

**CHARLOTTE PLANNING COMMISSION
SITE PLAN REVIEW
FINDINGS AND DECISION**

**In re: Elysabethe James, Bed & Breakfast, 3960 Spear Street
Permit Application No. PC-14-18**

Background

Elysabethe James owns a 7.42 acre parcel (00002-3960) in the Rural Zoning District. A single-family dwelling, a barn and small shed are currently situated on the parcel. The parcel was created through a subdivision that was approved in 1986. With this application, Ms. James is seeking approval to operate a 1-bedroom bed & breakfast out of the existing single-family dwelling. Because the proposal is minor in nature (existing residence and no change to wastewater, water supply, or traffic relative to residential use), the Town Planner determined that a Sketch Plan Review of this application was not necessary.

Application and Supplemental Information

The following items were submitted in association with the application:

1. An application form and the appropriate fee, a sketch plan entitled “1st Floor” not dated, and a list of abutting property owners from the applicant.
2. A staff report prepared by Jeannine McCrumb, Town Planner and including attached parcel map overlaid on an orthophoto and a reduced copy of an approved Subdivision / Wastewater Plan entitled “Two Lot Subdivision – Dennis Reichardt”, prepared by Frank R. O’Brien, P.E. and dated September 9, 1986.
3. An email from Clark Hinsdale III dated June 6, 2014 with attachment (letter to Libby James dated June 6, 2014).
4. A document from Clark Hinsdale III entitled “Elysabethe Anne James Trust Easement” and received on June 9, 2014.
5. A warranty deed (Nancy C. Hinsdale Revocable Trust to Hausmann) recorded in Book 204, pages 366-371 which describes Ms. Hinsdale’s right to except, reserve and retain the right to convey an easement and right-of-way for purposes of ingress and egress underground customary residential utilities to Elysabethe Ann James Trust provided by Planning & Zoning staff. Said deed contains the verbage provided by Mr. Hinsdale in number 4 above.

Public Hearing

A public hearing for this application was held on July 9, 2014 and a site visit occurred prior to the hearing. Elysabethe James and Christopher Cadmus (property owners) were present. Nancy and Tupper Hinsdale attended the site visit but did not participate in the hearing.

Regulations in Effect

Town Plan, amended March, 2013

Land Use Regulations adopted November, 2010

Recommended Standards for Developments and Homes adopted September, 1997

Findings

1. The applicant seeks approval to use 1 bedroom, 1 bathroom and other portions of the first floor of an existing single-family dwelling as a Bed & Breakfast.
2. The dwelling is situated on a 7.42 acre parcel in the Rural Zoning District.
3. A Bed & Breakfast is considered a Conditional Use in the Rural Zoning District (Table 2.5(D) Land Use Regulations) and Site Plan review is also required per Section 5.5 (A) .
4. Access to the dwelling is currently via a written agreement between Nancy Hinsdale (Nancy C. Hinsdale Revocable Trust) and Ms. James.

5. Ms. James indicated on her application that the existing and proposed means of access to the site would be via a private road.
6. Ms. James has a recorded legal access to her dwelling via a 60 foot right-of-way over Lot 1 of the Reichert Subdivision, located east of the James Parcel and fronting on Spear Street). Currently this right of way is undeveloped.
7. Ms. James legal right-of-way is immediately adjacent to the 50 foot Hinsdale right-of-way which was approved on November 11, 2012.
8. At the hearing, Ms. James expressed her intent to develop access to her property using her legal right-of-way should she not be able to reach an agreement with Ms. Hinsdale for continued use of the Hinsdale right-of-way.
9. Ms. James indicated on her application that health and safety inspections had been completed by the State of Vermont in May and that she was 'cleared'.
10. No written documentation supporting the above statement was received with the application.

Applicable standards in Section 5.5(E) of the Charlotte Land Use Regulations are reviewed below in Findings 11-26.

5.5 (E)(1)(b) Existing natural drainage patterns shall be preserved wherever possible; no clearing or grading shall take place within shoreland, surface water, and wetland setback areas in accordance with Chapter II and Section 3.15.

11. The proposed access using the James right of way bisects a drainage area just east of Ms. James easternmost boundary line (in vicinity of pond on neighboring lot).
12. No design plans for the proposed access have been submitted indicating that drainage patterns will be maintained.

5.5 (E)(2) Site Layout & Design. The Commission shall ensure that the size, scale, arrangement and appearance of the proposed development are in keeping and harmonious with its surroundings, and that the development will not have an undue adverse aesthetic impact on site features or the surrounding area. Conditions may be imposed as appropriate to ensure that development is compatible with its setting and context. Accordingly:

(a) The Planning Commission may require increased setback distances from property lines or public rights-of-way in relation to the height, scale, massing, or density of development, and landscaping or screening to mitigate the visual impacts of development, in accordance with Subsection (6).

13. The proposed additional development of the James right-of-way could create an adverse impact on the aesthetics of the surrounding area.
14. No design plans for the proposed access have been submitted indicating the scale for the travelled way, and recommended landscaping or screening to mitigate visual impacts.

5.5 (E)(3) Access. Provision shall be made for adequate and safe vehicle and pedestrian access to and from the site in accordance with the requirements of Section 3.2. Additionally, the Commission may:

- (a) limit vehicular access to the property to a side or secondary road;**
- (b) require shared access between adjoining properties and / or uses on the remainder of the parcel;**
- (c) require the dedication of an easement or right-of-way extending to the parcel boundary, which allows for future vehicular and / or pedestrian access to an adjoining parcel;**
- (d) require the reduction, consolidation or elimination of non-complying accesses or curb cuts;**
- (e) require the relocation of an existing or proposed access in relation to topography, site conditions, or to improve safety and sight visibility;**
- (f) require pedestrian paths, walkways or trails that connect to public paths, walkways, adjoining parcels or the town trail system.**

15. The subject parcel does not have frontage on a road but does have legal access via a previously approved right-of-way.
16. The Vermont Agency of Transportation's Access Management Guidelines, 2005, recommend a minimum of 4 feet of separation between one-way driveways.
17. There appears to be enough room to design a driveway so as to meet this recommended minimum.
18. The development of said right-of-way will not result in unsafe vehicular access to and from the site as the adjacent Hinsdale right-of-way is for agricultural purposes only.

5.5 (E)(4) Parking, Loading and Service Areas.

On-site parking, loading and service areas shall be provided in accordance with the requirements of Section 3.11. Conditions may be imposed with regard to the extent, location, landscaping, screening, paving, curbing, and / or sharing of parking, loading and service areas as appropriate to ensure site safety, function and attractiveness, and to avoid or minimize adverse off-site impacts.

19. The applicant has indicated that only 1 parking space will be needed.
20. Table 3.1 of Charlotte's Land Use Regulations requires a minimum of 2 spaces for the dwelling unit and 1 space for the guest room.
21. There is ample room for a total of 3 spaces on the existing drive and landing area around the house and / or within the garage.

5.5 (E)(5) Landscaping & Screening.

Site Plans shall incorporate landscaping and screening which preserves and incorporates existing vegetation, is suited to existing site conditions, enhances development and features unique to the site, integrates the development and site with surrounding properties, and / or serves to buffer or screen incompatible or unsightly development from neighboring properties or public rights-of-way.

22. Areas in and around the dwelling are beautifully maintained.
23. No design plans for the James access have been submitted indicating proposed landscaping or screening to mitigate visual impacts from Spear Street or to separate this access from the adjacent Hinsdale access.

5.5 (E)(6) Stormwater Management & Erosion Control.

Stormwater management and erosion control shall be provided on site in accordance with applicable standards under Section 7.8.

24. No design plans for the James access have been submitted indicating appropriate stormwater management provisions have been considered. See findings 10 and 11 above.

5.5 (E)(7) Outdoor Lighting.

Information regarding the location, type and level of illumination of all outdoor lighting shall be provided. Such lighting shall be designed in conformance with the standards set forth in Section 3.9. In addition the Planning Commission may allow or require outdoor lighting, where deemed necessary, to illuminate intersections, parking areas and pedestrian walkways.

25. No new lighting is proposed as part of this application.
26. The existing lighting consists of floodlights on the barn, sconces on the house and solar lights along the entrance way. Much of the lighting is censored to minimize undesirable effects and none of the lighting is directed onto adjacent properties. Furthermore, the lighting is consistent with the character of the neighborhood in which it's located.

Decision

Based on these Findings, the Planning Commission approves the application for a Bed & Breakfast subject to the following conditions:

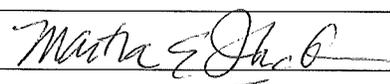
1. Prior to issuance of a zoning permit for driveway construction, the applicant shall submit
 - a. A scaled site plan for the new driveway addressing concerns related to safety and aesthetics and subject to review and approval by the Zoning Administrator.
 - b. Inspection reports and / or approvals from applicable state departments (fire marshall and health department).

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 9, 2014: Peter Joslin, Marty Illick, Donna Stearns, and Gerald Bouchard.

Vote of Members after Deliberations:

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| 1. Signed: | <u></u> | <input checked="" type="radio"/> For / <input type="radio"/> Against | Date Signed: | <u>8/7/14</u> |
| 2. Signed: | <u></u> | <input checked="" type="radio"/> For / <input type="radio"/> Against | Date Signed: | <u>8/7/14</u> |
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