

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

**In re: Tegatz Family Trust, Final Plan Application for a Minor Subdivision Amendment  
Permit Application No. PC-15-20**

**Introduction and Procedural History**

This proceeding involves review of an application for Minor Subdivision Amendment submitted by Fritz & Betsy Tegatz for approval under the Town of Charlotte Land Use Regulations.

The application was received on September 24, 2015. A notice of public hearing was published in The Citizen on October 15, 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 October 12, 2015.

The application was considered by the Planning Commission at a public hearing on November 5, 2015. Fritz Tegatz, the applicant, and David Miskell, representative for the applicant were present at the hearing. Jason Harvey was also present.

**Exhibits**

1. Application form; list of waiver requests; draft final plat prepared by Stuart Morrow and dated August 2015; wastewater and potable water supply site plan for Lot 2, prepared by Stephen Revell and dated September 17, 2015; PC-15-13 sketch letter; addressed envelopes for adjoining landowners and required fee
2. PC-15-20 staff report dated October 26, 2015 which includes Areas of High Public Value (AHPV) map

**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. Fritz & Betsy Tegatz own a 10.06 acre lot (M05B07L32.0-1) and a 281.94 acre lot (M05B07L32.0-3) which are adjacent to one another and are located on the west side of Guinea Road in the Rural zoning district.
2. These lots were created via a Subdivision that was approved in 1987.
3. The purpose of the current application is to amend the prior approval to allow for a boundary adjustment between these two lots to create a building lot on Lot 2 and to adjust the

boundary for Lot 1 to encompass the remaining land. The new Lot 1 will be 188.84 acres and the new Lot 2 will be 104.53 acres<sup>1</sup>.

4. Sketch Plan Review for this application was held on June 4, 2015 and a site visit occurred prior to the meeting. 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”).

*Relevant standards in Chapter VII of the Charlotte Land Use Regulations are reviewed below in Findings 5-18.*

### 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 (statewide)
  - 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 – from northwest corner of Bingham Brook Road and Guinea Road (Town Plan Map 13)
  - f. Conserved land on adjacent parcels
6. During sketch plan review of this application, the Commission indicated that locating a building envelope in the northwestern most field and using the existing agricultural access would minimize impacts to AHPV on the property. The project has been designed in accordance with those recommendation. The proposed envelope is located towards the edge of the field and is approximately 2 acres in size.
7. The application indicates that all but two-2 acre homestead sites will be enrolled in current use. Portions of the property will continue as cropland and portions will be grazed. The area in and around the large wetland complex is considered unproductive agricultural land.
8. The locations of surveying monuments and lot corner markers were identified on the draft subdivision plat submitted at the hearing.

### 7.4 Compatibility with Agricultural Operations

9. Residential building envelopes and wells have been sited to minimize conflicts with agricultural operations located within the subject property and on adjoining properties.

### 7.5 Facilities, Services & Utilities

10. All utility lines for Lot 2, including but not limited to electric, gas, telephone, and cable television, will be located underground. Other easements are shown on the draft subdivision plat.
11. Proposed lighting was not addressed in the application.

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<sup>1</sup> Acreage difference between 1987 plat and proposed plat.

#### 7.6 and 7.7 Water Supply and Sewage Disposal

11. A Wastewater System and Potable Water Supply Permit application has been obtained (WW-138-0925-1). The permit is for the construction of a mound system to serve a 4-bedroom single-family dwelling on Lot 2. Water will be supplied via a drilled well.

#### 7.8 Stormwater Management and Erosion Control

12. The project does not require a state stormwater permit; however, the applicant has indicated adherence to practices recommended in the *Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites* as most recently amended.

#### 7.10 Roads, Driveways & Pedestrian Access

13. The driveway will be constructed to meet current driveway standards and will follow the existing agricultural access. Improvements may be necessary in and around the wetland crossing. A state wetland permit has been applied for and is currently under review.

14. The driveway will be surfaced with non-white crushed stone.

15. A Highway Access Permit has been obtained by the applicant (HAP-15-05).

### **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 Amendment subject to the following conditions:

1. 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.
2. Prior to the submission of the mylar in accordance with Condition 2 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.
3. This decision addresses amendments to relevant findings under the 1987 Holmberg Subdivision Decision. All other findings under that decision shall remain in full force and effect.
4. There may be State of Vermont and / or federal permits or approvals needed for the proposed development or use.
5. New construction will require a Residential Building Energy Standards (RBES) certificate. RBES applies to all new residential construction, including additions, alterations, renovations, and repairs. For more information please go to [http://publicservice.vermont.gov/topics/energy\\_efficiency/rbes](http://publicservice.vermont.gov/topics/energy_efficiency/rbes).

**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 November 5, 2015:** Jeff McDonald, 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>Charles W. Tyb</u>     | <input checked="" type="radio"/> For / <input type="radio"/> Against | Date Signed: | <u>11/19/2015</u> |
| 2. Signed: | <u>Gerald A. Bouchard</u> | <input checked="" type="radio"/> For / <input type="radio"/> Against | Date Signed: | <u>11/19/2015</u> |
| 3. Signed: | <u>D. Stearns</u>         | <input checked="" type="radio"/> For / <input type="radio"/> Against | Date Signed: | <u>11/19/2015</u> |
| 4. Signed: | <u>Marta Jut</u>          | <input checked="" type="radio"/> For / <input type="radio"/> Against | Date Signed: | <u>11-19-15</u>   |
| 5. Signed: | _____                     | For / Against  | Date Signed: | _____             |
| 6. Signed: | _____                     | For / Against  | Date Signed: | _____             |
| 7. Signed: | _____                     | For / Against  | Date Signed: | _____             |