

CHARLOTTE PLANNING COMMISSION

**FINDINGS OF FACT AND DECISION
IN RE APPLICATION OF**

**Marjorie Mansfield, Randi McCuin, Lynn Mansfield,
Lisa Gere, James Mansfield, and Lance Mansfield
Final Plat Application
For A
Two-Lot Subdivision
Application # PC-04-06**

Background

Sketch Plan Review for this project was held on January 8, 2004.

Application

The application consists of:

1. An application form and appropriate fee.
2. A survey map entitled "Final Plat, Minor Subdivision, Property of Marjorie Mansfield, Randi McCuin, Lynn Mansfield, Lisa Gere, James Mansfield, and Lance Mansfield, Charlotte, Vermont" by Stuart J. Morrow dated January 2004, no revisions.

Public Hearing

A public hearing was held for this application on March 4, 2004 and it was continued to April 1, 2004. The following parties were present at each date:

March 4th

Representing the applicant: Lynn Mansfield
Other parties: Clark Hinsdale III

April 1st

Representing the applicant: Lynn Mansfield, William Nedde
Other parties: Linda Hamilton (Charlotte Conservation Commission)

Regulations in Effect

Town Plan as amended March 2002
Zoning Bylaws as amended March 2002
Subdivision Bylaws as amended March 1995

Findings

1. The applicant own 172 acres on both sides of Mount Philo Road. Based on known case law, the Planning Commission finds that the property on each side of Mount Philo Road is "naturally subdivided" by Mount Philo Road with regard to town zoning issues.

2. Therefore the subject parcel consists of approximately 125 acres on the east side of Mount Philo Road.
3. The applicant stated at the hearing that the purpose for the subdivision is to allow the applicant to retain the existing barn and outbuildings (on Lot 1) in association with the farmhouse on the west side of Mount Philo Road, in which Lynn Mansfield resides. The intent of the applicant is to sell Lot 2.
4. The applicant has requested that the Planning Commission review the application under the provisions of Chapter VII Section 13.2 of the Subdivision Bylaws. With regard to this request, the Planning Commission finds the following:
 - A. The Town does not currently administer an “agricultural stabilization program.” The subject parcel is however enrolled in the Use Value Appraisal Program (ie: “Current Use”) administered by the Vermont Tax Department. The applicant stated on the application form and at the hearing that she intends to keep Lot 1 in the Use Value Appraisal Program in conjunction with the applicant’s property on the west side of Mount Philo Road. The applicant also stated on the application form and at the hearing that Lot 2 is for sale, and the new owner may or may not keep Lot 2 in the Use Value Appraisal Program.
 - B. The proposed easterly boundary of Lot 1 approximately follows the stream and wetland which run in a north/south orientation across the subject parcel.
 - C. Both Lot 1 and Lot 2 are proposed to have sufficient road frontage to meet the requirements of the Zoning Bylaws (Chapter IV Section 4.2.D.3).
 - D. The proposed plat includes a Note 6, which states “Neither Lot 1 or Lot 2 has been approved by the Town or the State of Vermont for sewage disposal. This subdivision was approved by the Town per Chapter VII Section 13.2 of the subdivision bylaws.” The applicant stated at the hearing that she understood that neither Lot 1 nor Lot 2 will be approved for sewage disposal.
 - E. The application includes a survey of Lot 1, which is proposed as a 10.02 lot. Lot 2, which is the remainder of the subject parcel consisting of approximately 115 acres, has not been surveyed. While Chapter VII Section 13.2.E. requires “a survey of the property to be subdivided,” the Planning Commission finds that a survey of Lot 2 would not serve a useful purpose, since no development is currently proposed, and Lot 2 far exceeds the minimum dimensional requirements of the Zoning Bylaws (Chapter IV Section 4.2.D).
5. Designation of open space is a requirement of Chapter VI Section 2.M of the Charlotte Subdivision Bylaws and Chapter V Section 5.15 of the Charlotte Zoning Bylaws.
6. The Charlotte Trails Committee recommended that the Planning Commission retain a floating trail easement and a small parking area on Lot 2. The Charlotte Conservation Commission had concerns about the location of a trail in wildlife habitat on the parcel.

Decision

Based on these Findings, the Planning Commission approves the application for a two-lot subdivision with the following conditions:

1. A mylar (18” x 24”) of the survey will be submitted to the Planning Commission for review within 60 days, and recorded in the Town Land Records within 90 days.
2. The conveyance deeds for Lot 1 and Lot 2 will include the language of Note 6 on the plat.

3. A Subdivision Amendment will be required at such time as development is proposed for either Lot 1 or Lot 2, including the designation of a building envelope, an access plan and a wastewater disposal plan.
4. If additional lots are proposed (ie: by further subdivision of either Lot 1 or Lot 2), a new Sketch Plan Review will be required, followed by an appropriate subdivision application based on the Sketch Plan Review classification.
5. The Planning Commission will not require open space to be designated at this time, however any future subdivision of either Lot 1 or Lot 2 will require the designation of open space. The total of 125 acres 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).
6. Prior to the conveyance of either Lot 1 or Lot 2, survey pins will be set as indicated on the survey.
7. Consideration of a floating trail easement and parking area will be deferred until future subdivision of Lot 2.

Additional Conditions: All plats, plans, drawings, 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.

You and any interested parties are entitled to appeal this decision to the Environmental Court within 30 days of the date of 4th signature below approving this decision, as per requirements of 24 VSA Chapter 117, Sections 4471 and 4475.

Members Present at the Public Hearing on March 4th: Jeff McDonald, Al Moraska, Gordon Troy, and Linda Radimer.

Members Present at the Public Hearing on April 1st: Al Moraska, Gordon Troy, John Owen and Linda Radimer.

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: _____