

**CHARLOTTE PLANNING COMMISSION
BOUNDARY ADJUSTMENT REVIEW
FINDINGS OF FACT AND DECISION**

**In re: Harriet Patrick, Final Plan Application for Boundary Adjustment
Permit Application No. PC-15-08**

Introduction and Procedural History

This proceeding involves review of an application for a Boundary Adjustment submitted by Chris von Trapp for Harriet Patrick for approval under the Town of Charlotte Land Use Regulations.

The application was received on May 7, 2015. A notice of public hearing was published in The Citizen on April 16, 2015 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 April 16, 2015.

The application was considered by the Planning Commission at public hearings on May 7, 2015 and August 6, 2015. Chris von Trapp, agent, represented the applicant at the hearing. Richard Cunningham, the applicant's husband, also participated in the hearing.

Exhibits

1. Application form, agent authorization; envelopes for adjoining landowners; Wastewater and Potable Water Supply permit number WW-138-0818; sketch plan showing revised boundaries, prepared by A.W. Harris and dated March 20, 2015 and required fee
2. Staff report dated April 23, 2015 which includes Areas of High Public Value (AHPV) map
3. Sketch letter dated June 1, 2015
4. Revised permit application dated July 16, 2015 which includes plans for WW-138-0818, field access permit from Vermont Agency of Transportation, and clarification of boundary adjustment
5. Staff report dated July 31, 2015

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. Harriet Patrick owns a 3.1 acre lot (M05B02L07) and a 24.5 acre lot (M05B02L07) which are adjacent to one another and are located on the west side of Church Hill Road in the Rural zoning district.
2. These lots are separate deeded lots as recorded in the Charlotte Land Records Volume 84 pp. 418 and 426.
3. The purpose of the current application is to adjust the boundary line between the two lots to add land to the historic tavern property. The new tavern property (Lot 1) will be 7.6 acres and the remaining Lot 2 will be 20.0 acres.
4. Sketch Plan Review was deemed unnecessary by the Town Planner; however a draft sketch letter was provided after the first hearing to summarize concerns presented by the Commission. The project was classified as a Boundary Adjustment in accordance with Section 6.1(C)(3) of the Charlotte Land Use Regulations.

Relevant standards in Chapter VII of the Charlotte Land Use Regulations are reviewed below in Findings 5-10.

7.2 General Standards

5. The following Areas of High Public Value (AHPV) were identified on the parcel:
 - a. Primary agricultural soils (NRCS data)
 - b. Steep slopes
 - c. Mapped wildlife habitat (Town Plan Map 6)
 - d. Water supply source protection area (for Pine Ridge Dev)
 - e. Historic districts, sites and structures (including tavern and area along Church Hill Road)
 - f. Scenic views and vistas – Ethan Allen Highway is a scenic highway (Town Plan Map 13)
6. All AHPV with the exception of agricultural soils were determined to be important. The agricultural soils have been impacted by existing development in this area.
7. No new development is proposed as part of this application. Lot 1 contains the existing tavern which is permitted for a 1-bedroom apartment, a 1-bedroom accessory apartment and a 9 employee office space. Lot 2 will continue to be a deferred lot and future development proposals will require review for access, wastewater and building envelope placement.
8. The locations of surveying monuments and lot corner markers were not identified on the draft plan submitted at the hearing.

7.6 Water Supply and 7.7 Sewage Disposal

9. The boundary line adjustment will not require an amendment to the Wastewater and Potable Water Supply permit (WW-138-0818); however, a diagram showing the existing and revised lot boundaries and an exemption determination 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

10. A wastewater disposal system benefitting Lot 1 is located on Lot 2. The plat will need to depict the location of the system easements (leach beds and force main). At the time of transfer, deeds for both Lots 1 and 2 will need to be revised to reflect this easement.

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 Boundary Adjustment subject to the following conditions:

1. The survey plat will be revised as follows:
 - a. Lots 1 and 2 will be labelled
 - b. The leachfield(s) and force main easement on Lot 2 and benefitting Lot 1 will be depicted
 - c. A note will be added stating that Lot 2 is not approved for development at this time.
2. An exemption determination will be recorded in the land records per §1-307(a)(11) of the *State of Vermont Wastewater System and Potable Water Supply Rules*.
3. Prior to the transfer of either property, the deeds for Lots 1 and 2 will be revised to reflect the revised plat and the presence of the wastewater system easement.

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.

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 August 6, 2015: Marty Illick, Charlie Pughe, Peter Joslin, Donna Stearns, 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>Gerald A. Bouchard</u> | <input checked="" type="radio"/> For / <input type="radio"/> Against | Date Signed: | <u>8/20/2015</u> |
| 2. Signed: | <u>Charlie Pughe</u> | <input checked="" type="radio"/> For / <input type="radio"/> Against | Date Signed: | <u>8/20/2015</u> |
| 3. Signed: | <u>Donna Stearns</u> | <input checked="" type="radio"/> For / <input type="radio"/> Against | Date Signed: | <u>8/24/2015</u> |
| 4. Signed: | <u>Marty Illick</u> | <input checked="" type="radio"/> For / <input type="radio"/> Against | Date Signed: | <u>8/25/2015</u> |
| 5. Signed: | _____ | For / Against | Date Signed: | _____ |
| 6. Signed: | _____ | For / Against | Date Signed: | _____ |
| 7. Signed: | _____ | For / Against | Date Signed: | _____ |