

# CHARLOTTE PLANNING COMMISSION

## FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

**Elizabeth Snyder Revocable Trust  
3840 Spear Street**

**Final Plan Hearing  
For A  
Three-Lot Subdivision  
Application # PC-10-06**

### **Background**

The Planning Commission held Sketch Plan Review for the proposed subdivision on December 3, 2009 and January 21, 2010, and conducted a site visit on December 12, 2009. At the conclusion of Sketch Plan Review, the Planning Commission classified the project as a Minor Subdivision.

### **Application**

Materials submitted with the application are listed in Appendix A.

### **Public Hearing**

The Planning held a public hearing for this application on March 18, 2010. Chris Snyder and Elizabeth Snyder were present representing the applicant. Warren Severance, an adjoining property owner, was present and participated in the hearing. Jennifer Adsit, an adjoining property owner, was present but did not participate in the hearing.

### **Regulations in Effect**

Town Plan amended March, 2008

Land Use Regulations amended March, 2009

Recommended Standards for Developments and Homes adopted September, 1997

### **Findings**

1. The applicant owns a 41 acre parcel located within the Rural District. The lot was created in its current configuration via a Boundary Adjustment by Nancy C. Hinsdale, Trustee (PC-08-26) in 2008. There are no structures currently located on the parcel.
2. The application proposes to create three building lots.

#### Development Suitability (Section 7.2)

3. The following areas of high public value (as listed in Table 7.1 of the Charlotte Land Use Regulation) are located on or in close proximity to the parcel:
  - A. Land in active agriculture: on the parcel, two areas have been in active agricultural use relatively recently as hayfields: a strip of land of about five acres along a plateau

approximately 300 feet west of Spear Street, and the area to the west of the woods. The adjoining parcels to the north and west (Nichols) and the south and west (Hinsdale) are in active agricultural use as hayfields (from the application, ortho-photos, and site visit).

- B. Agricultural soils: Prime agricultural soils are located primarily on the eastern portion of the parcel, and statewide agricultural soils are located on most of the remainder of the parcel (from NRCS data).
  - C. Steep slopes: Steep slopes are located on the eastern portion of proposed Lot 1 and the western portion of proposed Lot 3 (from the application).
  - D. Surface water: Two streams and associated Class 2 wetlands are located in the western portion of the parcel. A Class 2 wetland is also located along the south boundary line to the west of the woods, and there appear to be three a few Class 3 wetlands located to the west of the woods (streams are from State surface water data, and wetlands were delineated by the applicant)
4. The Planning Commission finds the agricultural soils, steep slopes, and surface water are the most important resources (areas of high public value) on the parcel. These are the resources that most strongly characterize the property, and which the Planning Commission feels are most important to protect.

Lot Layout, Settlement Patterns, Rural District Standards (Sections 7.2 and 7.3)

- 5. The application depicts a building envelope of approximately 1.3 acres on Lot 1; this will impact some statewide agricultural soils, but it is located at the edge of field and woods, so leaves most of the field without impact.
- 6. The application depicts one building envelope on each of Lots 2 and 3 located to the east of the hayfield. The envelopes will impact prime agricultural soils, but are located to the east of the area that has historically been farmed more intensively.
- 7. None of the building envelopes are located on the steep slopes. The driveway to Lot 1 is located on steep slope, but it is configured to run gradually down (or up) the contour, thereby minimizing the potential for erosion. Maintaining trees on steep slopes also helps to reduce the potential for erosion.
- 8. The roadway and driveways serving the three lots will also impact prime and statewide agricultural soils. However, the application proposes a combined access for all three lots, rather than two accesses as proposed at Sketch Plan Review, so the impact is being minimized to the greatest extent possible.
- 9. At the hearing it was noted that the eastern hayfield is divided between Lots 2 and 3; and that the long-term agricultural use of this field might be facilitated by reconfiguring the lots using the Planned Residential Development provisions in Chapter VIII of the Land Use Regulations, allowing the hayfield to be situated entirely on one parcel.
- 10. Since Lots 2 and 3 are both five acres, and the hayfield constitutes slightly less than half of each of these lots, the hayfield is a little less than five acres in size.
- 11. The applicant preferred not to reconfigure the subdivision using Planned Residential Development provisions allowed in Chapter VIII.
- 12. Although the division of the hayfield between two lots is an adverse impact, the amount of land affected is relatively small (approximately five acres), and so the impact is not an undue adverse impact.

13. The proposed building envelope on Lot 1 is larger than what is usually requested or approved; however, the applicants stated at the hearing that they may construct a barn, and this would be located within the building envelope in addition to the dwelling.

#### Compatibility with Agricultural Operations (Section 7.4)

14. The proposed building envelope on Lot 2 is less than 200 feet from a neighboring parcel that hosts an agricultural operation—it is approximately 60 feet from the common boundary line with Hinsdale. However, there are other residential uses in the vicinity that are closer than this.
15. The applicant stated at the hearing that he intends to continue to allow agricultural access to the Hinsdale parcel via an existing field access on Lot 2. This field access is pre-existing for agricultural use, and is not approved for providing access to development. Therefore, a formal easement is not required by the Land Use Regulations.

#### Facilities, Services & Utilities (Section 7.5)

16. The site plan indicates the shared portion of the roadway and the driveway to Lot 1 are designed in accordance with the Charlotte Volunteer Fire and Rescue Services' "Recommended Standards for Developments and Homes."
17. The total length of the shared road and driveway to Lot 1 is slightly more than 800 feet. The site plan submitted with the application depicts the driveway to be widened to 26 feet for a minimum length of 35 feet at the curved portion in the northwest corner of Lot 2. This will allow for emergency vehicles and other large vehicles to pass each.

#### Roads & Driveways (Section 7.10)

18. The application proposes a shared access for all three lots.
19. For the portion of the roadway that is shared, a road name is required by the E-911 Ordinance, and a Roadway Agreement and Waiver is typically required to ensure that the Town will not be asked to maintain the road.
20. The Road Commissioner has indicated the culvert under the shared roadway at the intersection with Spear Street should be 15 inches in diameter and 30 feet long.

#### Water Supply and Wastewater Disposal (Sections 7.6 and 7.7)

21. The applicant has obtained a Wastewater System and Potable Water Supply Permit (WW-138-1004).
22. Each lot is proposed to be served by an individual wastewater disposal system.
23. The wastewater system serving Lot 1 is located on Lot 2, so will need an easement.

#### Other

24. At the hearing, the applicants stated that they will need an Act 250 Permit for the project, due to other development they have undertaken during the past five years.

### **Decision**

Based on these Findings, the Planning Commission approves the Final Plan Application for the proposed three-lot subdivision planned residential development with the following conditions:

1. A mylar (18" x 24") of the approved plat will be submitted to the Planning Commission

for review and signature within 160 days. The applicant will record the signed mylar in the Charlotte Land Records within 180 days.

2. Prior to the submission of the mylar in accordance with Condition 1 above, the applicant will:
  - A. Obtain an Act 250 Permit.
  - B. Execute and record a Roadway Agreement and Waiver (the Town can provide a boilerplate); and
  - C. Submit a letter from the surveyor indicating he has set the survey markers or pins in the field as indicated on the plat. If the survey markers or pins cannot be set at this time because of frozen ground, the applicant shall submit a letter from the surveyor indicating that he will set the markers or pins when the ground thaws and has been paid to do so.
3. The deeds conveying all lots will include an access and utility easement similar to that submitted with the application (within the draft Warranty Deed for Lot 2).
4. The deeds conveying Lots 1 and 2 will include an easement for the sewage disposal system serving Lot 1 and located on Lot 2 similar to that submitted with the application (within the draft Warranty Deed for Lot 2).
5. Prior to obtaining a Certificate of Occupancy for the first dwelling of the three lots, the applicant will obtain approval from the Selectboard for a road name to comply with the E-911 Ordinance.
6. No new pole-mounted light fixture will be taller than 8' off the ground, and no new building-mounted light fixture will be taller than 15' off the ground. Fixtures will be shielded to direct light downward, and will not direct light onto adjacent properties or roads, and will not result in excessive lighting levels that are uncharacteristic of the neighborhood.
7. All new utility lines will be underground.
8. All new driveway and roadway sections shall be surfaced with non-white crushed stone.
9. The culvert under the shared roadway near the intersection of Spear Street will be 15 inches in diameter and 30 feet in length.
10. The use of the existing field access on Lot 2 is allowed for agricultural purposes, but the access cannot be used to serve development without prior approval from the Planning Commission and Selectboard.
11. The steep slopes on Lots 1 and 3 will be maintained with trees to minimize the potential for erosion of the steep slopes.

**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 March 18, 2010:** Jim Donovan, Linda Radimer, Peter Joslin, Eleanor Russell, John Owen, Paul Landler

**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**

The following items were submitted with the application:

- 1. An application form and appropriate fee.
- 2. A letter dated February 23, 2010 to the Planning Commission from Chris & Elizabeth Snyder.
- 3. A draft Warranty Deed for Lot 2 including an access and utility easement, a reserved access and utility easement for Lot 1, and a reserved easement for a sewage disposal area serving Lot 1.
- 4. A plan entitled “Snyder Subdivision, Spear Street Extension, Charlotte, VT, Site Plan, Sheet no. S1” by Lamoureux & Dickinson dated 2/19/10, no revisions.
- 5. A sheet entitled “Snyder Subdivision, Spear Street Extension, Charlotte, VT, Wastewater System Details and Specifications, Sheet no. S2” by Lamoureux & Dickinson dated 2/19/10, no revisions.
- 6. A survey plat entitled “Lands of the Elizabeth C. Snyder Revocable Trust, Spear Street Extension, Charlotte, VT, Three Lot Subdivision Plat, Sheet no. PL” by Lamoureux & Dickinson dated 2/10/10, no revisions.