saturday, 02/08/2014, at 9:00 a.m.

VOTE: 6 ayes, 1 absent (Ms. Stearns); motion carried.

PC-13-33 Sketch Plan Review for Beatrice Dike Trust for a 3-lot subdivision located at 3015 Guinea Road.

Jeffrey Small, agent for the Dike Family Trust, appeared on behalf of the application.

STAFF NOTES

Mr. McDonald reviewed staff notes.

APPLICANT COMMENTS

Mr. Small explained that during a previous Sketch Plan application it was discovered that the deed included a restriction that limited further subdivision to no more than three lots total. Mr. Butnor, an abutting neighbor, approached the owner with a request for a boundary adjustment of the 7.4 acre lot and consolidating conserved land. There was a question if a boundary adjustment would create a lot, or not. It was decided after a title search to contact the owners from 1974 and have them sign off on it, said Mr. Small.

Mr. Butnor explained that the 7.4 acre lot was all forested and it would stay that way.

Mr. Small said that a 5.5 acre lot was created for a pre-existing house. When he walked the land with the Planning Commission, the members expressed concern that houses should be kept out of the woods, said Mr. Small.

PLANNING COMMISSION QUESTIONS/COMMENTS

Ms. Radimer said that she walked the property during the 12/21/2012 site visit, and she circled back to the west. Were the houses sited where the road crested, asked Ms. Radimer. Mr. Small pointed out proposed building envelopes and house sites on the site map. The Lot 2 building envelope would be at the edge of the forest, and on a knoll for Lot 3, said Mr. Small.

There was discussion regarding the two proposed driveway accesses. Ms. Radimer suggested using a shared driveway for Lots 2 and 3. Mr. Small said that had been

considered. A potential buyer for Lot 3 wanted a separate access. There was a high knob that would be leveled off and the shale used for the driveways. The driveway would come at an angle, follow a shallower slope and on to the house site, said Mr. Small.

Mr. Small said that there was a 250' setback restriction discovered in the deeds. Both the building envelopes were out of the woods. The woods would be used for a maple sugaring operation. Also it was discovered that the Town road was a 4-rod road. The survey would be changed to reflect the setbacks, said Mr. Small.

Ms. Illick asked staff for a topographic map with elevations.

MOTION by Mr. Landler, seconded by Mr. Joslin, to classify the Sketch Plan Review for Beatrice Dike Trust for a 3-lot subdivision located at 3015 Guinea Road as a minor subdivision.

VOTE: 6 ayes, 1 absent (Ms. Stearns); motion carried.

PC-13-30 Continuation of Sketch Plan Review for Thomas Hergenrother/Black Rock Construction for an 8-lot Planned Residential Development (PRD) and a common road at 2369 Spear Street.

Mr. Landler recused himself as an interested party and departed the hearing.

David Marshall, agent, appeared on behalf of the application.

STAFF NOTES

Mr. McDonald reviewed staff notes. This was a continued hearing. A site visit was conducted on Saturday 02/06/2014.

Ms. McCrumb handed out copies of a written Charlotte Conservation Commission document with comments regarding the proposed subdivision for PC review.

SITE VISIT:

Ms. Illick said that her impression was that the lot configuration was spread widely over a forest area based upon photographs shown at the first hearing and observations during the site walk. There was not enough clustering of the lots/building envelopes in the concept to protect the forest habitat. Homes could be clustered in the southwest area of the forest, suggested Ms. Illick.

Mr. Joslin said that he walked up to the eastern most area to the third brook, then back to the west forested area and observed a north-south section where the trees were thinner, then through the thicker forest where the proposed homes would be. He agreed with Ms. Illick that the lots/building sites were quite spread out. There had been discussion regarding reduced lots at the first hearing. It was understood that there was septic capacity to support ten homes. A question was the length of the road to access the forest. At the hearing it was suggested that the applicant find an access off Hinesburg Road. That should be looked at more closely, said Mr. Joslin.

APPLICANT COMMENTS

Mr. Marshall reviewed the topography of the property starting on the west from Spear Street to the eastern most border that included agricultural land, three brooks, forest, and a 1.6 acre wetland 'bulb' north of the Valley View Drive Bianchi property. The site visit parties walked a conceptual road bed route along the northern boundary and then cut through the middle of the forested area to the south edge of the Bianchi home. We walked back to the south to find the steep slopes and then westerly through the mid section back to Spear Street, said Mr. Marshall.

PLANNING COMMISSION QUESTIONS/COMMENTS

Ms. Radimer said that the land was an active and viable wildlife area. Two kills were found, as well as indications of bobcat, bear, and deer moving north to south, and south to the wetlands. There has been discussion regarding the configuration of the parcel that included wetlands in the agricultural fields on the west, and valuable forest habitat. As proposed the parcel would be over built, stated Ms. Radimer.

Mr. Bouchard suggested that if the application was approved it should include a fire pond. The winds were frequently from the south and there was a real concern regarding forest fires, said Mr. Bouchard.

Mr. Bouchard asked for clarification regarding a pipe located north of Mr. Hasse's home. Mr. Marshall replied that there was a corrugated pipe coming out of the ground south of the proposed Lot 8.

Mr. Thompson, abutting neighbor, explained that the area was wet even in the driest years. It was a spring that might have been used for livestock water. He kept his cattle there for years. The pipe never went to a house, said Mr. Thompson. Mr. Marshall suggested that it may be where water was breaking out.

Mr. McDonald said there were three sections: agricultural land, forested land and the scrubby area. The wet areas were unique. Cleared areas for the road and homes as proposed would be a dramatic impact on the forest. If the lower slope was used for the building envelopes that would be better, suggested Mr. McDonald.

Mr. Marshall reviewed the Land Use Worksheet and pointed out two areas of minimal overlapping goals that were considered the areas of least impact.

Ms. Radimer asked if the front agricultural land was buildable versus the forest. Mr. Marshall replied that the agricultural soils had an agricultural use. If there was enough money and material then you could do anything. The applicant was trying not to create impacts to the hydrology. The proposal would have to go through state review regarding the agricultural considerations. The Habitat Blocking maps were state prepared as a municipal planning tool. The Planning Commission should look at the proposal as a

whole regarding the habitat. If the homes were clustered it was an issue of balancing high and low values, said Mr. Marshall.

Ms. Illick pointed out that for the Town the forest habitat was a larger value than for the state. Mr. Marshall said that they had a wildlife biologist survey the property and write a report, which was submitted.

PUBLIC COMMENTS

Ms. Thompson said that she was present during the site visit. In the winter it was hard to see, or feel the nature of the wet areas. It was not so easy to see how water would be affected and how wet it was when it was frozen and covered in snow, said Ms.

Thompson.

Ms. Cummings, Conservation Commission member, said the commission concurred with the Planning Commission comments. Regarding prioritizing areas of high public value, agricultural soils were not that high a value. There was a concern that the forest should not be fragmented. Agricultural use and forest habitat should have equal values, said Ms. Cummings.

Ms. Bianchi, an abutting neighbor, said that she wrote up her comments following the site visit. This was a pristine forest. The land south of hers was conserved and she had talked of conserving her land. There was tons of water there and wildlife. As soon as you open the forest up that would impact the area. David Quickel farms the land to her south. He has said there were all kinds of wildlife in that area. When he built his house in the field he noticed that it changed the wildlife movement, said Ms. Bianchi.

Mr. Marshall asked Ms. Bianchi if she would be interested in sharing an access to the property through her land. Ms. Bianchi replied no.

Ms. McCrumb noted that an e-mail was received from David Quickel, for the record.

Ms. Thompson said that she was concerned that there would be loose dogs in the area. She tracked the deer patterns moving north and south via a game camera. She has photographs of deer, bear, coyotes, and bobcats. She was concerned that her view to the south would be impacted by the driveway alignment and car lights, said Ms. Thompson. Mr. Marshall said that there were ways to avoid impacts such as a road re-alignment, screening, etc.

Ms. Moraska, northerly abutting, said she had a wildlife management plan to improve the wildlife habitat on her property located north of the Thompson's and the subject parcel.

Ms. Thompson said that when she first heard that Lucia Plante was going to sell the property she had asked if she could try to work with the neighbors on some type of arrangement regarding the parcel. It sold before she could do anything. Ms. Plante had talked of conserving her land to the north, and might have wanted to conserve this parcel, said Ms. Thompson.

Ms. Radimer said she would like to get a more in-depth documentation of the wildlife. Jesse Mohr has knowledge of the whole town and has done many wildlife surveys in Town, said Ms. Radimer.

Ms. Illick expressed concern regarding buffers to create a zone of influence.

Ms. Radimer asked if the back three lots could be shifted further forward. There would still be a big impact to the forest, said Ms. Radimer. Mr. Marshall explained that was where striking a balance was key.

Mr. McDonald said that the PC had some resistance to an 8 lot subdivision. There has been a strong voice for conservation. The commission would like to get the various parties together. This was an 80- acre parcel with high values. The applicant could take the development rights from this parcel and transfer that to another area more suitable for homes, suggested Mr. McDonald.

Mr. Hergenrother, Black Rock Construction, stated that would reduce the value of the land for the developer. The cost was not the road infrastructure; it was the cost of the land. Was it the amount of forest taken up versus the number of lots that was an issue for the Planning Commission, asked Mr. Hergenrother.

Mr. Hergenrother asked what the footage was for the building envelopes. Mr. Marshall replied they were 200'-250'. Mr. Hergenrother said that the lot size and building envelopes could be reduced. That would keep the clearing and building envelopes restricted so that the 7 lots would have less forest impact and preserve more forest, said Mr. Hergenrother.

Mr. McDonald said the Planning Commission would like more clustering and forest preservation.

Mr. Marshall said were trying to preserve the forest as screening from Spear Street.

Mr. Joslin noted that the Valley View homes were ringed around a common roadway. There would be a better access from Valley View, reiterated Mr. Joslin. Ms. Bianchi said that the road was originally a farm road for the Sheehan Green farm. Carol's and her houses were the first homes there, said Ms. Bianchi.

Ms. Thompson asked if the field on the west edge would perk. Mr. Marshall explained that they dug test pits. They got down 7" before they hit seasonal hydrology. The septic would go up through the forest to the septic soils there, said Mr. Marshall.

Ms. Thompson suggested that fewer houses could be built nearer Spear Street and the septic sent up to the forest soils.

Mr. Bouchard asked if it was legal to specify that the home owners could not have any dogs weighing over 15 pounds. Ms. Illick stated that the Town couldn't regulate pets. That was why there was a 300' zone of influence, said Ms. Illick.

Ms. Bianchi expressed concern that 7 houses with water wells would impact her well. She had a deep well with poor flow, said Ms. Bianchi. Mr. Marshall explained that a hydrologist would indicated the number of homes that could tap into an aquifer.

MOTION by Mr. Joslin, seconded by Ms. Radimer, to classify the Sketch Plan Review for Thomas Hergenrother/Black Rock Construction for an 8-lot Planned Residential Development (PRD) and a common road at 2369 Spear Street as a major subdivision.

VOTE: 6 ayes, 1 absent (Ms. Stearns); motion carried.

DELIBERATIONS

None.

ADJOURNMENT

MOTION by Mr. Joslin, seconded by Ms. Radimer, to adjourn the meeting.

VOTE: 6 ayes, 1 absent (Ms. Stearns); motion carried.

The Planning Commission meeting was adjourned at 10:00 p.m.

Respectfully submitted, Kathlyn L. Furr, Recording Secretary