

CHARLOTTE PLANNING COMMISSION

FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

**Justin and Maura Wygmans
3176 Greenbush Road**

**Final Plan Application
For A
Subdivision Amendment
Application # PC-10-26**

Background

The applicant's parcel was created (as Lot 3) by a subdivision by the Charlotte Land Trust, for which the Findings of Fact and Decision (PC-00-40) is recorded at volume 113 page 384 and the final plat is recorded in map slide 123 of the Charlotte land records. The size of the parcel was subsequently reduced to 5.01 acres via a subdivision modification recorded at volume 154 pages 447 and in map slide 142. The Planning Commission conducted Sketch Plan Review for the current proposal on September 4, 2008 and classified the project as a Major Subdivision Amendment. Preliminary Plan Approval was granted on June 8, 2010.

Application

Materials submitted with the applications are listed in Appendix A.

Public Hearing

The Planning Commission held a public hearing for this application on July 15, 2010. Justin Wygmans and Maura Wygmans were present. Michael Frost, an adjoining property owner, was present and participated in the hearing. Lisa and Roland Gaujac, adjoining property owners, were present and were represented at the hearing by Attorney Liam Murphy. Attorney Murphy and Lisa Gaujac presented evidence and provided testimony. Chris Kingston, an adjoining property owner who participated at the preliminary hearing, was not present. No other parties participated or submitted written comments regarding the application.

Regulations in Effect

Town Plan, amended March, 2008

Land Use Regulations adopted March, 2009.

Recommended Standards for Developments and Homes adopted September, 1997

Findings

1. The purpose of the application is to change the location of a right-of-way serving as access to two parcels: (1) owned by Chris Kingston, and (2) owned by Michael and Karen Frost. The two lots were Lot 1 and Lot 2, respectively, of a three-lot subdivision by Charlotte Land Trust (PC-00-40).
2. The applicant is also proposing to provide a legal access to the Gaujac parcel via the

- relocated right-of-way.
3. Both the Kingston parcel and the Gaujac parcel have a second access from Greenbush Road which serves as the primary access to those two parcels.
 4. Section 3.2(D)(2)(c) of the Land Use Regulations states “roads and driveways should be located to avoid fragmentation of and/or adverse impact to areas of high public value listed in Table 7.1”
 5. The following areas of high public value are located on or in the vicinity of the project:
 - A. Prime and statewide soils are located where the driveway is proposed to be relocated (according to NRCS map).
 - B. Greenbush Road is depicted as a “most scenic road” on map 13 in the Town Plan.
 - C. The adjoining parcel owned by Michael and Karen Frost has been conserved by the Charlotte Land Trust.
 6. The size and configuration of the applicant’s parcel makes its use for commercial agriculture difficult and unlikely; so the project’s impact on agricultural soils is negligible.
 7. The proposed right-of-way will not impact the scenic quality of Greenbush Road, provided the existing driveway is removed (top-soiled and grassed) once the proposed driveway has been constructed, and provided the new driveway is surfaced with a natural, neutrally-colored material such as non-white crushed stone.
 8. The proposed right-of-way will not impact the resources (primarily wildlife) for which the Frost parcel was conserved.
 9. The proposed right-of-way received Highway Access Permit HAP-10-08 on June 14, 2010.
 10. All conditions imposed by the Preliminary Plan Approval were satisfied by the applicant’s and submitted with the Final Plan application.
 11. The Preliminary Plan application included a submittal from Civil Engineering Associates together with a plat which depicted an existing septic system serving the Gaujac property located on the Gaujac property just to the north of the Old Lantern facility.
 12. The Gaujac septic system identified in the Civil Engineering Associates submittal at the preliminary plan hearing was not depicted on the Final Plan Application plat.
 13. The applicant’s property as well as the Gaujac property benefit from use of a town owned well located on the east side of Greenbush Road on property commonly known as the Flea Market. The water supply line from this well crosses under Greenbush Road to serve these properties. The location of the water line serving the applicant’s and the Gaujac property was not depicted on the plat submitted with the Final Plan Application.
 14. The Final Plat submitted with the Final Plan Application contains a typographical error on Note 3.

Decision

Based on these Findings, the Planning Commission approves the Final Plan Application for the proposed Subdivision Amendment with the following conditions:

1. The final plat will include the following edits:
 - A. Note #3 will correct the typographical error at the end of the 3rd sentence. This sentence shall read “The existing and proposed right of way benefits the Kingston, Frost and Gaujac parcels, reference Volume 113 pages 596-600 and

Volume 157 pages 274-277.”

- B. The water line serving the Wygmans and Gaujac properties shall be depicted and identified with a notation indicating “approximate location of water line from a town owned well located on the east side of Greenbush Road.”
 - C. The existing septic system on the Gaujac property, as identified in the submittal by Civil Engineering Associates during the Preliminary Plan hearing, shall be depicted on the Final Plat.
 - D. A final revision date shall be noted on the final plat.
2. The re-located driveway shall be surfaced with non-white crushed stone
 3. The existing driveway shall be eliminated and the surface re-seeded.
 4. If, during construction of the driveway, the actual location of the water line is discovered, the applicant shall provide an “as built” survey of that portion of the water line and record same in the Town of Charlotte land records.
 5. A mylar survey shall be recorded within 180 days of the date of this decision.

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 4th 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 July 15, 2010: Jeff McDonald, Jim Donovan, Peter Joslin, Paul Landler, Ellie Russell, Linda Radimer and Gerald Bouchard.

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 in association with the application:

1. An application form for a Subdivision Amendment and appropriate fee.
2. A plat by Stuart J. Morrow entitled "Final Plat, Major Subdivision Amendment, Property of Justin and Maura O. Wygmans, Charlotte, Vermont, dated May, 2009, no revisions. Some hand-lettered edits were added to the plat by the applicant.
3. A memo to the Planning Commission from Maura and Justin Wygmans dated March 18, 2010 regarding "Subdivision Amendment Application."
4. A memo to Tom Mansfield from David S. Marshall, P.E. of Civil Engineering Associates, Inc. dated December 17, 2009 regarding "Old Lantern Wastewater Disposal System Location, Wygmans-O'Dea Investigation, Greenbush Road, Charlotte."
5. A plan depicting the existing wastewater disposal system of the Old Lantern at a scale of 1" = 50' by D. Marshall, P.E. dated December 17, 2009
6. A memo to the Town of Charlotte Planning Commission from Peter M. Doremus, Esq., and Scott A. McAllister, Esq. dated May 5, 2010 regarding "Justin Wygmans, Final Plat Hearing/Major Subdivision Amendment, 3176 Greenbush Road."
7. A document entitled Declaration of Easements and Restrictions which was originally recorded in volume 113 pages 596-600 of the Charlotte Land Records, with proposed hand-written edits.