

CHARLOTTE PLANNING COMMISSION

FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

Charles P. Stearns

Preliminary Plat Hearing For A Major Subdivision Creating Six (6) Building Lots In a Planned Residential Development Application # PC-04-08

Background

The subject parcel of 33.21 acres was created in 1999 by a three-lot subdivision which created two building lots and one retained lot from 57 acres. Sketch Plan Review for the current project was held on October 2 and December 4, 2003.

Application

The application consists of:

1. An application form and appropriate fee.
2. A sheet entitled "Charles Stearns Subdivision, Spear Street, Charlotte, Vt., Project Description."
3. A map entitled "Preliminary Plat, Lands of Charles P. Stearns, 6889 Spear Street, Charlotte, Vermont" by Land Lines dated February 10, 2004, revised 2/13/04.
4. A map entitled "Topographic Base Plan, Lands of Charles P. Stearns, 6889 Spear Street, Charlotte, Vermont" by Land Lines (Michael Magoon) dated February 13, 2004, no revisions.
5. A plan entitled "Charles P. Stearns, Project Site Plan, Charlotte, Vermont, Dwg. 1 of 3" by JH Stuart Associates, dated January 26, 2004, no revisions.
6. A plan entitled "Charles Stearns, Wastewater Disposal Plan, Charlotte, Vermont, Dwg. 2 of 3" by JH Stuart Associates, dated January 2004, no revisions.
7. A plan entitled "Charles Stearns, Proposed Wastewater Plans, Charlotte, Vermont, Dwg. 3 of 3" by JH Stuart Associates, dated January 2004, no revisions.
8. A sheet entitled "Soil Test Results (7/24/03 and 1/07/04), Charles Stearns: Spear Street Extension".
9. A plan entitled "Charles Stearns, Charlotte, Vermont, Common Driveway Plan/Profile, Drawing 1A" by JH Stuart Associates dated February 2004, no revisions.
10. A plan entitled "Charles Stearns, Charlotte, Vermont, Fire Pond Site Plan/Cross Section, Drawing 1B" by JH Stuart Associates dated February 2004, no revisions.
11. A sheet entitled "Fire Pond Volume" by JH Stuart dated 2/04, no revisions.
12. A letter from John H. Stuart to Cole Realty dated April 15, 2004.
13. A memo (by e-mail) from David Mullin to Carl Cole dated February 3, 2004.
14. A draft document entitled "Conservation Agricultural Easement and Restrictions."
15. A draft document entitled "Declaration of Covenants, Easements and Restrictions,

Stearns Subdivision, Charlotte, Vermont.”

16. A draft document entitled “Roadway Agreement and Waiver.”

17. A draft document entitled “Fire Pond System Agreement, Waiver and Easement.”

18. A sheet entitled “Area Well Logs,” indicating the depth and yield of wells for Spadaccini, Masterson, Webbe and Goodwin.

Public Hearing

A public hearing for this application was opened on March 4, 2004 and continued on April 15, 2004 and May 6, 2004. A site visit was held on April 15, 2004. Charles Stearns and Carl Cole were present at all meetings representing the applicant.

Adjoining property owners and other interested parties were present on the following dates:

March 4: Chris Metivier, James Metivier, Kim Spadaccini, Michael Fath, Jenny Gundy, Eleanor Russell (Selectboard), Linda Hamilton (Conservation Commission)

April 15: Kim Spadaccini, Michael Fath, Jenny Gundy, Eleanor Russell (Selectboard), Linda Hamilton (Conservation Commission)

May 6: Eleanor Russell (Selectboard), Linda Hamilton (Conservation Commission), Robert Hyams (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 subject parcel is 33.21 acres, and has been used primarily for agricultural purposes. There are remnants of structures associated with a saw-mill on the parcel however these are not currently in-use.
2. The area immediately adjacent to Lewis Creek is in the Conservation District and the rest of the parcel is in the Rural District. Map 6 in the Charlotte Town Plan indicates there is a major wildlife linkage along Lewis Creek and forest habitat associated with the wooded portion of the parcel. There are Class Two wetlands along Lewis Creek, and a Class Three wetland closer to Spear Street. Map 13 in the Town Plan indicates wildlife value areas and crossings are located along Spear Street to the east of the parcel.
3. The fields on the parcel have Statewide Soils, but do not have Prime Soils. They are of a quality, size and configuration that make them marginally suitable for commercial agricultural purposes, but they appear to be well-suited for non-commercial agricultural use. Additionally, the fields provide supporting wildlife habitat and contribute to the scenic rural character of the area.
4. In considering the quality and quantity of the resources on the parcel, the Planning Commission views wildlife habitat as the primary resource and the agricultural fields as the secondary resource on the parcel.
5. The area in the vicinity of the project is rural in character, with medium distance views of

rolling farmland and woods. Existing dwellings in the vicinity of the project are generally dispersed, although there are some small clusters of dwellings in the immediate vicinity. Most of the existing dwellings in the vicinity of the parcel that are visible from Spear Street are relatively modest in size.

6. Because the parcel is over 25 acres in size, Section 5.15 of the Zoning Bylaws and Chapter VI Section 2.M. of the Subdivision Bylaws require the Planning Commission to review the application under the Planned Residential Development (PRD) provisions.
7. The proposed layout, as indicated on the plat dated 5/24/04, provides a common lot (Lot 2) of 19.92 acres, of which 16.97 acres would be conserved by an appropriate agreement with the Town. Additionally, over four acres of Lot 5 (which encompasses the southern field) is also proposed to be conserved by an appropriate agreement with the Town. Lots 1, 3, 4, 6 and 7 are proposed to be between .81 and 2.87 acres. This layout will result in the conservation of the primary resource on the parcel, ie: the wildlife area adjacent to Lewis Creek, and will also allow for conservation and continued use, albeit non-commercial, of the agricultural resource on the parcel.
8. The proposed layout, although generally acceptable, requires some adjustments in order to provide for clarity of use and protection of resources.
9. The provision of affordable housing had been discussed during Sketch Plan Review. The original Sketch Plan Application proposed four large building lots; this was amended during the review to five building lots and one common lot in conformance with the PRD requirements in the bylaws. At the completion of Sketch Plan Review the Planning Commission indicated that it would consider allowing an additional building lot if one lot is designated for affordable housing. The Preliminary Plat Application added a sixth building lot, and the application form states that one lot will be available for two units of affordable housing. The Planning Commission finds that the provision of affordable housing has been an integral element of this application to date, and that elimination of this element would constitute a substantive change, necessitating a new Preliminary Plat Application.
10. There has been an indication of low yields from drilled wells in the vicinity of the project. The applicant has provided minimal information about well yields on adjoining properties.
11. The septic areas for all of the building lots are proposed to be located on a privately-owned lot (ie: Lot 5) rather than a common lot.
12. Some details for the wastewater systems were not included in the Preliminary Plat Application, and were not provided in response to requests by the Town's wastewater consultant.
13. The proposed water and wastewater systems will need a permit from the State of Vermont. Because of the complicated nature of the project, this permit should be obtained prior to submission of the Final Plat Application.
14. A letter from April Moulart of the Vermont Agency of Natural Resources dated December 26, 2003 states that the wetland near Spear Street is not a Class Two wetland, but may be a Class Three wetland, which would be under the jurisdiction of the Army Corps of Engineers.
15. The project proposes two accesses, one which is an upgrade of the driveway serving the Webbe residence, which will become a private road serving Lots 3-7; and the other is an upgrade to an existing agricultural access, which will become a driveway for Lot 1. The

Planning Commission has a long-standing policy of minimizing the number of access points to a project, however the Planning Commission finds that this access plan is appropriate in order to minimize the amount of land devoted to roadway and driveway, and maximize the amount of open land.

16. The applicant submitted the following revised maps during the hearing:
 - A. A map entitled "Charles Stearns, March 4, 2004, Alternative A," no author.
 - B. A map entitled "Charles Stearns, March 4, 2004, Alternative B," no author.
 - C. A map entitled "Topographic Base Plan, Lands of Charles P. Stearns, 6889 Spear Street, Charlotte, Vermont" by Land Lines (Michael Magoon) dated February 13, 2004, revised 4/14/04.
 - D. A map entitled "Preliminary Plat, Lands of Charles P. Stearns, 6889 Spear Street, Charlotte, Vermont" by Land Lines dated February 10, 2004, last revised 4/28/04.
 - E. A map entitled "Preliminary Plat, Lands of Charles P. Stearns, 6889 Spear Street, Charlotte, Vermont" by Land Lines dated February 10, 2004, last revised 5/24/04.

Decision

Based on these Findings, the Planning Commission approves the Preliminary Plat Application for the proposed seven-lot subdivision with the following conditions:

1. All maps or plans submitted with the Final Plat Application that are revised from the Preliminary Plat Application will include a revision date.
2. The maps and plans submitted with the Final Plat Application will conform with the Preliminary Plat revised on 05/24/04, with the following amendments:
 - A. All maps and plans:
 1. The building envelope for Lot 6 will be amended so that the northern boundary is at least 20 feet from the southern edge of the sewer line easement in favor of K. Spadaccini and C. Masterson.
 2. The building envelope for Lot 7 will be amended so that the southern boundary of the envelope is 150 feet from the northern lot-line of Lot 7. The northern lot-line for Lot 7 may be moved slightly to the south.
 3. The turnaround at the southern terminus of the proposed access road may be moved to the south of the sewer line main easement in favor of K. Spadaccini and C. Masterson.
 4. The southern portion of Lot 5 which includes the existing and proposed sewage disposal easement areas and the area designated as open space will be annexed to Lot 2.
 5. The portion of Lot 2 currently depicted as a strip between Lot 5 and Lot 7 will be merged with either Lot 5 or Lot 7.
 6. The southern portion of Lot 2 will become a new lot (to be commonly owned).
 7. Buildings that do not currently exist will be removed.
 - B. Survey plat by Land Lines (last revised 5/24/04):
 1. The portion of the common lot (Lot 2) to be under Conservation Agricultural Easement and Restrictions will be delineated and labeled.
 2. Existing and proposed sewage disposal easements will be clarified.
 3. A pedestrian easement for Lot 1 and Lots 3-7 will be added to southern

- common lot (currently labeled Lot 2).
- 4. A signature block for the Planning Commission will be added.
- 5. Note 8 will be corrected.
- C. Topographical map by Land Lines (last revised 4/14/04)—lines types for Lewis Creek and wetlands will be differentiated.
- D. Sheet 1 of the Wastewater Plan by JH Stuart (dated January, 2004):
 - 1. “Existing Ground Contour (see Note 4)” in Legend will be corrected.
 - 2. A note will be added referring to the Landlines survey for additional information and conditions on the subdivision.
 - 3. Well shields (showing required isolation distance) will be added.
 - 4. A signature block for the Planning Commission will be added.
- E. Sheet 2 of Wastewater Plan by JH Stuart (dated January, 2004):
 - 1. A signature block for the Planning Commission.
 - 2. A note will be added referring to the Landlines survey for additional information and conditions on the subdivision.
- F. Sheet 3 of Wastewater Plan by JH Stuart (dated January, 2001): Details will be added for the force main crossing of road and driveways.
- G. Sheet 1A by JH Stuart (dated February 2004): All proposed drainage improvements (ie: ditching, rip-rap) will be depicted.
- 3. The Final Plat Application will include a contract to sell at least one proposed building lot to a not-for-profit housing organization for two units of perpetually affordable housing. The Planning Commission prefers that Lot 1 be the designated affordable housing lot.
- 4. A new drilled well will be installed in the location of one of the proposed wells prior to submission of the Final Plat Application. The Planning Commission will consider the yield of this well in evaluating the Final Plat Application.
- 5. The applicant will obtain a State permit for wastewater disposal for all proposed lots prior to submitting the Final Plat Application.
- 6. The Final Plat Application will include a letter from the Army Corps of Engineers indicating that the project will meet the rules which govern Class Three wetlands.
- 7. The Final Plat Application will include an executed right-of-way for access and utilities from Richard Webbe.
- 8. The applicant will obtain Access Permits from the Selectboard for all proposed curb-cuts prior to submission of the Final Plat Application. This includes an upgrade of the existing Webbe driveway to serve as a private road, and an upgrade of the agricultural access to serve as a driveway for Lot 1.
- 9. The Final Plat Application will include a written review from the Charlotte Fire and Rescue Department, addressing in particular the fire pond and dry hydrant system, design of pull-off, access to dry hydrant, and road grade.
- 10. As part of Final Plat Review, the Planning Commission will evaluate structures in the vicinity of the project in order to determine appropriate size and scale limits for new structures in order that they will be compatible with the neighborhood.
- 11. The Final Plat Application will include final drafts in paper and electronic formats (MS Word) of the following documents:
 - X Conservation and Agricultural Easement and Restrictions
 - X Roadway Agreement and Waiver
 - X Fire Pond Agreement, Waiver and Easement

- X Declaration of Covenants which will include a provision regarding rights to use the pedestrian easement and common land, and a provision that addresses the allowed uses in the vicinity of the wastewater systems, as well as the maintenance (including mowing) around the systems.
- X Sample conveyance deed that includes easements for use of common facilities (road, fire pond system, common land, sewage system and force main on common land) and reference to Declaration of Covenants.

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.

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 15th: Jeff McDonald, Al Moraska, Gordon Troy, Robin Pierce, Linda Radimer and John Owen

Members Present at the Public Hearing on May 6th: Jeff McDonald, Al Moraska, Jim Donovan, Gordon Troy, Linda Radimer, and John Owen

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: _____