

CHARLOTTE PLANNING COMMISSION

FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

Robert and Nancy Bloch

**Final Plan Hearing
For A
Two-Lot Subdivision
Application # PC-07-06**

Background

Sketch Plan Review was most recently held on October 19, 2006; previous Sketch Plan Reviews were held on January 6, 2005, February 17, 2005, October 6, 2005 and November 3, 2005. The project was classified as a Minor Subdivision.

Application

Materials submitted with the application are listed in Appendix A.

Public Hearing

A public hearing for this application was held on April 19, 2007. Robert Bloch was present representing the applicant. Robert Shapiro, an adjoining property owner, was present and participated in the hearing, and also submitted a letter addressed to Jeffrey McDonald, Chair, Charlotte Planning Commission, dated April 12, 2007. Linda Hamilton, Chair of the Charlotte Conservation Commission, submitted a letter dated April 17, 2007. The Planning Commission closed the hearing on April 19.

Following the closing of the hearing, Robert Shapiro notified the Planning Office that he has a second well which was not addressed by the applicant's wastewater disposal plan. The Planning Commission voted to reopen the public hearing on May 3. The public hearing was re-opened on August 2. Robert Bloch was present representing the applicant. Robert Shapiro was also present and participated in the hearing. Items submitted for the re-opened hearing are listed in Appendix B.

Regulations in Effect

Land Use Regulations adopted March, 2006.

Sewage Ordinance as amended December, 2004.

Recommended Standards for Developments and Homes adopted September, 1997

Findings

1. The subject parcel is 13.43 acres, and is located on the south side of Whalley Road in the Rural District. The applicant resides in the single family dwelling located on the parcel.
2. The application proposes to create two lots: Lot 1 is 7.83 acres and includes the existing

dwelling, and Lot 2 is 5.6 acres.

3. *Areas of high public value* on the property include:
 - A. Prime agricultural soils are located on the central and northern portion of the parcel, and a band runs along the very southern portion of the parcel (from VCGI data).
 - B. Statewide agricultural soils are located in the south-central and eastern portion of the parcel (from VCGI data).
 - C. Three Class 3 wetlands are on the property—one is located near Whalley Road, one is located in the southern portion of the property, and a very small one is located in the central/eastern portion of the property (from applicant's delineation).
4. In addition to the areas of high public value listed above, it was noted during site visits by the Planning Commission that the southern portion of the parcel has mature cedar trees that provide good quality wildlife habitat, and the northern portion of the parcel has mature hardwood trees that are in good condition.
5. During Sketch Plan Review, the Planning Commission discussed that it may be desirable to site the proposed building lot closer to Whalley Road, so as to cluster the existing and proposed dwellings; however it was also noted that this location would create a significant, negative impact on the mature hardwood trees in this area.
6. The applicant has agreed to a "Wildlife Protection Zone" on the southern portion of Lot 2. This is depicted on the plat.
7. The applicant has also agreed to a "no cut area" along the southeastern portion of the Bloch property, adjacent to the Shapiro property. This is depicted on the plat.
8. The existing curb-cut on Whalley Road is proposed to serve both Lot 1 and Lot 2; the driveways will split approximately 170 feet south of Whalley Road.
9. The proposed driveway for Lot 2 avoids impacts to most of the mature hardwood trees, and also avoids the wetlands.
10. The Planning Commission finds that the application has minimized impacts on areas of high public value and will not create undue adverse impacts.
11. The Town's wastewater consultant has reviewed the submitted wastewater disposal plan and issued memos dated 4/23/07, 4/30/07, 5/14/07, 6/11/07 and 7/2/07. The most recent memo indicates the wastewater disposal plan is acceptable.
12. Section 7.6 (4) of the Charlotte Land Use Regulations states "an easement shall be required for the protective distance as required by the Vermont Wastewater and Water Supply Rules for drilled wells or springs which will impact adjoining properties." The applicant has not provided an easement for the protective distance for the well for Lot 2 located on the adjoining property to the east. Therefore the well will need to be moved.
13. The adjoining property owner to the east has expressed concerns about impacts from the project, particularly the proximity to their property of the proposed driveway, building envelope, wastewater system and well for Lot 2.
14. The Planning Commission believes that the application complies with the Land Use Regulations and Vermont Environmental Protection Rules with regard to the issues raised by the adjoining property owner, with the exception of the location of the proposed well.

Decision

Based on these Findings, the Planning Commission approves the Final Plan Application for the proposed two-lot subdivision with the following conditions:

1. The survey plat will be revised as follows:
 - A. The Wildlife Zone will be 200 feet from the southern property line for its entire area.
 - B. The labels for the wetland (on both lots) will refer to Note 8 rather than Note 7.
 - C. The proposed well for Lot 2 will be sited so that the protective distance will not be located on adjoining property unless the applicant obtains an easement for this encroachment. The well will not be located south of the 50 foot wetland buffer located south of the building envelope on Lot 2.
 - D. Note 11 will be revised to state:

“The wildlife management zone shall not be cleared of vegetation. Soil or vegetation disturbance shall be kept to a minimum, and shall not interfere substantially with natural regeneration and maintenance of mature cedars and associated natural communities. Creation and maintenance of low-impact recreational trails and the limited collection of firewood are compatible uses.”
2. Two paper copies (one full size and one 11”x 17”) and a mylar (18” x 24”) of the plat, as amended in accordance with Conditions #1 above, will be submitted to the Planning Commission for review within 160 days; the applicant will record the mylar of the plat in the Charlotte Land Records within 180 days.
3. Prior to the submission of the mylar in accordance with Condition #3 above, the applicant shall submit a letter from the surveyor indicating that s/he has set the survey pins in the field as indicated on the survey.
4. The warranty deed for Lot 2 will include references to this Findings of Fact and Decision, to most recent revision dated of the Morrow survey (3/22/07), and will include an easement for a well and water line if necessary.
5. Prior to the submission of a Zoning Permit application for Lot 2, wooden stakes will be set at the corners of the building envelope on that lot.
6. No pole-mounted light fixture will be taller than 8’ off the ground, and no building-mounted light fixture will be taller than 20’ off the ground. Fixtures will be shielded to direct light downward, and will not direct light onto adjacent properties or roads, and will not result in excessive lighting levels that are uncharacteristic of the neighborhood.
7. All new utility lines will be underground.
8. All new driveways shall be surfaced with non-white crushed stone.
9. The wildlife management zone (as depicted on the plat) shall not be cleared of vegetation. Soil and vegetation disturbance shall be kept to a minimum, and shall not interfere substantially with natural regeneration and maintenance of mature cedars and associated natural communities. Creation and maintenance of low-impact recreational trails and the limited collection of firewood are compatible uses.

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 date of the 4th 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 April 19: Jeff McDonald, Robin Pierce, Peter Joslin and Linda Radimer

Members Present at the Public Hearing on August 2: Jeff McDonald, Jim Donovan, Linda Radimer, John Owen, Andrew Thurber and Peter Joslin

Vote of Members after Deliberations:

The following is the vote for or against the application, with conditions as stated in this Decision:

- 1. Signed: _____ For / Against Date Signed: _____
- 2. Signed: _____ For / Against Date Signed: _____
- 3. Signed: _____ For / Against Date Signed: _____
- 4. Signed: _____ For / Against Date Signed: _____
- 5. Signed: _____ For / Against Date Signed: _____
- 6. Signed: _____ For / Against Date Signed: _____
- 7. Signed: _____ For / Against Date Signed: _____

APPENDIX A

The following items were submitted with the application:

- 1. An application form and appropriate fee.
- 2. A survey by Stuart J. Morrow entitled “Final Plat, Minor Subdivision, Property of Robert and Nancy Bloch” dated February 2006, last revised 3/22/07.
- 3. A plan by Otter Creek Engineering entitled “Robert and Nancy Bloch, Whalley Road, Subdivision, Charlotte, Vermont, Overall Site Plan” dated 2/23/06, no revisions.
- 4. A wastewater plan by Otter Creek Engineering entitled “Robert and Nancy Bloch, 1188 Whalley Road, Subdivision, Charlotte, Vermont” with three sheets labeled “Site Plan,” “Profile and Details,” and “Notes and Details,” all dated 4/10/07 with no revisions.
- 5. A copy of an application to the State for a Wastewater System & Potable Water Supply Permit, dated April 11, 2007.
- 6. A wetland delineation which includes the following:
 - A. A memorandum to Mr. Bob Bloch from William S. McCloy of Pioneer

Environmental Associated, LLC dated September 15, 2005.

- B. A map with orthophoto by Pioneer Environmental Associates, LLC entitled “Bloch Property, Charlotte, Vermont, Environmental Resources, Sketch Map” dated September 12, 2005.
 - C. Three photographs taken by William McCloy on August 16, 2006.
7. A draft Warranty Deed.

APPENDIX B

The following items were submitted with for the re-opened hearing:

- 1. A wastewater plan by Otter Creek Engineering entitled “Robert and Nancy Bloch, 1188 Whalley Road, Subdivision, Charlotte, Vermont” with three sheets labeled “Site Plan,” “Profile and Details,” and “Notes and Details,” all dated 6/18/07 with no revisions.