

**CHARLOTTE PLANNING COMMISSION
SUBDIVISION REVIEW
FINDINGS OF FACT AND DECISION**

In re: Sara Shays, Final Plan Application for a Minor Subdivision and Planned Residential Development Amendment
Permit Application No. PC-14-29

Introduction and Procedural History

This proceeding involves review of an application for Minor Subdivision Amendment submitted by Sara Shays for approval under the Town of Charlotte Land Use Regulations.

The application was received on November 14, 2014. A notice of public hearing was published in The Citizen on December 11, 2014 and was posted at the following three locations: town offices, The Brick Store and Spear's Corner Store. A copy of the notice was also mailed to all adjoining landowners on December 8, 2014.

The application was considered by the Planning Commission at a public hearing on January 8, 2015. Sara Shays, the applicant, represented herself at the hearing. Sara Thompson, an adjoining landowner, also participated in the hearing.

Exhibits

1. Application form, list of adjoining landowners, sketch plan showing revised boundaries for Lots 1 and 2, and required fee
2. Staff report dated January 2, 2015 which includes Areas of High Public Value (AHPV) map
3. PC-12-01 decision
4. Copy of portion of approved survey plat from PC-12-01
5. Approved Conservation and Agricultural Easement and Restrictions dated September 18, 2012
6. Email from David Fuqua, Licensed Designer, dated January 6, 2015
7. Draft revised survey plat, prepared by Stuart Morrow and dated January 2015 (received at 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

Background

1. Sara Shays owns a 3.0 acre lot (M06B02L08-1) and an 8.4 acre lot (M06B02L08-2) which are adjacent to one another and are located on the east side of Spear Street in the Rural zoning district.
2. These lots were created via a Planned Residential Development (PRD) Subdivision that was approved in 2012 (PC-12-01).

3. The purpose of the current application is to amend the prior approval to allow for a boundary adjustment between Lots 1 and 2 to accommodate 'more useable pasture' on Lot 1. The new Lot 1 will be 3.01 acres and the new Lot 2 will be 8.4 acres.
4. Sketch Plan Review was deemed unnecessary by the Town Planner. The project was classified as a Minor Subdivision Amendment in accordance with Section 6.1(C)(4)(a) of the Charlotte Land Use Regulations ("Regulations"), and the project will remain a Planned Residential Development as provided in Chapter VIII of the Regulations.

Relevant standards in Chapter VII of the Charlotte Land Use Regulations are reviewed below in Findings 5-15.

7.2 General Standards

5. The following Areas of High Public Value (AHPV) were identified on the parcel:
 - a. Land in active agricultural use for hay and pasture (per applicant)
 - b. Primary agricultural soils (NRCS data)
 - c. Surface waters, wetlands and associated setback and buffer areas (Town Plan Map 7 and ANR Atlas)
 - d. Mapped wildlife habitat (Town Plan Map 6)
 - e. Scenic views and vistas – scenic road (Town Plan Map 13)
6. In its previous decision, the Commission determined the continuing agricultural use of the property to be the primary AHPV on the property and noted that through protection of this resource, other AHPVs would also be protected.
7. During review of this application, the Commission noted the importance of maintaining the riparian buffer along the tributary to Laplatte River. More information regarding this resource was recently reviewed under another application (PC-14-19) and the presence of Class 2 wetlands along that tributary were confirmed via delineation.
8. Ms. Shays noted that current haying practices do not extend to the edge of the water and that an undisturbed buffer of an unknown width is retained along the tributary.
9. The Conservation and Agricultural Easement and Restrictions document identifies the property as an 'integrated agricultural unit' and does not provide sufficient assurance that the riparian area will be managed to protect water quality and wildlife habitat.
10. The applicant is amenable to revising this document to provide assurances related to water quality and habitat protection.
11. There will be no changes to the previously approved building envelopes, driveways or open space area and there is no remaining development density associated with the parcels.
12. The locations of surveying monuments and lot corner markers were identified on the draft subdivision plat submitted at the hearing.

7.6 Water Supply and 7.7 Sewage Disposal

13. The boundary line adjustment will not require an amendment to the Wastewater and Potable Water Supply permit (WW-138-1202); however, a diagram (preferably revised ww/ws site plan) showing the existing and revised lot boundaries will need to be recorded in the land records per §1-307(a)(11) of the *State of Vermont Wastewater System and Potable Water Supply Rules*.

7.12 Legal Requirements

14. A wastewater disposal easement benefitting Clark Hinsdale, III and previously situated entirely on Lot 1 will now be primarily on Lot 2. Deeds for both Lots 1 and 2 will need to be revised to reflect this easement.
15. Portions of the Open Space Area will now be situated on Lot 1. The deed for Lot 1 will need to be revised to reflect this easement.

Relevant standards in Chapter VIII of the Charlotte Land Use Regulations are reviewed below in Finding 16.

8.6 Open Space & Common Land

16. The proposed open space provides an opportunity for the protection of agricultural land as well as wildlife habitat and water quality along a tributary to the Laplatte River. The protection of both resources is possible and preferable.

Conclusions

Based on the foregoing Findings of Fact, it is the conclusion of the Commission that the project described in the application and supporting materials, if completed and maintained in conformance with all of the terms and conditions of that application and as required below, will meet the development standards of the Charlotte Land Use Regulations.

Decision

Based on the foregoing Findings of Fact and Conclusions, the Planning Commission approves the application for a Minor Subdivision / Planned Residential Development subject to the following conditions:

1. The survey plat will be revised as follows:
 - a. new boundary locations will be displayed,
 - b. the plat will follow the same naming convention as the original approved plat and will include a date of revision for this subdivision amendment,
 - c. Note 7 describing the open space area as only being that area outside of the building envelope on Lot 2 will be removed and the open space area will be denoted via crosshatching or another similar graphic display as it now encompasses portions of Lots 1 and 2. The total acreage of the open space area will be denoted as either agriculture or riparian acreage.
2. The Conservation and Agricultural Easement will be revised to acknowledge the importance of the riparian area along the tributary to the Laplatte River and to reflect the preferred 'maintenance' regime of this area as being left in its natural state. The revised Easement will be subject to administrative review and approval by the Town Planner prior to review and approval by the Selectboard.
3. The deeds for Lots 1 and 2 will be revised to reflect the presence of the Conservation and Agricultural Easement and portions of the Hinsdale III wastewater easement on each lot.
4. One digital copy (pdf), two paper copies (one 11"x 17" and one full size) and a mylar (18" x 24") of the survey 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.

5. Prior to the submission of the mylar in accordance with Condition 4 above, the applicant will submit a letter from the surveyor indicating he has set the survey markers or pipes in the field as indicated on the plat.
6. This decision addresses amendments to relevant findings under decision PC-12-01. All other findings under that decision shall remain in full force and effect.

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 latest date of 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 January 8, 2015: Marty Illick, Linda Radimer, Peter Joslin, Donna Stearns, Paul Landler 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:	<u>P. Joslin</u>	(For) / Against	Date Signed:	<u>1/15/15</u>
2. Signed:	<u>[Signature]</u>	(For) / Against	Date Signed:	<u>1/15/15</u>
3. Signed:	<u>Marta S. Duet</u>	(For) / Against	Date Signed:	<u>1-15-15</u>
4. Signed:	<u>Linda Radimer</u>	(For) / Against	Date Signed:	<u>1-15-15</u>
5. Signed:	<u>D. Stearns</u>	(For) / Against	Date Signed:	<u>1-15-15</u>
6. Signed:	<u>Gerald A. Bouchard</u>	(For) / Against	Date Signed:	<u>1-15-15</u>
7. Signed:	_____	For / Against	Date Signed:	_____