

**CHARLOTTE PLANNING COMMISSION
FINDINGS OF FACT AND DECISION IN RE APPLICATION OF**

**Beatrice M. Dike Trust et al
for a property located at 3015 Guinea Road**

**Final Plan Application for a
Minor Subdivision and Boundary Adjustment
Application #PC-14-07**

Background

A sketch plan review for this project was held on February 16, 2014. The project was classified as a Minor Subdivision and a Boundary Adjustment.

Application

Materials submitted with the application are listed in Appendix A.

Public Hearing

A public hearing for this application was held on April 17, 2014. Jeff Small and Rod Dike represented the applicant. John Butnor was unable to attend the hearing but submitted a letter of support for the project dated April 11, 2014 which was put on record.

Regulations in Effect

Town Plan, amended March, 2013

Land Use Regulations adopted November, 2010

Recommended Standards for Developments and Homes adopted September, 1997

Findings

1. The applicant owns a 30.4 acre parcel located at the northeast corner of the intersection of Guinea Road and Spear Street in the Rural zoning district. An existing single-family residence is currently situated on the parcel.
2. During the sketch plan review of this project, the applicant agreed to consider a boundary adjustment proposed by abutting property owners John & Kelly Butnor.
3. This application proposes to create a 3-lot subdivision and to allow a boundary adjustment between the Dike Trust parcel and the Butnor parcel. The new Lot 1 will be 5.56 acres and will include the existing single-family residence. Lot 2 will be 10.1 acres and Lot 3 will be 7.38 acres. A single-family residence is proposed for both Lot 2 and 3. The boundary adjustment will result in the conveyance of 7.39 acres to the Butnor parcel. This area is to serve as a natural buffer protecting forest and linkage habitat.

Applicable standards in Chapter VII of the Charlotte Land Use Regulations are reviewed below in Findings 4-18.

Sections 7.2 and 7.3—Areas of High Public Value

4. The parcel includes or is adjacent to the following areas of high public value:
 - A. Primary agricultural soils: Statewide agricultural soils are on about 50% of the parcel (from NRCS data) and are located in open field areas.
 - B. Steep Slopes: There are slopes in excess of 15% on the western and southern portions of the property.

- C. Surface Water: There is a mapped Class 2 wetland associated with the riparian corridor of a tributary to Lewis Creek on the northern portion of the parcel as indicated by Map 7 of the Town Plan.
 - D. Wildlife habitat: There is forest habitat on most of the eastern half of the property and linkage habitat between the forest habitat and the riparian corridor along Lewis Creek (Town Plan Map 6).
 - E. Conserved Land on Adjacent Parcels: Properties to the west and north have been conserved.
5. Considering the resources on the parcel, the Planning Commission finds that the following are the most important Areas of High Public Value associated with the parcel: the forested and linkage wildlife habitat and steep slopes. These are the resources that most strongly characterize the property and its vicinity, and are the features that the Planning Commission feels are most important to protect as it considers the proposed subdivision.
 6. Section 7.2(D) of the Regulations states “Development density shall be based on the allowed density for the zoning district(s) in which the subdivision is located. Areas of High Public Value can be used for development density unless the property has been conserved through a legal mechanism such as Grant of Development Rights, Conservation Easement, or Open Space Agreement.
 7. The allowed density for the Rural zoning district is 5 acres / dwelling unit.
 8. The applicant is proposing 3 dwelling units on 23 acres (30.5 acres minus 7.39 acres transferred to Butnor via boundary adjustment) and thus meets the district density requirements.
 9. The applicant has sited building envelopes so as to reduce impacts to the identified Areas of High Public Value.

Facilities, Services and Utilities—Section 7.5

10. The project does not meet the threshold of requiring a fire pond and dry hydrant because it creates less than six lots.

Water Supply—Section 7.6

11. The applicant has obtained a Wastewater System and Potable Water Supply Permit (WW-138-1406).

Sewage Disposal—Section 7.7

12. The applicant has obtained a Wastewater System and Potable Water Supply Permit (WW-138-1406).
13. Deed language pertaining to the location of a replacement septic field on Lot 2 for the benefit of Lot 1 has been provided.

Stormwater Management and Erosion Control—Section 7.8

14. The project’s relatively low density, dispersed layout and low lot coverage will allow for sheet flow and infiltration of stormwater run-off. No stormwater facilities are proposed and none will be required.
15. No development is permitted outside of the approved building envelopes.

Roads, Driveways & Pedestrian Access—Section 7.10

16. A Highway Access Permit (HAP-14-02) was issued on April 28, 2014 for the shared driveway to serve Lots 2 and 3.
17. The driveway will be built to meet the Recommended Standards for Developments and Homes adopted September, 1997. The finished driveway grade will not exceed 7%.
18. Deed language pertaining to the shared driveway between Lots 2 and 3 has been provided.

Decision

Based on these Findings, the Planning Commission approved the application for a Minor Subdivision and Boundary Adjustment subject to the following conditions:

1. Prior to revising the survey plat, the applicant will provide draft deed language pertaining to the area to be conveyed to Butnor. This language will recognize this area as an area to be kept in its natural state and in which cutting and clearing will be restricted and in which development and / or the storage of materials will not be permitted. This language will be subject to review and administrative approval by the Planning Commission. Alternatively, an Open Space Agreement can be executed with the Town for this area.
2. The survey plat will be revised as follows:
 - A. "TOAL DISTANCE" will be revised to read "TOTAL DISTANCE"
 - B. "Prencipal Use" will be revised to read "Principal Use"
 - C. Dimensions of building envelopes and distances from the two nearest property lines or survey markers will be indicated.
 - D. A note will be added which indicates that the area to be conveyed to Butnor is subject to restrictions as referenced in the deed or as per an Open Space Agreement with the Town of Charlotte.
 - E. Prior to or concurrent with the submission of the mylar, the applicant will submit a letter from the surveyor certifying the survey markers have been set in accordance with the plat.
3. One digital copy (pdf), two paper copies (one 11"x 17" and one full size) and a mylar (18" x 24") of the survey as amended by Condition #2 will be submitted to the Planning Commission for review and signature (of the mylar) within 160 days. The applicant will record the signed mylar in the Charlotte Land Records within 180 days.
4. The language pertaining to the replacement wastewater system will be included in the deeds for Lots 1 and 2.
5. The language pertaining to the shared driveway will be included in the deeds for Lots 2 and 3.
6. The new driveway will be non-white stone. all new driveways will be surfaced with non-white crushed stone.
7. Prior to the issuance of a Certificate of Occupancy on Lots 2 and / or 3, the applicant will submit a letter from a certified professional indicating that the driveway has been constructed in accordance with the approved plans. Similarly and is required by the Wastewater and Potable Water Supply permit, a certified professional will also provide a letter indicating that the Wastewater System and Well have been constructed in accordance with the approved plans.

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.

Vote of Members after Deliberations: The motion to approve was made by Mr. Joslin and seconded by Ms. Illick. Vote: 6-0 in favor.

APPENDIX A

The following items were submitted in association with the application:

1. An application form and the appropriate fee.
2. An agreement between John Butnor and the Beatrice M. Dike Trust dated January 23, 2014 indicating pursuit of a boundary transfer contingent on Town approval.
3. Draft deed language for Lots 2 and 3 pertaining to the shared driveway.
4. Draft deed language for Lots 1 and 2 pertaining to the replacement septic field for Lot 1 on Lot 2.
5. A Project Review Sheet from the State of Vermont's Department of Environmental Conservation.
6. A copy of the applicant's Wastewater System and Potable Water Supply Permit application (permit since issued WW-138-1406).
7. A letter of support from John Butnor dated April 11, 2014.
8. A 3-lot Subdivision and Boundary Line Adjustment Plat prepared by Button Professional Land Surveyors, PC dated 3/25/14.
9. A plan entitled "Site Plan" prepared by High Knob Design Associates LLC and dated 3/19/14.
10. A plan entitled "Water / Wastewater Plan" prepared by High Knob Design Associates LLC and dated 3/19/14.
11. A plan entitled "Details" prepared by High Knob Design Associates LLC and dated 2/19/14.
12. A map and list of abutting property owner names and addresses.