

CHARLOTTE PLANNING COMMISSION

FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

**Arthur, Gary and Sheila Burleigh, Property Owner
The Nature Conservancy, Applicant**

Final Plan Hearing For A Two-Lot Subdivision Application # PC-08-30

Background

Sketch Plan Review (PC-08-21) was held on August 7, 2008, and a site visit was also held on August 7 prior to the review. 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 November 20, 2008. Joan Allen (of The Nature Conservancy) and Sheila Burleigh represented respectively the applicant and property owner at the hearing.

Regulations in Effect

Town Plan, amended March, 2008

Land Use Regulations adopted March, 2006.

Recommended Standards for Developments and Homes adopted September, 1997

Findings

1. The Burleigh Farm consists of a parcel approximately 201 acres in size located primarily within the Rural District, with a small portion located within the Conservation District.
2. The farm is in active agricultural use. A single family dwelling and farm buildings are currently located on the parcel.
3. The proposal is to subdivide the parcel into two lots: Lot 1 (78 acres) is to be retained by the Burleighs and continue to be farmed, and a conservation easement is to be conveyed to the Vermont Land Trust; and Lot 2 (123 acres) is to be conveyed to The Nature Conservancy, and a conservation easement is to be conveyed to the Vermont Housing and Conservation Board.
4. *Areas of High Public Value* (as listed in Table 7.1 of the Charlotte Land Use Regulations) include the following:
 - A. Agricultural Use: the parcel is in active agricultural use as a dairy farm.
 - B. Agricultural Soils: there are extensive “statewide soils” and some “prime soils”

- on the parcel.
- C. Slopes: the town's data indicates there are slopes in excess of 15% on parts of the property, and there may be a few areas with slopes greater than 25%.
 - D. Surface waters and wetlands: the town's wetland map (Map 7 in the Town Plan) indicates extensive wetland along the eastern portion of the parcel. Also, two streams (unnamed) cross the property and converge near the southwest portion of the parcel.
 - E. Critical wildlife habitat: there is extensive critical wildlife habitat on the parcel, as indicated on Map 6 of the Charlotte Town Plan.
 - F. Scenic views and vistas: Spear Street is a "most scenic road" on Map 13 in the Town Plan.
 - G. Adjacent conserved land: the A. Johnson parcel to the south and southeast is conserved by a town-held open space agreement; and a little over nine acres on the west side of Spear Street across from the Burleigh farm is conserved by a town-held open space agreement that was created in association with a previous subdivision by the Burleighs (Cedarcrest at Spear).
5. While the Planning Commission normally prioritizes *areas of high public value* when reviewing proposed subdivisions for the purpose of determining whether projects will create undue adverse impacts on the most important areas and also to minimize impacts on those areas, the fact that virtually the entire parcel will be conserved as a result of this project (with the exception of the homestead and barn area) makes such prioritization unnecessary. The proposed subdivision (and resulting conservation easements) will serve to protect all areas of high public value on the parcel.
 6. At Sketch Plan Review, the Planning Commission waived the requirement for submitting wastewater disposal information for Lot 2, however Section 7.7(C)(7) of the Charlotte Land Use Regulations requires that appropriate notice be added to the plat.
 7. The applicant has obtained a Wastewater System and Potable Water Supply Permit (WW-138-0824).
 8. The applicant has obtained a Land Use Permit (Act 250) Administrative Amendment (#4C0778-2).

Decision

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

1. The plat will be revised as follows:
 - A. In Easement Note E-3, the width of the easement will be indicated.
 - B. A note will be added as required by Section 7.7(C)(7) of the Charlotte Land Use Regulations indicating that "Lot 2 has not been approved for sewage disposal."
 - C. A note referencing the proposed conveyance of conservation easements to the Vermont Land Trust and the Vermont Housing and Conservation Board will be added, and the proposed excluded land (5.5 acres) will be depicted.
 - D. A signature line will be added as follows: "Subdivision approval by resolution of the Planning Commission, Charlotte, Vermont on the _____ day of _____, 200_, subject to all requirements and conditions of said

- resolution. _____ (Chair or Vice Chair) _____ (date).”
2. Two paper copies (one full size and one 11”x 17”) and a mylar (18” x 24”) of the revised plat will be submitted to the Planning Commission for review within 160 days.
 3. Prior to the submission of the mylar in accordance with Condition 2 above, the applicant will submit a letter from the surveyor indicating he has set the survey pins in the field as indicated on the survey. If the survey pins cannot be set at this time because of frozen ground, the applicant shall submit a letter from the surveyor indicating that he will set the pins when the ground thaws and has been paid to do so.
 4. Within 180 days, the applicant will record in the Charlotte land records the mylar identified in Condition 2 above, the conveyance deed to The Nature Conservancy and the conservation easement to the Vermont Housing and Conservation Board after adding the appropriate map slide number of the recorded mylar into the documents.
 5. The conservation easement to be conveyed to the Vermont Land Trust will be executed and recorded in the Charlotte Land Records prior to the conveyance of any other interest in Lot 1. The conservation easement will reference the map slide number of the mylar.
 6. All new roads and driveways shall 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 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 November 20: Jeff McDonald, Jim Donovan, Linda Radimer, Peter Joslin, Ellie Russell, 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: _____

APPENDIX A

The following items were submitted with the application:

1. An application form; the fee was waived by the Selectboard on July 28, 2008.
2. A survey by Timothy R. Cowan entitled “The Nature Conservancy, Burleigh Farm Purchase, Spear Street Extension, Charlotte, Vermont” dated September 12, 2008, revised on 9/24/08.
3. A map by Joan Allen entitled “Final Subdivision Application: Conveyance of the Buleigh Forest and Wetland to the Nature Conservancy” dated August 18, 2008, no revisions.
4. A letter from Joan Allen to Dean Bloch (c/o Tom Mansfield) dated October 14, 2008.
5. A memo entitled “Final Application: Sale of Burleigh Forest and Wetland to The Nature Conservancy; RE: Request from the Planning Commission to consider creating a parking pull-off along Spear St., for public access.”
6. A letter from Arthur, Gary and Sheila Burleigh to the Charlotte Planning Commission dated August 18, 2008.