

# CHARLOTTE PLANNING COMMISSION

## FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

**Ronald E. and Beatrice N. Marble**

### **Final Plat Hearing For A Two-Lot Subdivision As a Planned Residential Development Application # PC-05-45**

#### **Background**

Sketch Plan Review was held on August 4<sup>th</sup> and August 18<sup>th</sup>, 2005. The property had not been previously subdivided.

#### **Application**

Materials submitted with the application are listed in Appendix A.

#### **Public Hearing**

A public hearing for this application was opened on October 6, 2005. The following persons were present and participated:

Representing the applicant: Tammy Clark and Nick Clark

Adjoining property owners: Phyl Lary

#### **Regulations in Effect**

Town Plan as amended March 2002

Zoning Bylaws as amended March 2002

Subdivision Bylaws as amended March 1995

#### **Findings**

1. The subject parcel is 33.6 acres, and is proposed to be subdivided into two lots: Lot 1 (31.7 acres) and Lot 2 (1.87 acres).
2. The subject parcel currently has two dwellings, which are proposed to remain on Lot 1. Lot 2 is proposed to be a building lot.
3. The two dwellings are “grand-fathered” and may remain on one lot since there is sufficient acreage to allocate five acres to each dwelling.
4. The subject property is larger than 25 acres, and therefore is subject to the Planned Residential Development (PRD) provisions in Section 5.15 of the Zoning Bylaws and Chapter VI Section 2.M of the Charlotte Subdivision Bylaws.
5. Lot 2 is a proposed building lot of 1.87 acres. This configuration is proposed under the PRD provisions of Section 5.15, which allows flexibility in the layout in order to preserve resources. The difference between the required minimum lot size (five acres) and Lot 2

- (1.87 acres) is 3.13 acres, which will be removed from the density acreage of Lot 1.
6. The subject parcel is located in both the Rural and the Conservation Districts. The portion of the parcel within the Conservation District is comprised of a large wetland that encompasses portions of several adjacent parcels and is over 100 acres in size.
  7. The proposed subdivision will not impact and provides a significant buffer to the Conservation District and the associated wetland.
  8. A belt of prime agricultural soils is located along Spear Street; the remainder of the field has statewide agricultural soils.
  9. Lot 2 does include prime agricultural soil, however it is a relatively thin strip. A significant portion of the meadow is proposed to be left open, and Lot 2 is relatively clustered with the existing dwellings.
  10. Map 12 in the Town Plan indicates a vista (V-17) from Spear Street and two historic structures (H-26 and H-27) near the subject parcel.
  11. Following Sketch Plan Review, the applicant has shifted the location of Lot 2 to the west in response to the Planning Commission's recommendation, which will result in the dwelling on Lot 2 being more consistent with the existing pattern of development along Spear Street.
  12. The project will not significantly impact the vista at V-17, and will have no impact on the existing historic structures.
  13. A setback of 75' is necessary between the wastewater disposal system and down-slope footing or foundation drains.
  14. Lot 2 is proposed to be accessed by an existing driveway that serves one of the existing dwellings on Lot 1. The driveway will be within a 60 foot right-of-way. Since the driveway already exists, and is proposed to serve only two dwellings, a Highway Access Permit is not needed.
  15. The Town's wastewater consultant has reviewed the wastewater disposal design and issued two memos (dated 9/19 and 9/26), which indicate that the soil and design are acceptable. The applicant will need a wastewater permit from the state.
  16. Designation of open space is a requirement of Chapter V Section 5.15 of the Charlotte Zoning Bylaws, however the Planning Commission has historically deferred requiring an Open Space Agreement for proposals that create only one building lot.

## Decision

Based on these Findings, the Planning Commission approves Final Plat Application PC-05-45 with the following conditions:

1. The plat will be revised as follows:
  - A. The "density acreage" of Lot 1 will be corrected.
  - B. A building envelope on Lot 2 will be indicated, and will provide a 75' setback from the wastewater disposal system, and standard side-yard and rear-yard setbacks for the remainder of the building envelope.
  - C. A note will be added that structures without footing/foundation drains may be located 100 feet from the front property line (along Spear Street).
2. Two paper copies (one full size and one 11"x 17") of the plat, as amended by Condition 1 above, will be submitted to the Planning Commission for review within 60 days; the

applicant will record mylars (18" x 24") of the plat and the wastewater disposal design (after being endorsed by the Planning Commission) in the Charlotte Land Records within 180 days.

3. Prior to the submission of the mylars in accordance with Condition #2 above, the applicant shall submit a letter from the surveyor indicating that s/he has set the survey pins in the field as indicated on the survey.
4. The conveyance deed for Lot 2 will include an access easement over Lot 1.
5. Prior to the submission of a Zoning Permit application for Lot 2, the applicant will set wooden stakes at the corners of the building envelope.
6. No pole-mounted light fixture will be taller than 8' off the ground, and no building-mounted light fixture will be taller than 20' off the ground. Fixtures will be shielded to direct light downward.
7. All new utility lines will be underground.
8. The Planning Commission will not require open space to be designated at this time, however any future subdivision of Lot 1 will require the designation of open space. The total 33.6 acres will be considered when calculating the percentage of open space as provided for in Chapter V. Section 5.15 of the Charlotte Zoning Bylaws (or succeeding town regulations in effect).

**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 date of the 4<sup>th</sup> 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 October 6<sup>th</sup>:** Jeff McDonald, Linda Radimer, John Owen, Peter Joslin and Robert Mack

**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:\_\_\_\_\_
2. Signed:\_\_\_\_\_ For / Against Date Signed:\_\_\_\_\_
3. Signed:\_\_\_\_\_ For / Against Date Signed:\_\_\_\_\_
4. Signed:\_\_\_\_\_ For / Against Date Signed:\_\_\_\_\_
5. Signed:\_\_\_\_\_ For / Against Date Signed:\_\_\_\_\_

6. Signed: \_\_\_\_\_ For / Against Date Signed: \_\_\_\_\_

7. Signed: \_\_\_\_\_ For / Against Date Signed: \_\_\_\_\_

**APPENDIX A**

1. An application form and appropriate fee.
2. A memo dated 9/9/05 from Roy Marble of Marble Consulting to Dean Bloch.
3. A sheet entitled "Narrative Overview, Marble Subdivision, Spear Street, Charlotte, Vermont".
4. A map with an ortho-photo and parcels showing adjoining property owners.
5. A letter dated October 3, 2005 from Ronald and Beatrice Marble to the Town of Charlotte authorizing Roy Marble, Tammy Clark and Nick Clark to represent them with regard to the proposed subdivision.
6. A map entitled "Two Lot Subdivision, Land of Ronald & Beatrice Marble, 3411 Spear Street, Charlotte, Chittenden County, Vermont" by Little River Survey Company, LLC dated September 2005, no revisions.
7. A site plan entitled "Septic System Design for Ronald and Beatrice Marble, 3411 Spear Street, Charlotte, VT 05445, Project Location 33.6 +/- Acre Lot, Spear Street, Charlotte" (sheet 1 of 2) by Paul Taylor of Trailhead Designs, LLC dated January 24, 2005, signed 8/22/05, no revisions.
8. A detail sheet entitled "Septic System Design for Ronald and Beatrice Marble, 3411 Spear Street, Charlotte, VT 05445, Project Location 40 +/- Acre Lot, Spear Street, Charlotte" (sheet 2 of 2) by Paul Taylor of Trailhead Designs, LLC dated January 24, 2005, signed 8/22/05, no revisions.