

CHARLOTTE TOWN CLERK'S OFFICE

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This 12th day of January A.D. 2017
at 11 o'clock ^Q minutes A m and
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Attest: [Signature] Town Clerk

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

**KR Properties, LLC and McCain Consulting, Inc.
Preliminary Plan Application for a 9-lot Major Subdivision (Planned Residential Development)
at 355 Half Mile Road
Application # PC-16-137-SD**

Introduction and Procedural History

This proceeding involves review of an application for a Major Subdivision (PRD) submitted by McCain Consulting, Inc. on the behalf of KR Properties, LLC (the property owners) for approval by the Charlotte Planning Commission under the Town of Charlotte Land Use Regulations. The application was received on September 16, 2016. A notice of public hearing was published in The Citizen on October 19, 2016, posted on the Charlotte Town website calendar, and posted in hardcopy at the following three locations: the Town offices, The Brick Store, and Spear's Corner Store. Twenty-six (26) copies of the notice were also mailed to all known adjoining landowners on October 13, 2016.

The application was considered by the Planning Commission at two public hearings; on November 3 and December 1, 2016. There was a site visit to the property that took place at 9:00 am on Saturday November 19, 2016. Present at the November 3rd hearing were the following members of the Planning Commission; Jeff McDonald (Chair), Gerald Bouchard, Puspa Luitel, David Kenyon, Charlie Pughe (arrived 7:04 pm). Vice-Chair Peter Joslin attended the hearing, but recused himself from the proceedings. Absent from the hearing was Commissioner Marty Illick. Additional attendees and participants at the hearing included; Daryl Benoit (Charlotte Town Planner), Gunner McCain (principal representative of McCain Consulting, Inc.), Britney Tenney and George McCain (McCain Consulting staff), Tyler Barnard, Susan Krasnow, Michael Krasnow, Eddie Krasnow, Jane Krasnow, Tom Walsh, Isaiah Kiley, Eric Boyce, John Calcagni, David McNally, Missy Kraus, George Darling, Nancy Calcagni, and Larry Sommers.

Present at the December 1st hearing were the following members of the Planning Commission; Jeff McDonald, Chair (arrived 7:58 p.m.), Gerald Bouchard (Acting Chair), Puspa Luitel, David Kenyon, Charlie Pughe (arrived 7:06 p.m.), and Marty Illick. Vice-Chair Peter Joslin recused himself from the proceedings. Additional attendees and participants with a stated interest in the KR Properties agenda item that attended the hearing included; Susan Krasnow, Jane Krasnow, Britney Tenney, George McCain, Gunner McCain, Michael Krasnow, Eddie Krasnow, Tom Walsh, Isaiah Kiley, Laurie Thompson, John Calcagni, Nancy Calcagni, Emily Greenberg, Roeluf Boumans, Linda Radimer, Susan Blood, Daryl Benoit (Charlotte Town Planner) and others.

All application materials relevant to the application are posted on the Town of Charlotte Planning & Zoning Office website at the following link: <http://bit.do/czQZt>.

Exhibits

Submitted between September 16 and December 1, 2016 the following exhibits were submitted:

1. Ed and Michael Krasnow submitted – **A.** PC-16-137-SD Application; Cover Letter to the Town; **B.** Abutting Properties List; **C.** Project Description and Town Plan Statement (revised); **D.** Draft Declaration of Covenants, Deed Restrictions, Conditions, Easements, Obligations, Liens, and Rights; **E.** Water Supply Permitting Information; **F.** Act 250 Jurisdictional Opinion for PRD, and the required fee.
2. McCain Consulting, Inc. submitted - **A.** Preliminary Survey – Sheets 1 and 2; **C.** Preliminary Plan Set.
3. Conservation Commission & Public Comment submitted - **A.** Charlotte Conservation Commission - Report on the impact of the proposed KR Properties, LLC subdivision (rec'd 30 Nov 2016); **B.** Kiley Letter - Comments to the Planning Commission on the impact of the proposed subdivision (rec'd 1 Dec 2016);
4. Sketch Plan Review application documents for PC-15-02R KR Properties, LLC that are available at the following link: <http://bit.do/cWWpE>. These include:
 - a. Sketch Plan Review letter for application PC-15-02R from Jeannine McCrumb, dated October 23, 2015.
 - b. *"Protocol for Assessment of Impacts of Proposed Development"* (Habitat Report) by Kristen L. Rose Howell, Ecologist, McCain Consulting, Inc., Waterbury, VT, Rec'd August 19, 2015
 - c. *"Proposed Krasnow Subdivision"* (Wildlife Report) by Jeff Parsons, Ecologist, Arrowwood Environmental, Huntington, VT, December 4, 2015

Regulations in Effect

Town Plan, 2016

Land Use Regulations, 2016

Recommended Standards for Developments and Homes adopted September, 1997

Findings

Background

1. KR Properties, LLC owns an 88 acre parcel of land that had been originally created from a subdivision undertaken by Neil Raymond on August 27, 1985 (with subsequent boundary adjustments taking place on October 10, 1995 and January 19, 2006) and is located along the southern side of One Mile Road (hereafter referred to as 355 Half Mile Road) within the Rural zoning district.
2. Two Sketch Plan Reviews have been undertaken by the applicant prior to this application, resulting in the issue of Sketch Letter PC-15-02 (dated May 14, 2015) and Sketch Letter PC-15-02R (dated October 23, 2015).
3. The current application proposes to create a 9-lot subdivision (Planned Residential Development) and to implement a boundary line adjustment between the existing residence located at 766 One Mile Road and the property line at the northeast corner of 355 Half Mile Road (referred to as "Lot 1" in the subdivision application). The boundary adjustment will remove a pre-existing setback encroachment of the house at 766 One Mile Road.

4. All nine (9) of the proposed Lots are intended to be developed with a single family dwelling and associated infrastructure. The 88-acre parcel has a potential density for seventeen (17) Lots. This application proposes that no more than nine (9) Lots will be developed.
5. The application proposes the creation of two town highway access curb cuts; One on Mt. Philo Road at an existing farm road access located 0.19 miles south of One Mile Road and just north of the 5047 Mt. Philo Road property line that would serve proposed Lots 5, 6, 7, 8, and 9, and another on One Mile Road located 50 feet west of Half Mile Road, serving proposed Lots 3 and 4.
6. The proposed design of the driveway serving Lots 5, 6, 7, 8, and 9 has a grade ranging from 1.6% to 9.8%. The driveway designed to serve Lots 3 and 4 has a grade ranging from 2.2% to 9.9%.
7. An existing driveway curb cut on One Mile Road located about 440 feet west of Mountain's Edge Road would serve proposed Lots 1 and 2.
8. The driveway is designed with a grade ranging from 3.6% to 9.9%
9. Each of the proposed Lots would be served by a shared well located on Lot 9 near the intersection of Mt. Philo Road and One Mile Road. The well's waterline would run eastward from Lot 9 to the shared driveway serving Lots 8, 7, and 6. An easement for the underground waterline would further extend through Lot 5, across "Lot C" (on the abutting parcel at 356 Half Mile Road), to Lots 4, 3, and 2, and terminating at Lot 1.
10. The application proposes the creation of four wastewater mound systems; two individual on-site mounds serving proposed Lots 1 and 6, one shared mound located within a wastewater easement on Lot 2 that would serve proposed Lots 2 and 3, one shared mound located on Lot 5 that would serve Lots 4, 5, 7, 8, and 9.
11. A previous condition relating to the parcel, referred to as "Lot 1" in a 2005 Planning Commission decision (PC-05-49) states;

"The Planning Commission will not require open space to be designated at this time, however any future subdivision of Lot 1 will require the designation of open space. The total current acreage will be considered when calculating the percentage of open space as provided for in Chapter V. Section 5.15 of the Charlotte Zoning Bylaws (or succeeding town regulations in effect)."
- The total acreage to be considered for calculating open space is 112 acres.
12. A nature corridor that traverses Lots 5 and 6 has been proposed in the previous two sketch plans, and was further supported in the Arrowwood Environmental Study.
13. The Arrowwood Study identified proposed Lots 6, 7, and 8 as protective forest cover for wildlife where lot development would impose a barrier to existing wildlife connections and corridors leading to forested lands to the northwest of Mt. Philo State Park. These forested area on the proposed Lots also provide protective natural cover for access to the wetlands and Kimball Brook stream courses to the southwest. The study concludes that wildlife movements between the Mt. Philo State Park area and Kimball Brook and its associated wetlands and forests would be negatively impacted by the proposed subdivision.
14. The Arrowwood Study identified the land within proposed Lots 1 and 2 as providing some continuity to facilitate wildlife movement between Mt. Philo State Park and lands to the north of One Mile Road. The study observes that this location may have greater potential for facilitating wildlife movements than the nature corridor on Lots 6, 7, and 8 to the west.

15. Locations of the proposed boundary lines have been provided by the applicant (see McCain Consulting, Inc. – Overview KR Properties, LLC 9 Lot Subdivision – Sheet C-1 – September 14, 2016).

Relevant standards in Chapter VII of the Charlotte Land Use Regulations are reviewed below in Findings

16. The following Areas of High Public Value (AHPV) were identified on the parcel or adjacent to it:
 - a. Land in active agricultural use: A meadow on the western end of the property, (within proposed Lot 9) contains an agricultural field that is currently utilized for haying.
 - b. Primary agricultural soils: Statewide agricultural soils as classified by the Natural Resources Conservation Service (NRCS) composes a large portion of the meadow on the western side of parcel (i.e. proposed Lot 9). They also cover an area along the northern edge of the eastern portion of the property (i.e. Lots 2 and 3). Prime Agricultural soils exist along the southern portion of the western meadow (i.e. Lot 9 and small northern portion of Lot 8).
 - c. Steep slopes (equal to or greater than 15%): There are areas with slopes of 15-25% throughout much of the central forested area.
 - d. Surface Waters, Wetlands, and associated buffer areas: There is a presumed Class 2 wetland with a minimum state setback requirement of 50' from the edge of delineated wetland adjacent to Kimball Brook. A Phase II Stream Geomorphic Assessment was completed for Kimball Brook in 2008 by the Lewis Creek Association. A fluvial erosion hazard area has been identified for portions of this stream near Mount Philo Road. There is another area of wetland identified within proposed Lot 1 on the site plan. An intermittent stream is located on Lots 1 and 2.
 - e. Wildlife Habitat: The Town of Charlotte's Significant Wildlife Habitat Map (SWHM) identifies the presence of three different habitat types within the Krasnow subdivision proposal area. *Linkage habitat* has been identified in western portions of the property, and two (2) north/south crossings of One Mile Road. *Aquatic habitat* has been identified in the southwestern portion of the property where the Kimball Brook stream corridor traverses the western meadow of proposed Lot 9. *Forest habitat* exists on most of the property, comprising most of proposed Lots 1, 2, 4, 5, 6, 7, and a portion of Lot 8. Lots 3 and 9 are not classified as *Forest habitat*. The south central forest habitat area within the property has been further identified as core habitat within proposed Lots 5, 6, 7, and 9 within Core Habitats in Vermont geospatial database developed by the University of Vermont, School of Natural Resources - Spatial Analysis Lab.
 - f. Water Supply Source Protection Areas (SPAs): The eastern end of the parcel (Lots 1, 2, 3 and a small part of Lot 4) is mapped as part of the source protection area (LaPlatte watershed) for the Champlain Water District.
 - g. Scenic Views and Vistas: Mt. Philo Road is classified as a "Most scenic public road" in the Charlotte Town Plan (in the map titled "Roads with High Scenic or Conservation Values"), and will have potential impacts from proposed Lots 5, 6, 7, 8, and 9. The property abuts the scenic viewing areas from the summit of Mount Philo.
 - h. Conserved Land on Adjacent Parcels: There are 76 acres of contiguous conservation easements on adjacent lands to the north of the property, across One Mile Road. To the south there are

233 acres of State-owned land in Mount Philo State Park.

Relevant Standards for Developments and Homes adopted September, 1997 are reviewed below in Findings

17. The maximum grade shall not be more than 8%
18. All driveways longer than 800' will have vehicle turn-outs (12' wide x 35' long) near the halfway point or every 800'.

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 grants preliminary approval of the application for a Major Subdivision / Planned Residential Development subject to the following conditions:

1. The survey plat will be revised to reflect the following:
 - a. The proposed curb cut on One Mile Road will be removed.
 - b. The proposed driveway serving Lots 1 and 2 traversing the hill on the eastern side will be removed.
 - c. All curb cuts for Lots 1, 2, 3, and 4 will originate from Half Mile Road.
 - d. The water line and utility line for proposed Lots 1, 2, 3, and 4 will be co-located within Half Mile Road and on any proposed driveway easements that serve the lots. Driveways that are proposed to serve these lots will be designed to minimize their length to limit their impact upon forested areas.
 - e. The 1-acre building envelope for Lot 1 will be reduced to 0.5 acres.
 - f. The 1.1 acre building envelope for Lot 4 will be reduced to 0.5 acres and moved to the east of the existing water and utility corridor that runs north-south through the center of Lot 4.
 - g. By moving the building envelope for Lot 4, the need for a storm water detention facility can be eliminated to avoid encroachment upon linkage habitat. However, if the applicant determines that the proposed detention facility would nevertheless be necessary for the project, the detention facility shall be moved to the east of the existing north-south water and utility corridor.
 - h. The 1.6 acre building envelope for Lot 9 will be reduced to 1.0 acre.
 - i. A mapped area of at least fifty-six (56) acres shall be designated as protected open space area. This will include;
 - i. A minimum two-hundred and fifty foot (250') buffer of open space/no cut area that will be delineated from the northern boundary of Mt. Philo State Park through

proposed Lots 6, 7, and 8 to reduce encroachment on core forest and linkage habitat from the proposed development.

- ii. A central linkage nature corridor that will be delineated from the existing north-south water and utility corridor and extend to the eastern boundaries of the building envelopes of proposed Lots 5 and 6. The corridor will be designated as a no-cut area except for the proposed corridor for the waterline that would extend from proposed Lot 6 to Lot 4.
 - iii. The ~30-acre meadow will be a protected open space area within proposed Lot 9 and will include a protected riparian natural area while the balance of the meadow may be used for grassland birds management and agricultural purposes (except for the grazing of animals).
 - j. Because the proposed septic disposal facility for Lot 6 is within Core Habitat Area and within the desired 250' buffer to Mt. Philo State Park, it will need to be moved out of its proposed location. The community septic system on proposed Lot 5 should either be reevaluated or redesigned to meet the wastewater requirements for Lot 6, or Lot 6 should be served by another septic system.
 - k. The proposed driveway originating from Mt. Philo Road shall have vehicle turn-outs (12' wide x 35' long) near the halfway point or every 800'.
2. As the maximum grade of the proposed driveway originating from Mt. Philo Road has sections that exceed 8%, approval of its design is subject to the approval of the Charlotte Fire Department.
 3. Because the driveway originating from Mt. Philo Road serves more than two (2) Lots, it will require a proposed name to be approved by the Selectboard.
 4. A final stormwater plan will be submitted with the Final Plan application.
 5. As proposed Lots 1 and 2 contain a wetland area, intermittent stream habitat, and linkage habitat, a forest management plan will be developed for proposed Lots 1 and 2 for the area outside of their building envelopes. A proposed forest management plan for Lots 1 and 2 that minimizes tree cutting will be submitted for review for the Final Plan application, or the application will be considered incomplete.
 6. As part of the Final Plan application, the applicant will address how impacts to the central linkage nature corridor will be minimized during construction of the proposed waterline that extends from proposed Lot 6 to Lot 4.
 7. The land to the west of the Kimball Brook on Lot 9 will serve to protect the water source for all lots within the subdivision area. Therefore, no grazing of animals, spreading of manure, use of pesticides, building or construction of any kind will be allowed.
 8. Commercial boarding of animals will not be allowed. Use of lots or open space for kennels, raising or breeding animals for commercial purposes, or boarding of animals as specified, is specifically prohibited.
 9. The spreading or storage of liquefied manure is prohibited. Only manure produced on site is allowed to be stored on site.
 10. No topsoil shall be removed from the subdivision, and any topsoil dislocated in the excavation for and construction of improvements to the lot shall be replaced on the lot from which it was dislocated, or on other lots within the subdivision.

11. Association covenants to administer the proposed driveway originating from Mt. Philo Road, as well as sewer, water supply, stormwater, and other utility infrastructure will be submitted with the Final Plan application.
12. The identified Areas of High Public Value, including the aforementioned minimum two-hundred and fifty foot (250') buffer at the northern boundary of Mt. Philo State Park, the central linkage nature corridor, and the ~30-acre meadow on proposed Lot 9 will be placed under an Open Space Agreement with the Town with their allowed uses to be specified.
13. A three-dimensional site plan rendering as viewed from Mount Philo Road and One Mile Road (~ 1,000 feet from intersection) and an architectural rendering of the type of house (including its landscaping and screening) for proposed for Lots 7, 8, and 9 will be submitted for the Final Plan application, or the application will be considered incomplete.
14. Two paper copies (one full size and one 11"x 17") and an electronic copy of the plat, will be submitted to the Planning Commission for review for the Final Plan application.
15. Any Highway Access Permits will be obtained prior to the submission of the Final Plan application.

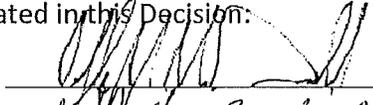
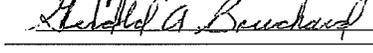
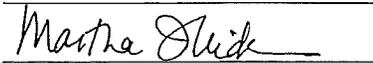
Additional Conditions: All plats, plans, drawings, documents, testimony, evidence and conditions listed above or submitted at the hearing and used as the basis for the Decision for the applicant to submit a Final Plan application to the Planning Commission for a Major Subdivision. The Application shall be submitted in accordance with such approved plans and conditions.

This decision may be appealed to the Environmental Division of the Vermont Superior 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 (forthcoming) Public Hearing:

Vote of Members after Deliberations: The following is the vote for or against the application, with conditions as stated in this Decision:

Vote of Members after Deliberations: The following is the vote for or against the application, with conditions as stated in this Decision:

1. Signed:		<input checked="" type="radio"/> For <input type="radio"/> Against	Date Signed: <u>1/11/17</u>
2. Signed:		For / Against	Date Signed: <u>1-12-2017</u>
3. Signed:	_____	For / Against	Date Signed: _____
4. Signed:	_____	For / Against	Date Signed: _____
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6. Signed:		For / Against	Date Signed: <u>1/12/2017</u>
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