

# CHARLOTTE PLANNING COMMISSION

## FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

**Laberge Brothers Dairy, LLC  
1904 Lime Kiln Road**

**Final Plan Review  
For A  
Two-Lot Subdivision  
Application # PC-13-16**

### **Background**

The Planning Commission conducted a Sketch Plan Review for the proposed two-lot subdivision on February 7 and 21, 2013, and held a site visit on February 16. The Planning Commission classified the project as a Minor Subdivision.

### **Application**

Materials submitted with the applications are listed in Appendix A.

### **Public Hearing**

The Planning Commission held a public hearing for this application on August 1, 2013. The applicant was represented by Scott Laberge, Amanda Laberge and Peter Smier of Civil Engineering Associates, Inc. No other parties participated in the hearing or submitted written comments.

### **Regulations in Effect**

Town Plan amended March, 2013

Land Use Regulations amended November, 2010.

Recommended Standards for Developments and Homes adopted September, 1997

### **Findings**

#### **Background**

1. The existing parcel of 163.84 acres is located on the south side of Lime Kiln Road in the Rural zoning district. The parcel is part of a farm that includes a parcel on the north side of Lime Kiln Road. The parcel currently hosts a few farm buildings and two dwellings.
2. The application proposes the creation of one building lot. The survey does not indicate lot numbers, but the application describes the proposed building lot as Lot 2 and the remaining land as Lot 1. This decision will use these appellations.

*Applicable standards in Chapter VII of the Charlotte Land Use Regulations (“Regulations”) are reviewed below in Findings 3-25.*

#### **Sections 7.2 and 7.3—Areas of High Public Value**

3. The parcel includes or is adjacent to the following areas of high public value:

- a. Land in active agricultural use: the parcel has been an active working dairy farm, and recently converted to a heifer operation.
  - b. Primary agricultural soils: There is a relatively small area with prime agricultural soils to the west of Lot 2. Most of the rest of the parcel has statewide agricultural soils (from NRCS data).
  - c. Steep slopes: There may be steep slopes (greater than 15% slope) adjacent to Lime Kiln Road in the vicinity of the proposed building lot (from CCRPC data).
  - d. Wildlife habitat: Map 6 in the Town Plan indicates there is forest habitat along the southeasterly portion of the parcel. Map 13 in the Town Plan depicts a wildlife crossing of Lime Kiln Road at the northeasterly corner of the parcel (from Town Plan Map 6 and 13).
  - e. Conserved land: a portion of the Lazar parcel to the west is under the jurisdiction of an Open Space Agreement. The Phillips parcel to the south is conserved via an easement held by the Charlotte Land Trust (from town land records).
4. Considering the resources on and adjacent to the parcel, the Planning Commission finds that the agricultural use and primary agricultural soils are the most important areas of high public value associated with the parcel. These are the resources that strongly characterize the property, and which the Planning Commission feels are the most important to protect during the subdivision process.
  5. Lot 2 includes some primary agricultural soils, but is generally sited in an area that is not suitable for tilling and will not disrupt the agricultural activities on the rest of the parcel. Lot 2 is the smallest size allowed by the Regulations for a standard subdivision, and it avoids other areas of high public value.
  6. The northeast portion of the parcel (in the vicinity of Lot 2) is depicted as having a high recharge potential for bedrock aquifers and a moderate recharge potential for surficial aquifers in maps created for a groundwater study by Agency of Natural Resources & Vermont Geological Survey. Although bedrock and surficial aquifer recharge areas are not included in the list of areas of high public value (Table 7.1) in the Regulations, the aquifer recharge areas are a very important resource which warrant consideration and protection.

***Conclusion 1: The siting of the proposed building lot and driveway sufficiently minimizes impacts on the prioritized areas of high public value.***

#### **Section 7.4—Compatibility with Agricultural Operations**

7. As stated in Finding 5 above, Lot 2 is sited in an area that is not suitable for tilling, and will not disrupt the agricultural activities on the rest of the parcel.
8. The proposed building envelope and well are located less than 200 feet from land on the parcel used for agriculture.
9. The protective distance for the proposed drilled well will not impact any adjoining parcels under different ownership.

***Conclusion 2: The siting of the proposed building envelope and well sufficiently minimizes potential conflict between agricultural and non-agricultural land uses.***

#### **Section 7.5—Facilities, Services & Utilities**

10. The project proposes to create one residential lot with a single family dwelling.

***Conclusion 3: The project will not create an unreasonable burden on existing or planned municipal or educational facilities or services and does not trigger the requirement for providing a fire pond and dry hydrant.***

**Section 7.6—Water Supply**

11. There is no known shortage of suitable groundwater in the vicinity of the project.
12. As discussed above in Finding 8, the protective distance for the proposed well on Lot 2 does not encroach on any adjacent parcels under different ownership.

***Conclusion 4: It appears likely that a water supply can be developed without adversely impacting existing water supplies in the vicinity.***

**Section 7.7—Sewage Disposal**

13. The Town's wastewater consultant has viewed the soils and wastewater disposal plans, and has indicated in a memo dated July 8, 2013 that (with regard to wastewater disposal) the subdivision can be approved.
14. The memo from the Town's wastewater consultant included a recommendation that an easement be established for the proposed replacement areas for the two existing dwellings on the parcel.
15. The parcel on which the proposed replacement areas are located (on the north side of Lime Kiln Road) has the same owner as the parcel on which the two existing dwellings are located (on the south side of Lime Kiln Road), i.e. Laberge Brothers Dairy, LLC.
16. A Wastewater System and Potable Water Supply Permit has been issued for the proposed subdivision (WW-138-1309).

***Conclusion 5: The parcel has sufficient wastewater disposal capacity for the proposed subdivision, and the project has an appropriate wastewater disposal design. A Wastewater System and Potable Water Supply Permit has been issued.***

***Conclusion 6: An easement is not needed for the wastewater replacement areas, since the parcels on which the replacement areas are located (on the north side of Lime Kiln Road) and dwellings are located (on the south side of Lime Kiln Road) are under the same ownership, but the Overall Site Plan (Drawing C1.0) should be recorded in the land records.***

**Section 7.8—Stormwater Management & Erosion Control**

17. The project will create one additional single family dwelling on 163 acres; i.e. it is a low density development.
18. The project will not affect steep or very steep slopes.
19. The proposed driveway will be approximately 450 feet long, and is sloped towards Lime Kiln Road (Town Highway #12).

***Conclusion 7: The size and density of the project does not warrant extensive stormwater or erosion control infrastructure; however, the long sloping driveway could create erosion and stormwater run-off, which could have negative impacts on the town highway and receiving surface waters, as well the aquifer recharge areas described in Finding 6***

*above.*

**Section 7.9—Landscaping and Screening**

20. The application does not propose removing important specimen trees, or tree lines or wooded areas of particularly natural or aesthetic value.
21. The development site is not adjacent to surface waters.

***Conclusion 8: The project will not have a significant impact on existing vegetation, and will not have impacts that necessitate vegetative screening. The project is not of a density or intensity that warrants buffering from adjoining uses.***

**Section 7.10—Roads, Driveways & Pedestrian Access**

22. Due to its low density, the proposed subdivision will not create a significant increase in traffic on public roads in the vicinity of the project over what currently exists.
23. One new access is proposed, and was approved by the Selectboard (HAP-13-07).
24. Lot 2 will need an easement over Lot 1, since Lot 2 does not have frontage on Lime Kiln Road. Section 3.2(A) of the Regulations indicates that such an easement must be at least 50 feet wide.

***Conclusion 9: The project is unlikely to create unreasonable traffic congestion or unsafe traffic conditions.***

***Conclusion 10: The proposed survey plat should be revised to provide a 50 foot wide right-of-way easement to Lot 2.***

**Section 7.11—Common Facilities, Common Land, & Land to be Conserved; and**

**Section 7.12—Legal Requirements**

25. No common or public land or facility or designated open space is proposed.

***Conclusion 11: Given the proposed number of lots, the designation of open space is not required by the Regulations.***

**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 proposed building lot will be labeled “Lot 2” and the remaining land will be labeled “Lot 1”.
  - B. The proposed access easement to Lot 2 shall be at least 50 feet wide.
2. One digital copy (pdf), two paper copies (one 11”x 17” and one full size) and a mylar (18” x 24”) of the survey plat, as amended by Condition #1, and the Overall Site Plan (Drawing C1.0) will be submitted to the Planning Commission for review and signature (of the mylars) within 160 days. The applicant will record the signed mylars in the Charlotte Land Records within 180 days.
3. Prior to the submission of the mylars in accordance with Condition #2 above, the

applicant will submit a letter from the surveyor indicating he has set the survey markers in the field as indicated on the plat

4. The zoning permit application for the dwelling on Lot 2 will include a stormwater and erosion control plan prepared by a licensed professional.
5. No new pole-mounted light fixture will be taller than 8’ off the ground, and no new building-mounted light fixture will be higher than 15’ 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.
6. All new utility lines will be underground.
7. All new driveways will be surfaced with non-white crushed stone.

**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 4<sup>th</sup> 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 1, 2013:** Jeff McDonald, Peter Joslin, Linda Radimer, Donna Stearns and Marty Illick

**Vote of Members after Deliberations:**

The following is the vote for or against this Findings of Fact and Decision as written:

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 in association with the application:

1. A Final Plan application form and appropriate fee.
2. A survey plat by Civil Engineering Associates, Inc. entitled "Plat of Survey, Laberge Brothers, LLC, Lime Kiln Road, Charlotte, Vermont" dated June, 2013, revised on July 26, 2013.
3. A set of plans by Civil Engineering Associates, Inc. entitled "Scott & Amanda Laberge, Lime Kiln Road, Charlotte, Vermont 05445, Wastewater Site Plan, Lime Kiln Road, Charlotte, Vermont" with the following sheets:
  - A. Overall Site Plan, Drawing #C1.0 dated May, 2013, no revisions
  - B. Proposed Site Plan, Drawing #C2.0 dated May, 2013, no revisions
  - C. Proposed Replacement Site Plan, Drawing #C2.1 dated May, 2013, no revisions
  - D. Wastewater Details, Drawing #C3.0 dated May, 2013, no revisions
  - E. Wastewater Details, Drawing #C3.1 dated May, 2013, no revisions
4. A draft Quit Claim Deed providing an easement in perpetuity for ingress and egress to Lot 2.