

CHARLOTTE PLANNING COMMISSION

FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

Thomas and Gwendolyn Zweber
950 Spear Street

Final Plan Hearing
For A
Two-Lot Subdivision
Application # PC-11-22

Background

The Planning Commission conducted Sketch Plan Review on July 7, 2011 (PC-11-16) and classified the project 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 October 6, 2011. The applicant was represented by _____. _____ was also present and participated in the hearing.

Regulations in Effect

Town Plan amended March, 2008

Land Use Regulations amended November, 2010.

Recommended Standards for Developments and Homes adopted September, 1997

Findings

1. The applicant's property is an approximately 125.5 acre parcel located the west side of Spear Street within the Rural and Conservation Districts.
2. The parcel has not previously been subdivided under the Town's subdivision bylaws or Land Use Regulations.
3. A single-family dwelling is currently located on the parcel.
4. The proposed subdivision will create two lots: Lot 1 is a 96 acre lot that includes the existing single family dwelling, and Lot 2 is a building lot of 29.50 acres.

Section 7.2—Areas of High Public Value

5. The following areas of high public value (as listed in Table 7.1 of the Charlotte Land Use Regulation) are located on or in close proximity to the parcel:

- A. Agricultural use: Two fields totaling approximately 50 acres on the north-central and northwesterly portion of the parcel are being hayed. (Indicated by the applicant and evident from ortho-photos)
 - B. Agricultural soils: Two areas near Spear Street have prime agricultural soils. Much of the rest of the parcel, except for some portions adjacent to Mud Hollow Brook and the unnamed tributary that runs parallel to Spear Street and a pocket near the existing dwelling, have statewide agricultural soils. (From NRCS data)
 - C. Steep slopes: Some of the banks of Mud Hollow Brook and the unnamed tributary have slopes greater than 15%. (From CCRPC data)
 - D. Flood hazard areas: A special flood hazard area has not been officially designated for Mud Hollow Brook, however, it is likely that the parcel includes area that would be so designated.
 - E. Surface waters: Mud Hollow Brook and an unnamed tributary (and associated setbacks and buffers) flow through the southeastern and south-central portions of the parcel. Wetland and associated buffer are also located on the parcel.
 - F. Wildlife habitat: Forest habitat is located on most of the southern and eastern portions of the parcel, and a wildlife road crossing is likely to be located at the culvert under Spear Street for Mud Hollow Brook. (From Town Plan Map 6, and a wildlife evaluation by Native Geographic submitted by the Charlotte Land Trust)
 - G. Scenic views: Spear Street in the vicinity of the parcel is labeled a “most scenic road” on Map 13 of the Town Plan.
 - H. Conserved land on adjacent parcels: The parcel itself is conserved by an easement held by the Charlotte Land Trust; the easement allows for one additional dwelling, which is what is being proposed with the current application. The Beldock parcel on the east side of Spear Street is conserved by an easement held by the Vermont Land Trust. The Dickerman parcel to the south is conserved by an easement held by the Charlotte Land Trust. The Post parcel to the southwest is under a town-enforced Open Space Agreement.
6. Considering the resources on and adjacent to the parcel, the Planning Commission finds that surface water (including the streams and adjacent wetland, setbacks and buffers) and wildlife habitat associated with Mud Hollow Brook are the most important areas of high public value on the parcel. On the western portion of the parcel these two features are co-located as clayplain forest, which may be of statewide significance (Native Geographic, page 2). These are the resources that most strongly characterize the property, and which the Planning Commission feels are the most important to protect during the subdivision process.

Section 7.3—District Standards

- 7. The proposed layout will impact some forest wildlife habitat, but it avoids impacting the higher quality forest and aquatic habitat associated with Mud Hollow Brook. It also avoids impacting the steep slopes, agricultural resources, scenic view along Spear Street, and conservation goals of the adjacent conserved parcels.

Section 7.4—Compatibility with Agricultural Operations

8. The application has minimized conflicts with agricultural operations by locating Lot 2 on the eastern portion of the parcel.
9. The proposed well is located more than 200 feet from the agricultural area. (check)
10. The protective isolation distance for the proposed well is located entirely on land owned by the applicant. (check)

Section 7.5—Utilities

11. The application will not create an unreasonable burden on existing or planned municipal and educational facilities and services.
12. Due to its small size, the project does not trigger a requirement for a fire pond and dry hydrant or designation of a park, playground, trail or other recreation area.

Section 7.6—Water Supply

13. The application proposes that an existing well will serve Lot 1 and a new individual well will serve Lot 2.
14. The applicant has also submitted an application for a Wastewater Disposal and Potable Water Supply Permit. The Town's consultant has indicated that this application meets the Wastewater System and Potable Water Supply Rules.
15. As stated above, the protective isolation distance for the proposed well is located entirely on land owned by the applicant.
16. At Sketch Plan Review, an adjoining property owner stated that she believed that adjoining properties have some rights to water or water lines on the Lawrence/Billard parcel.
17. The plat submitted with the application includes deed references of rights that were granted previously. The plat also states that some of these rights may no longer be valid, although the rights granted in book 30 page 114 are believed to still be in effect.

Section 7.7—Wastewater Disposal

18. The applicant has submitted an application for a Wastewater Disposal and Potable Water Supply Permit. The Town's consultant has indicated that this application meets the Wastewater System and Potable Water Supply Rules, and the permit is likely to be issued shortly.

Section 7.8—Stormwater Management & Erosion Control

19. Due to the limited nature of this project and the relatively flat topography, a stormwater management plan or system and an erosion control plan are not necessary.

Section 7.9—Landscaping & Screening

24. Due to the limited nature and proposed layout of this project, landscaping and screening are not necessary.

Section 7.10—Access

25. The applicant has obtained a Highway Access Permit (HAP-11-01) from the Selectboard for a new curb-cut on Lot 2.

26. The applicant has also proposed that the southernmost existing driveway (which is located on what will be Lot 1) will be removed, as indicated on the submitted site plan. This will result in no net increase of curb-cuts on Greenbush Road.

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 amended to address the following items:
 - A. Lot boundaries will be depicted at the edge of the Greenbush Road right-of-way.
 - B. Lot acreages calculated to the center line of Greenbush Road will be removed.
 - C. The survey pin at the northwest corner of the Buxton parcel which is currently labeled "Iron pin not found" will be changed to "to be set".
 - D. A note will be added to cross-reference the site plan, which will also be recorded.
2. The site plan will be amended so that lot boundaries and acreage match the amended survey, and a note will be added to cross-reference the survey.
3. One paper copy (11"x 17") and a mylar (18" x 24") of the survey plat as amended by Condition #1 and a mylar of the site plan as amended by Condition #2 will be submitted to the Planning Commission for review and signature within 160 days. The applicant will record the signed mylars in the Charlotte Land Records within 180 days.
4. Prior to the submission of the mylars in accordance with Condition #3 above, the applicant will complete the following steps:
 - A. Submit a letter from the surveyor indicating he has set the survey markers in the field as indicated on the plat as amended by Condition #1 above. 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.
 - B. Record the Open Space Agreement as approved by the Town Attorney and Selectboard.
 - C. Obtain a Wastewater Disposal and Potable Water Supply Permit.
5. The deed conveying Lot 2 will include references to this Findings of Fact and Decision and to the Open Space Agreement.
6. The southernmost driveway on Lot 1 will be removed and seeded to grass from Greenbush Road to 60 feet west of Greenbush Road as soon as weather allows.
7. No new pole-mounted light fixture will be taller than 8' off the ground, and no new building-mounted light fixture will be taller 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.
8. All new utility lines will be underground.
9. The new driveway 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 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 October 6, 2011: Jeff McDonald, Jim Donovan, Linda Radimer, Peter Joslin, Eleanor Russell, Gerald Bouchard and Paul Landler

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 letter dated September 14, 2011 to Thomas Mansfield from Thomas and Gwendolyn Zweber authorizing Liam Murphy to act as signatory related to the property.
- 3. A plat by Keith R. Van Iderstine of McCain Consulting, Inc. entitled "Survey and Subdivision of a Portion of the Lands of James M. Lawrence and Judith Billard, Greenbush Road, Charlotte, Vermont" dated March 8, 2011, no revisions.