

CHARLOTTE PLANNING COMMISSION

FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

**Nancy C. Hinsdale
Final Plan Application
For A
Two-Lot Subdivision
Spear Street and Bingham Brook Road
Application # PC-12-20**

Background

The Planning Commission held Sketch Plan Review for the proposed subdivision on June 7, 2012, at the end of which it classified the project as a Minor Subdivision in accordance with Section 6.1(C)(1) of the Charlotte Land Use Regulations (“Regulations”). The Planning Commission conducted a site visit prior to that meeting.

Application

Materials submitted with the application are listed in Appendix A.

Public Hearing

A public hearing was held for this application on October 4, 2012. Nancy Hinsdale and Clark Hinsdale, III represented the applicant. Jeffrey Martin, Allen Karnatz, Kate Lampton, and Adam Hausmann were other parties that participated in the hearing.

Regulations in Effect

Town Plan, amended March, 2008

Land Use Regulations, amended March, 2010

Recommended Standards for Developments and Homes adopted September, 1997

Findings

1. The application proposes a two-lot subdivision of the 126.17 acre parcel, resulting in Lot 1 (70.91 acres) and Lot 2 (56.26 acres). The parcel is currently undeveloped.
2. At the hearing the applicant submitted a request for waivers for the following application materials: wastewater engineering reports; a proposed conserved land agreement; and proposed building envelopes.

Applicable standards in Chapter VII of the Charlotte Land Use Regulations (“Regulations”) are reviewed below in Findings 3-31.

Sections 7.2 and 7.3—Areas of High Public Value

3. The parcel includes the following *areas of high public value*:
 - A. Land in active agricultural use: The parcel has been used for crops, haying and sugaring.

- B. Prime and statewide soils: There is a band of prime agricultural soil running in an approximately north-south orientation along the easterly side of the parcel. Much of the rest of the parcel has statewide agricultural soils except for two areas near the center of the parcel (from VCGI data);
 - C. Steep slopes: It appears there may be some steep slopes in the center portion of the parcel (from CCRPC data);
 - D. Surface water: A tributary to Bingham Brook runs through the northwesterly portion of the parcel (from VCGI data) and wetland coincides with portions of the stream (from Town Plan map 7);
 - E. Wildlife habitat: It appears the center portion of the parcel includes forest habitat and supporting habitat, and a wildlife corridor runs through the southeast portion of the parcel in a north-south orientation (from Town Plan map 6);
 - F. Scenic view: Bingham Brook Road and the portion of Spear Street in the vicinity of the parcel are indicated as *Most Scenic Roads on Map 12* of the Town Plan.
 - G. Conserved Land— A portion of the Trono parcel on the south side of Bingham Brook Road is conserved with the Vermont Land Trust.
4. Considering the resources on and adjacent to the parcel, the Planning Commission finds that both agriculture (including maple sugaring) and wildlife habitat are important areas of high public value associated with the parcel. These are the resources that most strongly characterizes the property, and which the Planning Commission feels are the most important to protect during the subdivision process. The Planning Commission notes that it usually considers one area of high public value to be predominant, but on this parcel, both agricultural and wildlife habitat resources are of a very high quality.
 5. The application states that the intent of the project is to “sell Lot 2 to Adam Hausmann for agriculture, and retain Lot 1 for sugaring and crops.”
 6. Both Lot 1 and Lot 2 appear to be of a size and configuration that are suitable for the stated purposes.
 7. It is noted that the proposed lots are irregular in shape, particularly at the northeast corner of Lot 2. However, it is also noted that much of east/west boundary between Lot 1 and Lot 2 (approximately 1,442.45 feet) follows the edge of the woods (to the north) and field (to the south). And the area that is proposed to be included in Lot 2 at its northeast corner includes prime agricultural soils that seem well suited to the proposed berry operation.
 8. The Vermont Land Trust and Charlotte Land Trust support the application as a means to facilitate the purchase of Lot 2 for a berry operation, while allowing Lot 1 to continue to be used for cropping, haying and sugaring.
 9. The Vermont Housing and Conservation Board has approved a grant for the purpose of conserving Lot 2 for agricultural use while allowing a very small amount of development in support of the agricultural use.
 10. Although no building envelopes are currently proposed, it is possible that an owner could seek to site building envelopes on one or both parcels in the future. Therefore, it is appropriate to evaluate in a preliminary manner whether building envelopes can reasonably be sited on the lots, and also whether such building envelopes can be sited in locations that would either avoid impacting *areas of high public value*, or would minimize such impact.
 11. Both proposed lots have land that appears to be developable; and both lots have either road frontage or a proposed right-of-way that meet the access requirements within the

Regulations.

12. As nearly the whole parcel has at least one prioritized *area of high public value* (i.e. primary agricultural soils or sugar woods or wildlife habitat), it does not appear to be possible to site building envelopes on either proposed lot in locations that would entirely avoid such areas. It may be possible, through careful, site-specific evaluation to minimize and/or mitigate the impacts on such areas.

Conclusion 1: The project as proposed will allow agricultural use to continue on both lots, and will facilitate a more intensive agricultural use of Lot 2.

Conclusion 2: If development on either lot is sought in the future, such development should be reviewed by the Planning Commission via an application for a Subdivision Amendment in order to ensure that it minimizes and/or mitigates impacts on prioritized areas of high public value.

Section 7.4—Compatibility with Agricultural Operations

13. The application does not propose building envelopes or drilled wells for residential use.

Conclusion 3: The project does not have obvious conflicts with adjacent agricultural operations.

Section 7.5—Facilities, Services & Utilities

14. The application does not propose residential use.

Conclusion 4: The project will not create an unreasonable burden on existing or planned municipal facilities or services.

Section 7.6—Water Supply

15. Residential uses are not proposed.

16. There is no known water scarcity in the vicinity of the project.

Conclusion 5: Potable water is not needed to serve the project. The project will not adversely impact existing water supplies in the vicinity.

Section 7.7—Sewage Disposal

17. The project does not include residential development.

18. The application requests a waiver from the requirement to provide wastewater engineering reports and a wastewater disposal plan.

19. As required by Section 7.7 (C)(2), both proposed lots are larger than 25 acres.

20. The proposed lot boundaries follow vegetation, soils and agricultural patterns, and do not fragment or negatively impact areas of high public value.

21. It is noted that there is no notice on the plat indicating that neither lot is approved for sewage disposal.

Conclusion 6: The application meets the requirements within the Regulations for not providing wastewater engineering reports and a wastewater disposal plan, therefore a waiver from the requirement to provide such information is possible. A notice should be added to the plat stating neither lot is approved for sewage disposal.

Section 7.8—Stormwater Management & Erosion Control

22. The project does not involve development except that associated with the proposed agricultural use.

Conclusion 7: Stormwater run-off is not likely to create impacts beyond the parcel boundaries.

Section 7.9—Landscaping and Screening

23. The project will allow continued agricultural uses of the two proposed lots.

Conclusion 8: The project will not have impacts that warrant a requirement to preserve existing vegetation or install additional landscaping.

Section 7.10—Roads, Driveways & Pedestrian Access

24. The parcel has frontage Spear Street and Bingham Brook Road.

25. Section 3.2 (C)(2) of the Regulations states “for a parcel having frontage on two (2) roads,...the access shall be located on the less traveled road, unless otherwise approved by the Planning Commission due to particular site, safety or road conditions.

26. As proposed, Lot 1 will not have any road frontage; access will be via a right-of-way over Lot 2 from Spear Street.

27. As proposed, Lot 2 will have access from Bingham Brook Road and from the co-located access with Lot 1 from Spear Street.

28. Although the proposed access plan does not comply with Section 3.2(C)(2), since not all access is proposed to be located on the less traveled road (i.e. Bingham Brook Road), the proposed use of the two lots is agriculture, which is likely to generate relatively light and seasonal traffic.

29. The access plan complies with Section 3.2(C)(6), which states “shared access is encouraged, and may be required for development subject to subdivision, site plan or conditional use review.”

30. Sight distance at the entrance from the shared drive onto Spear Street is excellent to the north and east and relatively good to the south.

31. Any new access or widening of an existing access will require a Highway Access Permit from the Selectboard.

Conclusion 9: The proposed shared limited access for Lot 1 and Lot 2 on Spear Street is generally acceptable for agricultural purposes. Access to Lot 2 from Bingham Brook Road for agricultural purposes is also acceptable.

Conclusion 10: The project as proposed is unlikely to create unreasonable traffic congestion or unsafe traffic conditions.

Conclusion 11: Access for any future development on either Lot 1 or Lot 2 could have a substantive impact on areas of high public value and also on adjacent property owners, and therefore such development should be reviewed by the Planning Commission via an application for a Subdivision Amendment.

Section 7.11—Common Facilities, Common Land, & Land to be Conserved; and

Section 7.12—Legal Requirements

32. No common land is proposed.

33. The application includes a request for a waiver from the requirement for the submission of a proposed conserved land agreement.

34. The project is not proposed as a planned residential development under the provisions of Chapter VIII of the Regulations, so a conservation agreement is not required.

35. The plat shows and describes an easement for a spring house on Lot 2.

36. The plat shows an access right-of-way to Lot 1 over Lot 2 from Spear Street.

37. The application does not include proposed easement language to be included in a deed for Lot 2 for the spring house easement or the access right-of-way over Lot 2.

Conclusion 12: Proposed deed language describing the spring house easement benefitting the Simon parcel and the access right-of-way benefitting Lot 1 should be provided.

Decision

Based on these Findings, the Planning Commission approves Application PC-12-20 with the following conditions:

1. The survey plat will be amended to add a note stating that neither Lot 1 or Lot 2 has been approved for sewage disposal.
2. One digital copy (pdf), two paper copies (one 11”x 17” and one full size) and a mylar (18” x 24”) of the survey plat, as amended by Condition #1 above, will be submitted to the Planning Commission for review and signature (of the mylar) within 160 days. The applicant will record the signed mylar 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 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.
 - B. Submit to the Town Planner for administrative approval: proposed deed language describing the spring house easement benefitting the Simon parcel and the access right-of-way benefitting Lot 1.
4. All new utility lines will be underground.
5. All new driveways will be surfaced with non-white crushed stone.
6. Prior to undertaking any development on either Lot 1 or Lot 2 which is not exempt from municipal permitting, lot owner(s) shall obtain approval for a Subdivision Amendment from the Planning Commission to address, at a minimum, building envelopes and access.

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 October 4: Peter Joslin, Linda Radimer, Ellie Russell, Paul Landler and Gerald Bouchard.

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 and appropriate fee.
2. A survey plat by Stuart J. Morrow entitled “Final Plat, Minor Subdivision, Property of Nancy C. Hinsdale Revocable Trust, Bingham Brook Road, Charlotte, Vermont” dated August, 2012, no revisions.
3. A memo to the Charlotte Planning Commission from Clark Hinsdale, III re: “Final Plat- Minor Subdivision, Nancy C. Hinsdale Revocable Trust,” dated October 4, 2012.