

CHARLOTTE TOWN CLERK'S OFFICE

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at 11 o'clock 9 minutes A m and

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Attest Ch M Bl Asst. Town Clerk

CHARLOTTE PLANNING COMMISSION

SUBDIVISION REVIEW

FINDINGS OF FACT AND DECISION

In re: George and Claire Aube, Final Plan Application for a Minor Subdivision  
Permit Application No. PC-15-10

**Introduction and Procedural History**

This proceeding involves review of an application for a Minor Subdivision submitted by George and Claire Aube for approval under the Town of Charlotte Land Use Regulations.

The application was received on April 9, 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.

The application was considered by the Planning Commission at a public hearing on May 7, 2015. George Aube, the applicant, was in attendance and consultant, Jason Barnard, presented the application at the hearing. No other interested persons attended the hearing.

**Exhibits**

1. Application form; list of adjoining landowners; plan entitled "Sketch Plan George R. and Claire C. Aube Two-Lot Subdivision Dorset Street and Carpenter Road Charlotte, Vermont", and dated July 23, 2013 and revised December 23, 2014; plan entitled "Lot No. 3 Site Plan George R. and Claire C. Aube Two-Lot Subdivision Dorset Street and Carpenter Road Charlotte, Vermont", and dated March 4, 2015; draft survey plat prepared by Northern Land Surveying, LLC and dated March 2, 2015; and required fee;
2. Staff report dated April 27, 2015;
3. PC-15-01 Sketch Plan Review Letter;
4. Wastewater System and Potable Water Supply Permit Application;

**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. George and Claire Aube own a 105+/- acre parcel (M03B01L038) located on the southwest corner of the intersection of Dorset Street and Carpenter Road in the Rural Zoning District. A 5.71 acre lot (Lot 2) was previously subdivided from this parcel (Lot 1) in 2013.
2. The purposes of the Rural Zoning District are "(1) to protect important agricultural land and promote viable agriculture, wildlife habitat, productive woodland, natural areas, aquifers, scenic views and vistas, open spaces and other significant natural cultural and scenic resources identified in the *Charlotte Town Plan*; and (2) to allow for low density or clustered residential development in accordance with the capability of the land to support such development, that does not adversely affect the town's natural and scenic resources or properties and uses in the vicinity, and is compatible with the rural character of the town as expressed in the *Charlotte Town Plan*."
3. The purpose of the current application is to subdivide an additional lot from the 105+/- acre parcel (Lot 1). The new Lot 3 will be 5.06 acres and will contain the existing single-family dwelling (to be replaced with a 5-bedroom single-family dwelling), barn and other outbuildings. Lot 1 will be 100+/- acres in size and no

development is proposed for this lot. Sketch Plan Review for this proposal was held on February 5, 2015. A site visit scheduled for January 31, 2015 was cancelled due to inclement weather. The project was classified as a Minor Subdivision in accordance with Section 6.1(C)(1) of the Charlotte Land Use Regulations (“Regulations”).

*Relevant standards in Chapter VII of the Charlotte Land Use Regulations are reviewed below in Findings 4-19.*

### 7.2 General Standards

4. The following Areas of High Public Value (AHPV) were identified on the parent parcel:
  - a. Agricultural soils (NRCS data, ANR Atlas) – Some pockets of prime but mostly statewide
  - b. Agricultural use (per applicant) – Portions of the property are still used for agriculture
  - c. Steep slopes (ANR Atlas) – 15-25% along the Laplatte River
  - d. Surface waters, wetlands and associated setback and buffer areas (Town Plan Map 7 and ANR Atlas) – The Laplatte River and a tributary bisect the property. Fluvial Erosion Hazard Areas have been identified along the Laplatte
  - e. Mapped wildlife habitat (Town Plan Map 6) – Forest habitat and aquatic habitat are on the parcel and are located along the Laplatte River and areas south and west of the river.
  - f. Water Supply Source Protection Area (ANR Atlas) – Parcel is considered part of source protection area for the Champlain Water District
  - g. Scenic views and vistas (Town Plan Map 13)– Carpenter Road is identified as a most scenic road
  - h. Conserved land on adjacent parcels – The Thibault property to the north and east is conserved via an easement with the Vermont Land Trust.
5. In their sketch review letter, the Commission noted that this project does not directly affect any AHPV as it is a partial redevelopment of the existing farm complex. The Commission did, however, note the presence of AHPV on the parent parcel and stated that any future applications would require a master plan for the entire parcel.
6. Section 7.2(D) of the Regulations states “Development density shall be based on the allowed density for the zoning district(s) in which the subdivision is located. Areas of High Public Value can be used for development density unless the property has been conserved through a legal mechanism such as Grant of Development Rights, Conservation Easement, or Open Space Agreement.
7. The allowed density for the Rural zoning district is 5 acres / dwelling unit. One additional dwelling unit is proposed and meets the district density requirements.
8. A building envelope (50 foot setback offset area) was delineated on the plans but not the survey plat. The Commission noted that this was an unusually large envelope for structures associated with the residential use of the property and proposed relocating the northernmost boundary line to be 10 feet beyond the northernmost shed structure (as labelled on the plat). The applicant concurred with this relocation.
9. The locations of surveying monuments and lot corner markers were identified on the draft subdivision plat submitted at the hearing.

### 7.3 District Standards

10. The applicant intends to use the existing driveway and existing overhead electrical line to serve the new dwelling.
11. The Commission agreed to use of the overhead electrical line noting that the new dwelling would be replacing an existing one served by the overhead utility.
12. Given the presence of AHPV on the parent parcel, the Commission stated that any future subdivision would require a master plan for the entire parcel. A master plan will insure the long-term conservation of AHPV on the property.

### 7.5 Facilities, Services & Utilities

13. The applicant intends to use the existing overhead electrical line to serve the new dwelling and the Commission agreed to the use of the overhead line noting that the new dwelling would be replacing an existing one served by the overhead utility.

### 7.6 Water Supply and 7.7 Sewage Disposal

14. A Wastewater System and Potable Water Supply Permit has been obtained for the project (WW-138-1313-1).

### 7.8 Stormwater Management & Erosion Control

15. The applicant has indicated that "The drainage system will consist of grassy swales along the existing drive and sheet flow in a generally easterly direction across the remainder of the new 5.03 acre parcel (Lot 3)."
16. The newly proposed dwelling and most of the existing driveway are located on areas with less than 5 percent slope.
17. The applicant intends to improve the access area onto Dorset Street by shaping and widening so it is less than 8 percent in slope.

### 7.10 Roads, Driveways and Pedestrian Access

18. The applicant intends to use the existing driveway to serve the new dwelling and has indicated that it will be less than 8 percent slope. Grass lined drainage ditches will be provided along the access area and check dams were recommended for areas where the slope exceeds 5 percent<sup>1</sup>.

### 7.12 Legal Requirements

19. An easement for the shared well benefitting Lot 3 and located on the adjoining 10 acre Aube lot was recorded through the issuance of the Wastewater System and Potable Water Supply Permit.

### **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 subject to the following conditions:

1. The survey plat will be revised as follows:
  - a. The building envelope for Lot 3 will be revised by relocating the northernmost boundary line to be 10 feet beyond the northernmost shed structure (as labelled on the draft plat).
  - b. Tie lines for the envelope will be provided on the plat.
2. Concurrent with the submission of the mylar in accordance with Condition 3 below, 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.
3. 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.
4. Concurrent with the submittal of a building permit application, the applicant shall complete the improvements to the driveway access.
5. Concurrent with the submittal of a certificate of occupancy application, the applicant shall provide a final as-built plan of the improved area subject to review and approval by Town personnel.

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<sup>1</sup> Vermont Agency of Transportation B71 Standards for Residential Drives

**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 May 7, 2015:** Jeff McDonald, Chair; Peter Joslin, Paul Landler, Gerald Bouchard, Marty Illick, and Charlie Pughe.

**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 Bouchard</u> | <input checked="" type="radio"/> For / <input type="radio"/> Against | Date Signed: | <u>6/1/2015</u> |
| 2. Signed: | <u>P. Joslin</u>       | <input checked="" type="radio"/> For / <input type="radio"/> Against | Date Signed: | <u>6/2/2015</u> |
| 3. Signed: | <u>Charlie Pughe</u>   | <input checked="" type="radio"/> For / <input type="radio"/> Against | Date Signed: | <u>6/4/2015</u> |
| 4. Signed: | <u>Paul Landler</u>    | <input checked="" type="radio"/> For / <input type="radio"/> Against | Date Signed: | <u>6/4/2015</u> |
| 5. Signed: | <u>Marty Illick</u>    | <input checked="" type="radio"/> For / <input type="radio"/> Against | Date Signed: | <u>6/4/2015</u> |
| 6. Signed: | <u>Jeff McDonald</u>   | <input checked="" type="radio"/> For / <input type="radio"/> Against | Date Signed: | <u>6-4-15</u>   |
| 7. Signed: | _____                  | For / Against  | Date Signed: | _____           |