

CHARLOTTE PLANNING COMMISSION

FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

**James Lawrence & Judith Billard
4206 Greenbush Road**

**Final Plan Hearing
For A
Two-Lot Subdivision and Planned Residential Development
Application # PC-11-06**

Background

The Planning Commission conducted Sketch Plan Review on January 20 and February 17, 2011 (PC-10-43) and classified the project as a Minor Subdivision.

Application

Materials submitted with the application are listed in Appendix A.

Public Hearing

A public hearing for this application was held on March 17, 2011. The applicant was represented by Judith Billard and Peter Lazorchak. Nathaniel Tyler, an adjoining property owner, was also present and participated in the hearing.

Regulations in Effect

Town Plan amended March, 2008

Land Use Regulations amended November, 2010.

Recommended Standards for Developments and Homes adopted September, 1997

Findings

1. The applicant's property is an approximately 13.5 acre parcel located the west side of Greenbush Road within the Rural District.
2. This parcel has not previously been subdivided under the Town's subdivision bylaws or Land Use Regulations.
3. A single-family dwelling is located on the parcel.
4. The proposed subdivision will create two lots: Lot 1 is a 2.47 acre lot that includes the existing single family dwelling, and Lot 2 is a building lot of 10.8 acres.
5. It is noted that the acreage on the plat is different than the acreage indicated on the application. Also, the plat initially calculated the acreage to the centerline of Greenbush Road. This is not compatible with the definition of Lot Area within the Charlotte Land Use Regulations ("Regulations"), which is: "the total land area within the boundaries (lot lines) of a lot, exclusive of the area designated for any existing or proposed road right-of-way." At the hearing, the applicant submitted a revised plat with acreage

calculated to exclude the Greenbush Road right-of-way.

Section 7.2—Areas of High Public Value

6. 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. Agricultural use: Portions of the parcel are being hayed. (Indicated by the applicant and evident from ortho-photo)
 - B. Agricultural soils: Most of the parcel, with the exception of a portion near Greenbush Road and a portion near the railroad tracks, has prime agricultural soils. (From NRCS data)
 - C. Scenic views: Greenbush Road is labeled a “most scenic road” on Map 13 of the Town Plan.
 - D. Conserved land on adjacent parcels: The common lot of the Champlain Valley Co-housing project located to the east of the Lawrence/Billard parcel (on the east side of Greenbush Road) and the Aurora Farms parcel located to the west of the Lawrence/Billard parcel (on the west side of the railroad tracks) are conserved by the Vermont Land Trust and funding partners.
7. The Planning Commission finds that the meadow of approximately 10 acres with prime agricultural soils is a priority for protection, as this is a relatively large block of a high quality agricultural resource, and is situated in a location that is appropriate and accessible for long-term agricultural use.
8. The Planning Commission notes that the wooded area to the west of the agricultural meadow and to the east of the railroad tracks may be associated with a wildlife linkage habitat that runs along the railroad tracks.

Section 7.3—District Standards

9. The proposed layout and submitted application materials results in the prioritized resource being located entirely on Lot 2 and protected by an Open Space Agreement.
10. The proposed open space on Lot 2 also protects wildlife linkage habitat that runs along the railroad tracks, and is adjacent to the open space on Aurora Farms.

Section 7.4—Compatibility with Agricultural Operations

11. The application has minimized conflicts with agricultural operations by placing the agriculturally suitable land in an open space area, and locating the building envelope on Lot 2 near the front of that lot.
12. The proposed building envelope on Lot 2 is located less than 200 feet from the agricultural area, however, the building envelope and agricultural area are located on the same lot, so the two uses are not likely to be in conflict.
13. The proposed well is located more than 200 feet from the agricultural area.
14. The protective isolation distance for the proposed well is located entirely on land owned by the applicant.

Section 7.5—Utilities

15. The application will not create an unreasonable burden on existing or planned municipal and educational facilities and services.
16. Due to its small size, the project does not trigger a requirement for a fire pond and dry hydrant or designation of a park, playground, trail or other recreation area.

Section 7.6—Water Supply

17. The application proposes that an existing well will serve Lot 1 and a new individual well will serve Lot 2.
18. The applicant has also submitted an application for a Wastewater Disposal and Potable Water Supply Permit. The Town's consultant has indicated that this application meets the Wastewater System and Potable Water Supply Rules.
19. As stated above, the protective isolation distance for the proposed well is located entirely on land owned by the applicant.
20. At Sketch Plan Review, an adjoining property owner stated that she believed that adjoining properties have some rights to water or water lines on the Lawrence/Billard parcel.
21. The plat submitted with the application includes deed references of rights that were granted previously. The plat also states that some of these rights may no longer be valid, although the rights granted in book 30 page 114 are believed to still be in effect.

Section 7.7—Wastewater Disposal

22. The applicant has submitted an application for a Wastewater Disposal and Potable Water Supply Permit. The Town's consultant has indicated that this application meets the Wastewater System and Potable Water Supply Rules, and the permit is likely to be issued shortly.

Section 7.8—Stormwater Management & Erosion Control

23. Due to the limited nature of this project and the relatively flat topography, a stormwater management plan or system and an erosion control plan are not necessary.

Section 7.9—Landscaping & Screening

24. Due to the limited nature and proposed layout of this project, landscaping and screening are not necessary.

Section 7.10—Access

25. The applicant has obtained a Highway Access Permit (HAP-11-01) from the Selectboard for a new curb-cut on Lot 2.
26. The applicant has also proposed that the southernmost existing driveway (which is located on what will be Lot 1) will be removed, as indicated on the submitted site plan. This will result in no net increase of curb-cuts on Greenbush Road.

Chapter VIII—Planned Residential Developments (PRDs)

27. The applicant proposed the project as a Planned Residential Development under the provisions of Chapter VIII, in accordance with Section 8.2(B)(3).
28. The project is proposed as a Conservation Project under Section 8.4(C).
29. In consideration of the small size of the project and the proposed designation of 9.5 acres (or approximately 70% of the parcel) to be under the jurisdiction of an Open Space Agreement, the Planning Commission finds that the applicant has minimized undue adverse impacts to and fragmentation of Areas of High Public Value.

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 survey plat will be amended to address the following items:
 - A. Lot boundaries will be depicted at the edge of the Greenbush Road right-of-way.
 - B. Lot acreages calculated to the center line of Greenbush Road will be removed.
 - C. The survey pin at the northwest corner of the Buxton parcel which is currently labeled "Iron pin not found" will be changed to "to be set".
 - D. A note will be added to cross-reference the site plan, which will also be recorded.
2. The site plan will be amended so that lot boundaries and acreage match the amended survey, and a note will be added to cross-reference the survey.
3. One paper copy (11"x 17") and a mylar (18" x 24") of the survey plat as amended by Condition #1 and a mylar of the site plan as amended by Condition #2 will be submitted to the Planning Commission for review and signature within 160 days. The applicant will record the signed mylars in the Charlotte Land Records within 180 days.
4. Prior to the submission of the mylars in accordance with Condition #3 above, the applicant will complete the following steps:
 - A. Submit a letter from the surveyor indicating he has set the survey markers in the field as indicated on the plat as amended by Condition #1 above. 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 he will set the pins when the ground thaws and has been paid to do so.
 - B. Record the Open Space Agreement as approved by the Town Attorney and Selectboard.
 - C. Obtain a Wastewater Disposal and Potable Water Supply Permit.
5. The deed conveying Lot 2 will include references to this Findings of Fact and Decision and to the Open Space Agreement.
6. The southernmost driveway on Lot 1 will be removed and seeded to grass from Greenbush Road to 60 feet west of Greenbush Road as soon as weather allows.
7. 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.
8. All new utility lines will be underground.
9. The new driveway will 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 on March 17, 2011: Jeff McDonald, Jim Donovan, Linda Radimer, Peter Joslin, Eleanor Russell 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 with the application:

- 1. An application form and appropriate fee.
- 2. A memo from Nicole MacHarg to Tom Mansfield dated March 3, 2011 re: “Subdivision (PRD) Application, Final Review, Billard/Lawrence Property, Greenbush Road, Charlotte, McCain Project No. 29042.”
- 3. A document entitled “Judith Billard & James Lawrence, Statement of Compliance with the Town Plan and Applicable Local Regulations” dated 2/24/11.
- 4. A document entitled “Judith Billard & James Lawrence, List of PRD Waivers” dated 2/24/11.
- 5. A document entitled “Judith Billard & James Lawrence, Application Waivers” dated 2/24/11.
- 6. A plat by Keith R. Van Iderstine of McCain Consulting, Inc. entitled “Survey and Subdivision of a Portion of the Lands of James M. Lawrence and Judith Billard, Greenbush Road, Charlotte, Vermont” dated March 8, 2011, no revisions.
- 7. A plan by Peter Lazorchak of McCain Consulting, Inc. entitled “Site Plan, James Lawrence & Judith Billard, Planned Residential Development (PRD), Greenbush Road, Charlotte, VT” dated November 11, 2010, last revised 3/8/11
- 8. An ortho-photo with property boundary boundaries labeled “Billard/Lawrence”.
- 9. A letter from Peter Lazorchak, P.E. to James Lawrence and Judith Billard dated February 11, 2011 re: “Existing Septic Evaluation, 4206 Greenbush Road, Charlotte, McCain Project No. 29042.”
- 10. An executed Open Space Agreement.