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**TOWN OF CHARLOTTE  
PLANNING COMMISSION  
OCTOBER 2, 2014**

**APPROVED**

*Minutes are subject to correction by the Charlotte Planning Commission. Changes, if any, will be recorded in the minutes of the next Planning Commission meeting.*

**MEMBERS PRESENT:** Peter Joslin, Acting Chair; Gerald Bouchard, Paul Landler, Linda Radimer, Donna Stearns, Marty Illick (arrived 7:20 P.M.). **ABSENT:** Jeff McDonald

**ADMINISTRATION:** Jeannine McCrumb, Town Planner/Zoning Administrator.

**OTHERS:** Steve Dickens, Myra Handy, Lisa Kiley, Isaiah Kiley, Chris Kiley, Adrian Nivola, Virginia Nivola, Jason Bushey, Mel Huff, and others.

**AGENDA ITEMS:**

**7:20 PM: PC-14-21 Sketch Plan Review for Steve Dickens, 2-lot Subdivision at 1151 Prindle Road.**

**7:40 PM: PC-14-22 Sketch Plan Review for Jason and Jensa Bushey – reaffirmation.**

**CALL TO ORDER**

Mr. Joslin, Acting Chair, called the meeting to order at 7:01 p.m.

**APPROVE REGULAR AGENDA AND CONSENT AGENDA**

The agenda was approved with the following addition: PC-14-22, Sketch Plan review for Jason and Jensa Bushey – reaffirmation of a previous hearing held October, 2013.

Consent Agenda: PC-14-17, Pinney/Simer Mylar signed.

Mr. Joslin, Acting Chair, signed the Pinney/Simer Mylar, PC-14-17, on behalf of the Town of Charlotte.

**PUBLIC COMMENT**

None.

**MINTUES: September 18, 2014**

**MOTION by Ms. Radimer, seconded by Ms. Illick, to approve the Planning Commission minutes of September 18, 2014 as written, with the following edits:**

- **Globally correct the name “Tena Sharp” to read “Tina Sharff”.**
- **Page 3, line 109 – change to read “Mr. Landler stated that he thought he had a conflict of interest....He did not....”; line 119, change to read “Ms. Illick asked what percentage of the hay from the field did it represent of all the hay that LaPlatt River Beef put up. Mr. Quickel replied that LaPlatt had many hay fields located through out Chittenden County. This particular field was 1-2 percent of his total, said Mr. Quickel.”; lines 121–129, change to read**

48 “Mr. Landler asked what the total area in acres was for 9 homes. Mr.  
 49 Marshall replied there were 52 acres more or less. Mr. Landler said that it  
 50 appears that the applicant was proposing more houses than allowed for a  
 51 PRD related to the acreage. Mr. McDonald explained that that a PRD was  
 52 supposed to generate more open space. The Town Plan language regarding a  
 53 PRD said that a PRD shouldn’t allow for more residential units then would  
 54 be allowed for the acreage. For example, if the developer had proposed 5  
 55 acre lots and there were 52 acres then there were enough acres for the  
 56 proposed number of homes, minus wetlands or prime agricultural soils, said  
 57 Mr. McDonald.; line135 delete the second “that”;

- 58 • Page 4, line 181 – add the sentence “The more houses the more the impact...”

59 VOTE: 5 ayes, 0 nays, 2 absent (Mr. McDonald, Ms. Illick); motion carried.

60  
 61 **PC-14-21 SKETCH PLAN REVIEW FOR STEVE DICKENS, 2-LOT**  
 62 **SUBDIVISION AT 1151 PRINDLE ROAD.**

63 Mr. Dickens, owner, appeared on behalf of the application.

64  
 65 **STAFF NOTES**

66 Mr. Joslin reviewed staff notes.

67  
 68 **APPLICANT COMMENTS**

69 Mr. Dickens reviewed the following:

- 70 • He had purchased Lot 3 from Caleb “Deedle” Kiley last year. Mr. Kiley told him  
 71 that he would need to appear before the Planning Commission if he wanted to  
 72 further subdivide the lot.
- 73 • He proposed to build a 1,500-1,600 square foot net-zero home.
- 74 • He discovered that in order to build a home to be worth anywhere near what it  
 75 would cost to build, that the total land costs must be lower. The \$500,000-  
 76 600,000 land values were a concern.
- 77 • A 2-lot subdivision was proposed to lower the costs of the land.
- 78 • Any second home built on a second lot would be stipulated as a net-zero house.
- 79 • The approved septic area would remain as is.
- 80 • The common land, colored yellow on the site map, would be located along  
 81 Prindle Road.
- 82 • Both building envelopes would be sited so that the houses would not be seen  
 83 from Prindle Road.
- 84 • Both houses would use the existing right-of-way with two access ways.

85  
 86 Ms. McCrumb briefly reviewed PC-12-28, a Final Plan application, for a minor  
 87 subdivision PRD by the Kiley family.

88  
 89 Mr. Dickens pointed to the furthest northeast corner of a proposed lot where he would  
 90 build his house and a proposal to move the previously approved building envelope further  
 91 east from the meadow and into the woods. The approved building envelope was located  
 92 in a wet area, said Mr. Dickens.

93

## 94 PLANNING COMMISSION QUESTIONS/COMMENTS

95 Ms. Radimer noted that she was a near-by neighbor to the Kiley family lots. She pointed  
96 out an existing hedgerow on the site map that acted as a screen from the road. The  
97 Planning Commission had conducted site visits to the property in 2012. The approved  
98 building envelope was sited specifically in the meadow to keep houses out of the woods  
99 and wildlife habitat. Were the two new houses proposed to be in the woods, asked Ms.  
100 Radimer. Mr. Dickens replied that one would be in the field, but further east at the woods  
101 edge. His home would be in the far northeast corner of the lot in a wooded area.

102

## 103 PUBLIC COMMENTS

104 Mr. (Isaiah) Kiley stated that the conserved open space at the back of the lot could not be  
105 built on.

106

107 Mr. (Chris) Kiley asked how a net-zero house would work if it was surrounded by trees.  
108 Mr. Dickens said that some trees would need to be cut in order to have the sun light. The  
109 further back the house was built the less clearing was needed due to a gain in elevation  
110 going east, said Mr. Dickens.

111

112 Ms. (Lisa) Kiley said she would want to know how many and what kind of trees would  
113 be cut.

114

115 Ms. (Lisa) Kiley noted that there were two water ways located near the meadow and  
116 right-of-way. Mr. Dickens replied that the engineer said that the wet areas weren't a  
117 problem for the proposed access.

118

119 There was discussion regarding the previous Kiley family application related to Lot 3,  
120 which did not meet road frontage requirements (Mr. Joslin said that a PRD application  
121 allowed for less road frontage); building envelopes were approved closer to the road, with  
122 the Lot 3 building envelope sited in the front open space versus the wooded area; and  
123 Planning Commission concerns regarding impacts to the land if trees were cut.

124

125 Mr. Dickens explained that if you were talking about an economic point of view, a net-  
126 zero house consumed less energy than a conventional house connected to the grid. He  
127 didn't want to cut down a lot of trees. It would be cutting enough in the existing building  
128 envelope to open up an area for sun exposure. The meadow was pretty open and would  
129 have sun exposure if a house was sited in the middle of the field. There was a wet area in  
130 that location and you would not want to build there, said Mr. Dickens.

131

132 Mr. Joslin asked for clarification how there would be less tree cutting if a building  
133 envelope was sited further east into the woods. Mr. Dickens reiterated that the meadow  
134 area was very wet. Basically there were large pine trees within the meadow corridor.  
135 Further back to the east there were more scrubby trees and it would be easier to expose a  
136 home to the sun, explained Mr. Dickens.

137

138 Mr. (Isaiah) Kiley suggested that perhaps a net-zero house was not suitable for this land.  
139 Mr. Dickens said that from his perspective he believed a net-zero house would help  
140 protect the planet.

141

142 Ms. (Lisa) Kiley stated she opposed the proposed subdivision. There would be impact on  
143 the forest and wildlife. In the Planning Commission's Findings of Fact, page 5, Note 37,  
144 it states that "...the land under the jurisdiction of an Open Space Agreement cannot  
145 usually be further subdivided." Ms. McCrumb said that the word 'usually' meant that  
146 you have to look at the original three-lot subdivision and determine that the open space  
147 across the three lots were 50 percent of the total acreage. In order to subdivide there  
148 would need to be a set aside of 50/50 on the Dickens' lot. The conserved open space  
149 couldn't be used for development, so Mr. Dickens would need 10 acres that were not in  
150 the open space, said Ms. McCrumb.

151

152 Ms. Radimer recalled that a guiding factor in the Kiley family subdivision was that the  
153 Kiley's had no interest in further subdivision.

154

155 Mr. (Chris) Kiley said that Lot 3 was created as 'a' building lot that enabled a single  
156 building envelope and was not to be subdivided again. The proposed goes against the  
157 spirit and intent of what the Kiley family did. A question was how could Mr. Dickens  
158 enforce the building of a net-zero house, asked Mr. Kiley.

159

160 Mr. Joslin said that it was not under the jurisdiction of the Planning Commission on what  
161 type of house could/would be built. First and foremost the applicant would have to have  
162 10 acres as per Jeannine, said Mr. Joslin.

163

164 Ms. Handy said that there were 17 acres of open space out of 23 plus acres.

165

166 Mr. (Isaiah) Kiley stated that he has lived on that property most of his life. Issues to be  
167 addressed were that the acreage was in critical wildlife habitat except for the meadow,  
168 and if Lot 3 could be further subdivided. Forest fragmentation was a concern. Anyone  
169 who purchased the land would need to know that. In addition, the Planning Commission  
170 should take into consideration what the Kiley family put in place. They spent years  
171 putting a plan in place with an option to sell land with minimal impacts. Open Space  
172 regulations have other limitations. For example, a building envelope was created that did  
173 not encroach on the open space, said Mr. Kiley.

174

175 Mr. (Isaiah) Kiley noted that in the original Findings of Fact, the Planning Commission  
176 said that the jurisdiction of open space can not be further subdivided. With Condition #8,  
177 page 6, "...all structures located on Lot 3, including those exempt from zoning permits  
178 under Section 9.2 of the Charlotte Land Use Regulations, will be located within the  
179 approved building envelope." The Town Plan talks about the few remaining forests in  
180 town and how to preserve them. A net-zero house was not sensible if you have to cut  
181 trees. Mr. (Isaiah) Kiley said he opposed the proposal.

182

183 Mr. Dickens thanked Mr. Kiley for his sentiments. One caveat in terms of a building  
184 envelope; he purchased the lot from Caleb “Deedle” Kiley, who said we put a building  
185 envelope here, but you can go to the Planning Commission to move it, said Mr. Dickens.  
186

187 Mr. Dickens said he appreciated and respected the Kiley’s appreciation for the land. He  
188 was a wildlife biologist with a degree from Cornell. The forest was not critical habitat.  
189 Most wildlife would use an open corridor, which was the right-of-way, said Mr. Dickens.  
190

191 Mr. Landler summarized two points: there was a question if there were 10 acres, and the  
192 Findings of Fact, Condition 8, page 6, which was a condition in the Planning  
193 Commission’s decision. Both points were big hurdles, said Mr. Landler.  
194

195 Mr. Joslin said there were exceptions that the Planning Commission could consider. The  
196 applicant would have to have a good reason to change a building envelope location, for  
197 example. He recalled the Kiley subdivision location of a building envelope was  
198 specifically chosen based on the land factors. A site visit may be precluded by whether or  
199 not it has the acreage, said Mr. Joslin.  
200

201 Ms. Handy said Steve researched the land and trees and found that it would be better to  
202 move the building envelope higher to the east.  
203

204 Ms. Illick asked for clarification of a wet area of the mapped one acre building envelope  
205 mentioned by Mr. Dickens. Mr. Dickens replied that it was in a wet area of the meadow.  
206 The approved building envelope was located near the septic and it was wet. It was not a  
207 wet land per say, said Mr. Dickens.  
208

209 Ms. Nivola, neighbor, said she has lived on Garen Road for 37 years. She supported the  
210 Kiley’s land conservation and careful planning by allowing only one extra building site  
211 for themselves. Their love of the woodlands has gone on for generations. They allow us  
212 to walk their woods, said Ms. Nivola. Ms. Handy said she appreciated their love of the  
213 land. Her family has done the same thing on Huntington property as well, said Ms.  
214 Handy.  
215

216 Ms. McCrumb explained that the Planning Commission was only hearing a discussion of  
217 a proposal and they didn’t need to formally classify or close the hearing by motion. She  
218 recommended that the Chair closing the meeting. The Planning Commission could  
219 schedule a site visit if the applicant wanted a single home site, said Ms. McCrumb. Ms.  
220 Handy said then they would have to build in the meadow where it was wet.  
221

222 Mr. Landler asked if the commission could consider the application if the building  
223 envelope was moved slightly off the approved building envelope site.  
224

225 Ms. Illick suggested getting legal advice.  
226

227 Mr. Joslin closed the discussion.  
228

229 **PC-14-22 SKETCH PLAN REVIEW FOR JASON AND JENSA BUSHEY –**  
230 **REAFFIRMATION.**

231 Jason Bushey, owner, appeared on behalf of the application.

232

233 **STAFF NOTES**

234 Mr. Joslin reviewed staff notes.

235

236 **APPLICANT COMMENTS**

237 Mr. Bushey reviewed that the Planning Commission had conducted a site visit last fall for  
238 a PRD application that was approved. He has moved forward on the written points in the  
239 Findings of Fact. He has been constructing his personal home and missed a six month  
240 deadline. He was asking the Planning Commission to forgive his mistake and grant an  
241 extension. All the parts of the application have been approved and are in place, said Mr.  
242 Bushey.

243

244 Ms. McCrumb clarified that the extension expired April 18, 2014. Mr. Bushey said he  
245 missed the six month window and should have asked for an extension. It was a minor  
246 subdivision that still needs to go through Final Plat review, said Ms. McCrumb. Mr.  
247 Joslin summarized that the application has gone through the site plan and sketch plan  
248 processes.

249

250 The Planning Commission members said they were fine with granting an extension and  
251 for Final review.

252

253 Ms. McCrumb said that the process needs to go through the check list and the PC could  
254 extend it for 6 months from this date, or 2 months dated October 2, 2014 to December 2,  
255 2014. The applicant could submit a Final review application. Mr. Bushey has submitted a  
256 septic plan and subdivision plat, said Ms. McCrumb.

257

258 Mr. Bushey said he would meet with Ms. McCrumb to go over the check list.

259

260 **MOTION by Mr. Landler, seconded by Mr. Bouchard, to extend the Sketch Plan**  
261 **review to December 2, 2014.**

262 **VOTE: 6 ayes, 0 nays, 1 absent (Mr. McDonald); motion carried.**

263

264 **TOWN PLAN – NEXT STEPS**

265 The Commission deferred this discussion due to time constraints and attendance of  
266 Conservation Commission members for joint discussion on pending application.

267 Ms. McCrumb indicated that following the recent resignation of Joanna Cummings from  
268 the Conservation Commission, she had been contacted by a few members and suggested  
269 they attend this meeting to discuss projects moving forward. Mr. Boumans indicated that  
270 due to the unfortunate occurrence at their last meeting, the Conservation Commission  
271 was in a state of flux. Ms. Huff wanted to know what had been submitted by the CC  
272 relative to the Plant application and noted that the Commission no longer had access to  
273 files that were stored in a google account setup by Ms. Cummings. Ms. McCrumb

274 indicated that Ms. Cummings had participated in the sketch review meeting and that she  
275 would forward any submittals that might be in the file. Mr. Boumans indicated the CC's  
276 interest in assessing all parcels in town more comprehensively. He also indicated the CC  
277 would scale back on invasives work and focus on data collection and evaluation of  
278 projects from a conservation standpoint. There was a brief discussion regarding the  
279 number of members and it was suggested that the CC consider reducing their  
280 membership to 7 members from the current 9.

281 **DELIBERATIVE SESSION**

282 **Motion by Ms. Illick, seconded by Ms. Radimer, to enter Deliberative Session.**

283 **Vote 6 ayes, 0 nays, 1 absent (Mr. McDonald); motion carried.**

284

285 The Planning Commission entered Deliberative Session at 8:50 p.m.

286 **Motion by Ms. Illick, second by Mr. Landler to come out of deliberative session.**

287 **Vote 6 ayes, 0 nays, 1 absent (Mr. McDonald); motion carried.**

288

289 The Planning Commission came out of Deliberative Session at 9:10 p.m.

290 There was a brief discussion on Town Plan Workshops and input provided. Ms.  
291 McCrumb distributed a hard copy of comments collected at those workshops to members  
292 of the Commission. These are also posted online along with the actual presentation  
293 slides. There was also some discussion on idea of instituting a Development Review  
294 Board. Consensus was that this was an item to explore further in the Town Plan process.

295 **ADJOURNMENT**

296 **MOTION by Mr. Bouchard, seconded by Ms. Stearns, to adjourn the meeting.**

297 **VOTE: 6 ayes, 0 nays, 1 absent (Mr. McDonald); motion carried,**

298

299 The Planning Commission meeting was adjourned at 9:15 p.m.

300

301 Minutes respectfully submitted, Kathlyn L. Furr, Recording Secretary.

302

303

304