

CHARLOTTE PLANNING COMMISSION

FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

Town of Charlotte Preliminary Plan Application For A Four-Lot Major Planned Residential Development Application # PC-09-33

Background

The 54.2 acre parcel, divided into three lots in 1986 by the then owners, Earl and Mary Burns, was conveyed to the town in August, 2000. The project seeks to re-configure the existing three lots into four lots, three into house lots of less than ½ acre each dedicated for affordable housing with the fourth remainder lot retained by the town. Sketch Plan Review for the current project was held on July 16, 2009 at which time the project was classified as a major planned residential development for affordable housing.

Application

Materials submitted with the application are listed in Appendix A.

Public Hearing

A public hearing was opened for this application on December 17, 2009. The town was represented by Town Planner, Dean Bloch. The presentation to the Planning Commission was made by Dave Marshall of Civil Engineering Associates, Inc. and David Mullin of Green Mountain Habitat for Humanity. Charles Russell and Jenny Cole of the Select Board provided information to the commission. Trafton Crandall of the Conservation Commission provided comments to the commission. Stephen Brooks, resident, also provided comments to the commission. Residents Peter Schneider and Charlie Prout were present but did not participate.

Regulations in Effect

Land Use Regulations, amended March, 2009.

Town Plan, amended March, 2008.

Recommended Standards for Developments and Homes adopted September, 1997

Findings

1. The Town of Charlotte is owner of 54.2 acres, more or less, of land identified in the town land records as Parcel ID #00004-3205 located at 3205 Greenbush Road, east side.
2. The parcel is currently made up of three contiguous lots created by legal subdivision of Earl and Mary Burns in 1986.
3. Green Mountain Habitat for Humanity, David Mullin, Executive Director, is applicant of this application.
4. The parcel lies within the Rural and Commercial Light Industrial Zoning Districts.

5. The project is classified a major planned residential development for affordable housing in concordance with Town of Charlotte Land Use Regulations Chapter 4, Section 4.4; Chapter VI, Chapter VII and Chapter VIII.
6. The application is timely and substantially complete in satisfaction of Chapter VI, Section 6.4 (A)
7. Fees for the application were waived by the Select Board. [(Section 4.4 (G) (6)]
8. A public hearing for the application was duly warned, noticed and posted in satisfaction of Chapter IX, Section 9.9 (C)(1)
9. The existing parcel is proposed for re-configuration into four lots; Lot 1, 0.45 acres, Lot 2, 0.41 acres, Lot 3, 0.45 acres; and, Lot 4, 53 acres.
10. Lots 1, 2 and 3 are proposed for perpetually affordable housing units to be built by Green Mountain Habitat for Humanity. These lots will be privately owned.
11. Lot 4, the remaining land, will be retained by the Town of Charlotte.
12. As a planned residential development for affordable housing, the commission finds the proposed project meets the density requirements of Section 8.4 (B) (3) and Table 4.1a.
13. As a planned residential development for affordable housing, site plan review will be held in conjunction with the Final Plan hearing. [(Section 4.4 (F)]
14. Lot 4 is currently developed with a community wastewater system that serves the town library, office building, fire and rescue and the senior center. Lot 4 is further developed with a drilled well with rights shared by the town, the Gaujac parcel (Old Lantern) and the Wygmans/O’Dea parcel, both on the west side of Greenbush Road. An existing gravel driveway to Lot 4 is located to the north of the proposed affordable housing lots that once served a since demolished dwelling unit.
15. The parcel includes the following *areas of high public value*:
 - A. Class II Wetlands: A large, delineated Class II Wetland is located on a good portion of proposed Lot 4. Proposed Lots 1, 2 and 3 are outside the wetland buffer setback. Infrastructure for the building lots is also located outside the wetland buffer setback. The commission finds the proposed development poses no adverse impact to the wetlands.
 - B. Special Natural Areas: A mapped Clay Plain Forest is located on Lot 4. All development is proposed outside the Clay Plain Forest. The commission finds the proposed development poses no adverse impact to the Clay Plain Forest.
 - C. Land in Active Agricultural Use: Currently the town has the meadow portion of Lot 4 mowed for hay/silage. The town does not intend to alter this arrangement after build-out of the proposed project. The commission finds the proposed development poses no significant adverse impact to the land currently in active agricultural use.
 - D. Conserved Land: The land directly south of and adjacent to the proposed project is conserved. The commission finds the proposed development will have no adverse impact to the conserved land
 - E. Forest Habitat/Linkage: The eastern half of the parcel is forested and provides wildlife habitat linkage to other forested habitat areas farther to the east in the Pease Mountain area. The project does not propose development within the forested portion of the property. The commission finds the proposed development will have no adverse impact to the forest habitat/linkage portion of the parcel.
16. Lots 1, 2 and 3 are proposed for affordable homes intended for construction by Green

Mountain Habitat for Humanity. The lots are approximately ½ acre each and the house sites are situated along Greenbush Road with staggered setbacks to mimic the historic development of the west village area directly to the north of the project. The homes are proposed to be constructed so as to maximize solar access.

17. Lots 1, 2 and 3 are proposed to have access to Greenbush Road via two driveways, one shared between Lots 1 and 2 to the north and a single drive for the southern Lot 3. The intersections of the two proposed driveways with Greenbush Road are 14 feet in width, not the 18 feet required by the town standards for developments and homes. Since the proposed homes on these lots are close to Greenbush Road, fire and rescue vehicles would likely remain on the shoulder of Greenbush Road in response to an emergency rather than attempt direct driveway access. The commission finds the proposed 14 foot width of the driveways at the intersection of Greenbush Road will pose no risk to fire and rescue operations. The commission further finds that the Fire Chief should provide a written declaration to this effect.
18. The wastewater plans submitted with the application depict two wastewater systems serving Lots 1, 2 and 3 off-site in two different areas of Lot 4, land to be retained by the town. Easements and sewage service agreements between the town and property owners will be required. Spencer Harris, town septic consultant, has not yet reviewed the proposed wastewater system design but was on site for initial soil analysis.
19. Water supply for Lots 1, 2 and 3 are proposed from individually drilled wells on each lot. The applicant stated at the preliminary plat hearing that should the yield from the first drilled well be sufficient for all three proposed homes, a shared water supply plan will be developed. If not sufficient, a second well will be drilled and if this well has sufficient yield for two homes, a shared water supply plan for two homes will be developed. A Water Supply Service Agreement, Waiver and Easement will be required if either situation develops.
20. At the preliminary hearing, recommendations were received from interested parties that the proposed affordable housing lots utilize the existing water supply and wastewater system owned by the town located on Lot 4. Dave Mullin of Habitat for Humanity and Jenny Cole and Charles Russell of the Select Board testified that this possibility was discussed at prior Select Board meetings but because of complicated legal issues and anticipated future needs of the town, it was mutually agreed that the existing town water supply and wastewater system not serve the proposed affordable housing units on Lots 1, 2 and 3.
21. The applicant presented a proposed site grading and drainage plan (Sheet C3) at the preliminary hearing which proposes that the foundation drainage from Lot 1 “daylight” onto Lot 4 to be retained by the town. Easement language for this purpose is required.
22. The applicant has not presented an erosion control plan for build-out of the proposed project. Since more than one acre in total will be disturbed during construction, a state Storm Water Permit for Construction Sites will likely be required.
23. A Landscape Design was presented at the preliminary hearing which proposes specific plantings between building lots for screening as well as four large, deciduous trees at the rear corners of the Lots 1, 2 and 3.
24. As a planned residential development, the project is required to set aside 50% of the original parcel as Open Space. (Section 8.8) The applicant proposed two Open Space plan options at the preliminary hearing. Option 1 proposed contiguous open space on Lot 4 totaling 27.5 acres. Option 2 proposed two, non-contiguous open space areas on Lot 4

totaling 26.5 acres. The commission agrees with the recommendation of the Conservation Commission and finds the proposed Open Space Option 1 preferable and in satisfaction of Section 8.8.

25. Draft Warranty Deed and Housing Subsidy Covenants language for the affordable housing units were submitted with the Preliminary Plan application.
26. A phasing schedule was proposed for the project build-out with Lots 1 and 2 scheduled to begin construction in the spring of 2010 with anticipated completion in the fall of 2010. Lot 3 is scheduled for construction in the fall of 2010 with completion anticipated in the spring of 2011.
27. The following supporting documents required of the preliminary plat application were not submitted: (Table 6.2)
 - A statement confirming compliance with the town plan and applicable regulations
 - Driveway and intersection profiles (eligible for waiver in writing)
 - Homeowner association agreements, if applicable (eligible for waiver in writing)

Decision

Based on these Findings, the Planning Commission approves Preliminary Plan Application PC-09-33 with the following conditions:

1. Prior to the submission of the Final Plan Application, the applicant will obtain a wastewater and water supply permit for Lots 1, 2 and 3.
2. Prior to the submission of the Final Plan Application, the applicant will obtain a statement from the Town of Charlotte Fire Chief affirming that a 14 foot wide intersection of the private driveways with Greenbush Road for Lots 1 and 2 and Lot 3 will not hinder fire and rescue operations.
3. Prior to submission of the Final Plan Application, the applicant will obtain an Access Permit for the curb cut proposed for Lot 3 and the improvements proposed for the shared driveway to Lots 1 and 2.
4. The Final Plan survey will depict the Open Space as detailed in applicant's Option 1 proposal, i.e., continuous open space of 27.5 acres located on Lot 4.
5. The Final Plan application will include a written statement from the applicant that the proposed development conforms to the Town Plan and the Town Land Use Regulations.
6. The Final Plan application will include a cross section of the proposed driveways and parking areas for Lots 1, 2 and 3 unless a written request for a waiver from this requirement is submitted.
7. The Final Plan application will include an erosion control plan for project build-out.
8. If a homeowner's association is proposed, a draft copy of proposed association bylaws will be submitted with the Final Plan application, otherwise a written request for waiver will be submitted.
9. The following draft documents will be submitted with the Final Plan Application:
 - A. Open Space Agreement
 - B. Sewage Service Agreement, Waiver and Easement
 - C. Roadway Agreement and Waiver for Lots 1 and 2.
 - D. Water Supply Service Agreement, Waiver and Easement if shared wells are proposed

E. Easement for drainage from Lot 1 onto Lot 4.

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 16, 2009: Jeff McDonald, John Owen, Linda Radimer, Peter Joslin, Ellie Russell, Paul Landler and Jim Donovan.

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 application consists of:

- 1. An application form with fee waived by the Select Board.
- 2. A copy of the wastewater application with supporting documentation and cover letter by Civil Engineering Associates, Inc. identified as “Green Mountain Habitat for Humanity Subdivision at the Town of Charlotte Burns Property, Greenbush Road, Charlotte, State Wastewater & Potable Water Supply Permit Application Report” dated November 20, 2009 and signed by David S. Marshall, P. E.
- 3. Copies of plats for the project drawn by Civil Engineering Associates, Inc. identified and labeled as follows:
 - a. Sheet 1 “Detail View, Town of Charlotte’s Burns Property”
 - b. Sheet 2 “Overall View, Town of Charlotte’s Burns Property”
 - c. Drawing C1 “Overall Site Plan”
 - d. Drawing C2 “Open Space Plan”
 - e. Drawing C3 “Site Grading & Drainage Plan”
 - f. Drawing C4 “Site Utility Plan”
 - g. Drawing C5.0 “Overall Wastewater Plan”
 - h. Drawing C5.1 “Wastewater Disposal System West Site Plan”
 - i. Drawing C5.2 “Wastewater Disposal System East Site Plan”
 - j. Drawing C6.0 “Wastewater Disposal System Details & Sections”

- k. Drawing C6.1 “Wastewater Disposal System Details”
- 4. Copy of “Landscaping Design Planting Plan” by Distinctive Landscaping, Charlotte, Vermont, undated
- 5. Draft Warranty Deed language for the three affordable housing lots
- 6. Draft Housing Covenant language with Green Mountain Habitat for perpetual affordability
- 7. Copy of email correspondence between the town and Fire Chief regarding width of driveway