TOWN OF CHARLOTTE
PLANNING COMMISSION
DECEMBER 5, 2013

APPROVED

MEMBERS PRESENT: Peter Joslin, Acting Chair; Gerald Bouchard, Linda Radimer, Marty Illick. ABSENT: Jeff McDonald, Paul Landler, Donna Stearns.
ADMINISTRATION: Dean Bloch, Town Planner; Tom Mansfield, Zoning Administrator; Jeannine McCrumb.
OTHERS: Joann Cummings, Christopher Fortin, Rebecca Fortin, Wendy Roth, Jonathan Couture, Clark Hinsdale III, Jonathan Silverman, Melanie Goodman, Tim Hotaling, Liam Murphy, Heather McKim, Charlotte Citizen, and others.

AGENDA ITEMS:

- **Consent Agenda: Approve a six month extension to Jeff and Tammy Hall for submission of the Final Plan Application.**
- **Christopher and Rebecca Fortin; Continued Sketch Plan Review for Site Plan Review for Contractor's Yard. Property located at 2737 Lake Road in the Rural District.**
- **Wendy Roth: Sketch Plan Review for a subdivision Amendment to change an approved building envelope for Lot 5. Property located at Vineyard View Drive in the Rural District.**
- **Nominate Jeannine McCrumb for Administrative Officer to be appointed by the Selectboard as per 24 VSA 4448.**

CALL TO ORDER
Mr. Joslin, Acting Chair, called the meeting to order at 7:05 p.m.

APPROVE REGULAR AGENDA AND CONSENT AGENDA
The Regular Agenda was approved.
Consent Agenda:
MOTION by Mr. Joslin, seconded Mr. Bouchard, to approve a request by Jeff and Tammy Hall for a six month extension to June 7, 2014, for submission of the Final Plan application.
VOTE: 4 ayes, 3 absent Mr. McDonald, Ms. Stearns, Mr. Landler); motion carried.

PUBLIC COMMENT
None.

MINUTES: October 17 and November 7, 2013
MOTION by Ms. Illick, seconded by Mr. Bouchard, to approve the Planning Commission minutes of October 17, 2013 as written, with the following correction:

- **Globally correct the spelling of "GIS".**

VOTE: 4 ayes, 3 absent (Mr. McDonald, Ms. Stearns, Mr. Landler); motion carried.

MOTION by Ms. Illick, seconded by Ms. Radimer, to approve the Planning Commission minutes of November 7, 2013 as written, with the following edits:

- **Page 1, Heading, Others, add Tim Hotaling.**
- **Page 4, 6th paragraph, 1st and 2nd sentences, change to read "…25 year lease ran out, or would it…".**
- **Page 5, 3rd paragraph, correct the spelling of "Rumet's" to "Ouiette's"; and the last bullet item, bottom of page, add the words "…to the north."**
- **Page 6, 1st bullet item, delete "…both properties" and change to read "…done for lots 2 and 3".**
- **Page 8, 8th paragraph, replace "(?)" with "Hotaling".**

VOTE: 4 ayes, 3 absent (Mr. McDonald, Ms. Stearns, Mr. Landler); motion carried.

CHRISTOPHER AND REBECCA FORTIN; CONTINUED SKETCH PLAN REVIEW FOR SITE PLAN REVIEW FOR CONTRACTOR'S YARD. PROPERTY LOCATED AT 2737 LAKE ROAD IN THE RURAL DISTRICT
Christopher Fortin and Rebecca Fortin, owners, appeared on behalf of the application.

STAFF NOTES
Mr. Joslin reviewed staff notes, and that a site visit had been conducted on Saturday, November 9, 2013.

Mr. Bloch handed out copies of a proposed site map of the subject property for Planning Commission review.

SITE VISIT:
Ms. Illick reported that boundary lines and the proximity of adjoining landowners were observed.

Ms. Radimer said that at the November 7th Planning Commission hearing the neighboring landowners had expressed concerns related to noise and machinery on the Fortin property.

APPLICANT COMMENTS
Mr. Fortin said that due to the new wood splitter/processor equipment he was required to submit a Contractor's Yard application for a Level 3 Home Occupation. The equipment has been purchased, but was not on-site yet, said Mr. Fortin.

PLANNING COMMISSION QUESTIONS/COMMENTS
Ms. Illick asked for an explanation for the application. Mr. Mansfield replied that the Fortin's home occupation business had continued to expand over the last 5-6 years. A Home Occupation - Level 1 required that the Fortin's build a storage building for their equipment. The Fortin's were still storing equipment outside, which was restricted. The Fortin's were sent a notice that a Home Occupation, Level 3 application for a Contractor's Yard was required with the purchase of new equipment. There were no proposed changes to the property so the Planning Commission should look at the existing

features. The Zoning Board of Adjustment would look specifically at the use – logging, traffic, noise, etc, explained Mr. Mansfield.

Mr. Fortin said that he was storing compost outside. The compost was not for sale on the property. The compost was used offsite for landscaping jobs, stated Mr. Fortin.

Ms. Illick asked if the wood splitter should be sited, or stored differently. Mr. Mansfield replied that as per the regulations he could only advise the Fortin's to apply for a Home Occupancy, Level 3 as a Contractor's yard.

Mr. Fortin said that his southerly neighbor was concerned about the noise. The equipment was located to the north side of the storage building to minimize noise, said Mr. Fortin.

Mr. Joslin asked if the Planning Commission was allowed to discuss the site layout and design. For example, options to locate equipment, or planting trees to minimize noise, suggested Mr. Joslin. Mr. Bloch replied that the Planning Commission could discuss screening. Mr. Joslin suggested scheduling a site visit.

Mr. Fortin said that he and Rebecca had measured the decibel levels on his south boundary line at 55.6 decibels. To test the noise levels of the equipment he turned it up to high, which was measured at 70 decibels. A normal talking voice was 69.5 decibels. He was unopposed to screening, or a fence, said Mr. Fortin.

Mr. Bouchard said that the equipment was currently located at the best site for minimizing noise. The storage structure was visible from the road, noted Mr. Bouchard.

PUBLIC COMMENTS

Liam Murphy, attorney representing Tim Hotaling and Melanie Goodman, neighbors to the south, said that the issues were more complicated. A joint Planning Commission and ZBA hearing should be held since the issues crossed over and couldn't be separated. Issues included:

1. A Home Occupation, Level 1, must occur within a house or accessory building and have no employees.
2. The Fortin's storage building allowed the Fortin's to buy more equipment. The Fortin's have received letters of violation from the Town that his business was no longer a Level 1 home occupation. An accessory structure should be smaller than the house.
3. Equipment was stored all over the Fortin's yard, along with sand piles, compost piles etc.
4. The Fortin's business was at a Level 3. In addition to the new wood splitter processor there were big trucks and logs being delivered on-site, not off-site. The current application states that a wood splitter processor would be on-site.
5. A home occupation included language that work would occur inside a building. The wood splitter work should occur inside. Permission was needed for storage of equipment, or materials.

Mr. Murphy reiterated that the problem was the business had grown too big for the site, which was 100'+/- from neighboring residential homes. The value of Mr. Hotaling's house has gone down due to the Fortin's business. The Planning Commission should use a check list drawn from the Land Use Regulations, pages 65-66, to make a Site Plan determination. For example, a true site plan drawn by a certified engineer/surveyor that shows parking, proposed storage, loading areas, roadways, visibility, neighbors and noise levels. This should be done in coordination with a ZBA Conditional Use review, said Mr. Murphy.

Mr. Silverman, neighbor across the road, said his house was as close to the Fortin's as the Hotaling's. Questions were – would this application set a precedent to change from a Level 1 to a Level 3 Home Occupation; what was the Town's policy for doing so; and what were the implications in terms of hours of operation, and number of people there. Was it a commercial, or residential area. The ZBA and Planning Commission should clarify the process, said Mr. Silverman.

Mr. Joslin read that staff notes indicated that a joint meeting could not be coordinated. Mr. Bloch read Land Use regulations, page 48, related to Sections 5.4 and 5.5, Level 3 standards for a home business. Normally a joint hearing would be requested. It was not required. The ZBA hears Conditional Use reviews. The ZBA could rule on the Conditional Use issues raised at a separate hearing and send a report to the Planning Commission, suggested Mr. Bloch.

Ms. Illick asked what the hours of operation were. Mr. Fortin explained that in summer he started at 8:00 a.m. and was back home by 5:00 p.m. He got the logs for a good price and had them delivered. His winter hours were from 8:00 a.m. to 3:00 p.m. There were just the two of us and no hourly employees, said Mr. Fortin.

Ms. Illick asked staff what the precedent in Town was for a Contractor's Yard. Mr. Mansfield said in 14 years no home occupations have gone from a Level 1 to a Level 3, so he was unaware of any precedent. Steve Denton's business in the East Charlotte was in the Village District and was allowed without going through site plan or conditional use reviews, said Mr. Mansfield.

Mr. Fortin clarified that 95 percent of his business was at a customer's home. He might cut a cord of wood during the summer and would be using the wood machine off-site, said Mr. Fortin.

Mr. Murphy pointed out that work might be done off-site, however there was a question of when work started work. Machines had to be started, serviced, loading, off-loading, etc. done in early morning before leaving the property. For a home occupation, work has to be in a building, reiterated Mr. Murphy.

Mr. Fortin stated he didn't start work before 7:30 a.m. and only at night if it was snowing and he needed to plow.

Mr. Joslin said that it made sense to defer a classification until the ZBA made a Conditional use ruling. The Planning Commission looks at layout, design, location, screening, where machinery was located, visibility to other homes, etc. He would like to see a plan that identified where equipment, buildings, etc. were, said Mr. Joslin.

Mr. Fortin clarified that a wood chipper and a wood processor were two different machines. He did not have a wood chipper, said Mr. Fortin.

Ms. Radimer said that she has ridden past the Fortin and Hotaling's homes and was familiar with the layout.

Mr. Bouchard said that the pile of logs was visible as well as the storage building. Mr. Fortin invited members to drive in anytime.

Ms. Illick asked if the application provided sufficient information for a Sketch Plan letter. She would expect more useful information, said Ms. Illick.

Mr. Silverman asked what a Class 3 level meant, or implied. Mr. Mansfield said that for a Class 1 level no permit was needed. Uses included a home office; for example, an accountant. If there was an employee, or larger business then a Conditional Use permit would need to be issued by the Zoning Board of Adjustment. A Class 3 level required approval by the Planning Commission for site layout, design, etc. Class 3 was an allowed use in a residential area in Charlotte. He was not aware of any other similar businesses off hand, said Mr. Mansfield.

Mr. Joslin asked if the application should be classified as a Site Plan. Mr. Bloch suggested deferring action until the Fortin's applied for it. Mr. Bouchard suggested putting action on hold until the Zoning Board of Adjustment made a determination.

MOTION by Ms. Illick to classify the Christopher and Rebecca Fortin application as a Site Plan for a Contractor's Yard to be reconsidered after the Zoning Board of Adjustment makes a Conditional Use determination.
Following discussion regarding a combined hearing, and overlap, Ms. Illick withdrew her motion.

MOTION by Ms. Illick, seconded by Mr. Bouchard, to classify the Christopher and Rebecca Fortin application as a Site Plan for a Contractor's Yard pending a Conditional Use hearing by the Zoning Board of Adjustment and with a Zoning Board of Adjustment report sent to the Planning Commission after December 16, 2013.
VOTE: 4 ayes, 3 absent (Mr. McDonald, Ms. Stearns, Mr. Landler); motion carried.

WENDY ROTH: SKETCH PLAN REVIEW FOR A SUBDIVISION AMENDMENT TO CHANGE AN APPROVED BUILDING ENVELOPE FOR LOT 5. PROPERTY LOCATED AT VINEYARD VIEW DRIVE IN THE RURAL DISTRICT

Clark Hinsdale III, owner, and Wendy Roth potential buyer, appeared on behalf of the application.

STAFF NOTES
Mr. Joslin reviewed staff notes.

APPLICANT COMMENTS
Ms. Roth explained a proposal to purchase Lot 5 from Mr. Hinsdale and a site map as follows:

- Lot 5 bordered State Park Road.
- Vineyard View Drive was formerly the Hinsdale's driveway.
- Lot 5 had been previously subdivided by Mr. Hinsdale, who had then transferred the subdivided land back into Lot 5. The approved building envelop in the middle of the lot was not her preferred location.
- A modest 2,200 square foot one-story house would be located in the northeast corner of the lot on an elongated building envelop to maximize the westerly views and be above the vineyard.
- An existing septic and leach field dictates that the building envelop has to be set back.

Ms. Roth pointed out an existing hedgerow on the site map.

PLANNING COMMISSION QUESTIONS/COMMENTS
Mr. Joslin asked staff to provide an ortho-map of the property and asked if the land dropped off to the east.

Mr. Hinsdale reviewed a brief history of the previous subdivision of the lot, and said that it was a generic subdivision that worked off an existing driveway. There were no end users at that time, but now there were. He wanted to sell his house and put it on a smaller lot. He hoped that someone would purchase the open farm land and horse barn that was interested in grazing the land. One house sold several times. The Smith's rented his house for 3 years and purchased it with some land behind it. Jonathan and Kim Couture bought Lot 3 and turned the barn into a house. They don't have animals. Lot 5 had a building envelop in the middle of the lot. The west side of Lot 5 over looks the vineyard and Route 7. The east side was higher up over looking the vineyard. One idea was to eliminate the Lot 4 building envelop due to a wetland. Another idea was to eliminate the Lot 3 and 4 boundary line so that Lot 3 swallowed up Lot 4. Lot 4 would become open space. The Lot 5 building envelop would be located to the northeast. That way all 4 houses would be in line and equal-distance apart. The septic system would remain as is, said Mr. Hinsdale.

Ms. Roth said the relocated building envelop volume would remain the same. She had Stuart Morrow draw a revised site map. A proposed view easement would be formalized for Jonathan and Kim, said Ms. Roth.

Ms. Illick asked for clarification of a trail easement. Mr. Hinsdale pointed out the trail easement on the site map.

Ms. Roth noted that her current house in Sheehan Green was for sale. She wanted to know if she could put a house as proposed before proceeding with the lot purchase, said Ms. Roth.

Mr. Couture expressed concern that the proposed building envelop would span the entire road frontage. He was not sure what would be reasonable, said Mr. Couture.

Mr. Hinsdale said that the proposed building envelop could be staked out for a site visit pending receipt of a Sketch Plan letter from the Planning Commission.

Mr. Bloch said that with the readjustment it would make sense to have an open space agreement. Mr. Hinsdale said that there was an existing open space agreement. The agreement could be amended to add Lot 4, said Mr. Hinsdale.

MOTION by Ms. Radimer, seconded by Ms. Illick, to continue a request by Wendy Roth for a Sketch Plan Review for a Subdivision Amendment to change an approved building envelope for Lot 5, located at Vineyard View Drive in the Rural District to January 16, 2014, and to schedule a site visit for Saturday, December 7, 2013 at 9:00 a.m.
VOTE: 4 ayes, 3 absent (Mr. McDonald, Ms. Stearns, Mr. Landler); motion carried.

NOMINATE JEANNINE MCCRUMB FOR ADMINISTRATIVE OFFICER TO BE APPOINTED BY THE SELECTBOARD AS PER 24 VSA 4448
MOTION by Ms. Radimer, seconded by Ms. Illick, to nominate Jeannine McCrumb as Administrative Officer to be appointed by the Charlotte Selectboard as per 24 VSA 4448.
VOTE: 4 ayes, 3 absent (Mr. McDonald, Ms. Stearns, Mr. Landler); motion carried.

Mr. Joslin thanked Tom Mansfield, Zoning Administrator, for his many excellent years of service to the town of Charlotte.

DELIBERATIONS
The Planning Commission entered Deliberative Session at 8:45 p.m.

ADJOURNMENT
The Planning Commission meeting was adjourned at p.m.

Respectfully submitted, Kathlyn L. Furr, Recording Secretary