

**CHARLOTTE PLANNING COMMISSION
FINDINGS OF FACT AND DECISION
IN RE APPLICATION OF**

**Karen M. Fleming
Final Plan Application
For A
Two-Lot Subdivision
Application # PC-06-33**

Background

Sketch Plan Review for this project was conducted on September 1, 2005, for which a site visit was conducted on the same date. An extension for the submission of the Final Plan Application was granted on March 16, 2006.

Application

Materials submitted with the application are listed in Appendix A.

Public Hearing

A public hearing for this application was held on October 5, 2006. Karen Fleming and Ben Gordesky were present representing the applicant at the hearing. Ken Lerner, an adjoining property owner, was present and participated in the hearing and also submitted written comments (dated October 5, 2006).

Regulations in Effect

Town Plan as amended March 2002

Land Use Regulations adopted March, 2006.

Sewage Ordinance as amended December, 2004.

Recommended Standards for Developments and Homes adopted September, 1997

Findings

1. The subject parcel is located on the northwest corner of Lake Road and Converse Bay Road. The application proposes the subdivision of the 16.2 acre parcel into two lots. The easterly lot (Lot 1) is a building lot of 6.58 acres, and the westerly lot, (Lot 2), includes the applicant's existing dwelling with 9.62 acres.
2. The following are *areas of high public value* (as listed in Table 7.1 of the Land Use Regulations).
 - A. Map 6 of the Town Plan indicates wetland habitat along the western edge of the parcel (which adjoins a large wetland on the adjacent parcel to the west). The applicant had a wetland delineation performed by Cathy O'Brien in the vicinity of the proposed building envelope and driveway. Class II wetland and a 50' buffer is depicted on the Wastewater Plan by Earthbound Services, and also on the survey by Stuart Morrow.
 - B. Map 6 of the Town Plan indicates forest habitat within the northern third of the

parcel and a wildlife linkage on the parcel between the forested habitat on adjacent parcels to the north and south of Converse Bay Road.

- C. Both Lake Road and Converse Bay Road are “most scenic roads” on Map 13 of the Town Plan.
3. The applicant changed the configuration of the proposed subdivision after Sketch Plan Review. The existing dwelling (on Lot 2) and the proposed building envelope (on Lot 1) are relatively clustered on the southern portion of the subject parcel, and the driveways will use a shared curb-cut.
 4. Both of these changes were recommended at Sketch Plan Review, and they will serve to minimize the impact of the project on wetland and forest habitat on the parcel.
 5. The Town’s wastewater consultant has reviewed the wastewater disposal plan, and indicated that it is acceptable, however a maintenance agreement is needed because it will be a shared system.
 6. The applicant will need a State Wastewater Disposal Permit.
 7. Ken Lerner, and adjoining property owner, expressed concern at the hearing that a new drilled well could reduce the yield of his well. He indicated that his well has gone dry in the past.
 8. Ken Lerner expressed concern about a discrepancy between the survey and his deed.
 9. Karen Fleming indicated at the hearing that she is willing to have the two lots created by the subdivision share the existing well, which has a yield of 14 gallons per minute.
 10. The proposed expansion of the existing septic system meets the required separation distance from the Lerner’s well.

Decision

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

1. The subdivision plat will be amended as follows:
 - A. Lot numbers will be the same as indicated on the Wastewater Plan.
 - B. An easement for shared use of the existing well will be indicated. (This may be indicated as a note).
 - C. Dimensions on the building envelope on the easterly lot will be indicated.
2. Two paper copies (one full size and one 11”x 17”) and a mylar (18” x 24”) of the plat, as amended in accordance with Condition #1 above, will be submitted to the Planning Commission for review within 160 days; the applicant will record the mylar of the plat in the Charlotte Land Records within 180 days.
3. Prior to the submission of the mylar in accordance with Condition #2 above, the applicant will obtain a wastewater disposal permit from the State.
4. Prior to the submission of the mylar in accordance with Condition #2 above, the applicant shall submit a letter from the surveyor indicating that he has set the survey pins in the field as indicated on the survey. If the survey pins cannot be set at this time because of frozen ground, the applicant shall submit a letter from the surveyor indicating that s/he will set the pins when the ground thaws and has been paid to do so.
5. Prior to the submission of the mylar in accordance with Condition #2 above, the applicant will submit the following documents for administrative review, and following

administrative approval, execute and record the documents in the land records:

- A. A maintenance agreement for the shared wastewater disposal system.
 - B. An access and utility line easement in favor of Lot 2 over Lot 1.
 - C. A wastewater disposal and force main easement in favor of Lot 1 over Lot 2.
 - D. A well and water line easement in favor of Lot 1 over Lot 2.
6. Conveyance deeds for both lots will include a reference to this decision, to the subdivision plat, and to the documents listed in Condition #5 above.
 7. Prior to the submission of a Zoning Permit application for Lot 1, wooden stakes will be set at the corners of the building envelope.
 8. All new utility lines will be underground.
 9. 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.
 10. All new driveways shall be surfaced with non-white crushed stone.

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: Jeff McDonald, Linda Radimer, Robin Pierce, John Owen and Peter Joslin.

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 Final Plan Application included the following items:

1. An application form and appropriate fee.
2. A letter from Karen Fleming to Dean Bloch dated August 15, 2006 indicating Ben Gordesky is the applicant's consultant
3. A letter from Ben Gordesky to Whom it May Concern dated August 31, 2006 regarding "Subdivision at 3965 Lake Road, Charlotte currently owned by Karen Fleming."
4. A copy of an application to the Agency of Natural Resources, Department of Environmental Conservation, Wastewater Management Division for a Wastewater System & Potable Water Supply Permit.
5. A survey by Stuart J. Morrow entitled "Final Plat, Minor Subdivision, Property of Karen Fleming, 3965 Lake Road, Charlotte, Vermont" dated August 2006, no revisions.
6. A plan by Ben Gordesky of Earthbound Services, LLC entitled "Wastewater Plan, Subdivision, Karen Fleming, 3965 Lake Road, Charlotte, VT, Project No. 0505, Sheet 1 of 2" dated 8/30/06, no revisions.
7. A sheet by Ben Gordesky of Earthbound Services, LLC entitled "Wastewater Details, Subdivision, Karen Fleming, 3965 Lake Road, Charlotte, VT, Project No. 0505, Sheet 2 of 2" dated 8/30/06, no revisions.
8. A plan entitled "Sketch of Well Locations in Vicinity of 3965 Lake Road, Charlotte," no author and not dated.