

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

**Gary and Mary Thibault
Final Plan Application for a 3-Lot Subdivision
of a parcel located at 1490 Carpenter Road
Application #PC-14-14**

Background

Gary and Mary Thibault own a 90.3 acre parcel identified as parcel number 00014-1490 and located east of the intersection of Dorset Street and Carpenter Road in the Rural Zoning District. A majority of the parcel (85.3 acres) is subject to an easement with the Vermont Land Trust which includes a 5.0 acre Homestead Complex with an existing single-family residence (proposed Lot 3) and a 9.7 acre Farmstead complex with a 3-unit apartment house and farm related outbuildings and 70.6 acres of protected property (proposed Lot 1). There is also an excluded 5.0 acre single-family residential lot on the parcel (proposed Lot 2). Sketch Plan Review for this project was held on March 6, 2014. The project was classified as a Minor Subdivision.

Application

Materials submitted with the application included the following:

- A Subdivision Application Form and appropriate fee,
- A list of abutting landowners,
- A portion of a tax map showing the subject parcel,
- A portion of a tax map showing the subject parcel overlaid on an orthophoto
- A copy of a map prepared by the Vermont Land Trust and dated March 2001 and
- An email from Mary Thibault dated June 4, 2014 indicating that Joe and / or Emily Donegan would represent the applicant at the hearing.

Public Hearing

A public hearing for this application was held on June 5, 2014. Joe Donegan attended the hearing and represented the applicants. There were no interested parties at the hearing and no correspondence was received from interested parties prior to the hearing.

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 90.3 acre parcel located east of the intersection of Dorset Street and Carpenter Road in the Rural zoning district. Two single-family residences, a 3-unit apartment house and farm outbuildings are currently situated on the parcel.
2. This application proposes to create a 3-lot subdivision. Lot 1 will be 80.3 acres and will include an existing 3-unit (6 bedroom) apartment house and farm outbuildings. Lot 2 will be 5.0 acres and will include an existing 3-bedroom single-family residence. Lot 3 will be 5.0 acres and will include an existing 4-bedroom single-family residence.
3. The area proposed for Lot 3 is currently subject to an easement with the Vermont Land Trust but is eligible for release from this easement.
4. There is no new development associated with this application.

CHARLOTTE TOWN CLERK'S OFFICE
RECEIVED FOR RECORD
This 17 day of July A.D. 2014
at 4 o'clock 00 minutes P m and
recorded in vol. 214 on page 66-68
Attest Sharon B. Balaban Town Clerk
asst

Applicable standards in Chapter VII of the Charlotte Land Use Regulations are reviewed below in Findings 4-17.

Sections 7.2 and 7.3—Areas of High Public Value

5. The parcel includes or is adjacent to the following areas of high public value:
 - A. Primary agricultural soils: Statewide agricultural soils cover a majority of the 90.3 acre parcel.
 - B. Agricultural use: The parcel and surrounding areas are in active agricultural use.
 - C. Surface water: There is a tributary to the Laplatte River which bisects a portion of the parcel, north of Carpenter Road. The Laplatte River is the property boundary for much of the parcel located south of Carpenter Road.
 - D. Wildlife habitat: The riparian corridor associated with the Laplatte River is identified as Critical Wildlife Habitat (Town Plan Map 6).
6. The Planning Commission finds that all of the Areas of High Public Value are resources that strongly characterize the property and its vicinity and are the features that the Planning Commission feels are important to protect as it considers the proposed subdivision.
7. The allowed density for the Rural zoning district is 1 dwelling unit per 5 acres and the newly created lots will be no less than 5 acres.
8. Building envelopes were not designated on the lots as the lots are already developed and with the exception of the protected 80.3 acre farm lot, are the minimum lot area for the zoning district.
9. Lot 3 is located almost entirely within the riparian corridor along the LaPlatte River. Charlotte's Land Use Regulations require a minimum 50' setback from all named streams and the currently developed portion of this lot is outside of this 50' setback. A forested buffer approximately 100 feet in width also exists between the developed portion of the lot and the LaPlatte River.
10. Any potential new development on the 80.3 acre farm lot will be within a 9.7 acre farm complex area as stipulated by the Vermont Land Trust.
11. The creation of the new lots is consistent with the existing settlement patterns as the residential and farm related structures are already in existence and no new development is proposed at this time.
12. The establishment of Lot 3 may parcelize the riparian habitat corridor; however, the existing developed area of this Lot is outside of the forested buffer.

Section 7.4 Compatibility with Agricultural Operations

13. The existing development on Lots 2 and 3 is located within 200 feet of an agricultural operation.

Section 7.6 and 7.7 Water Supply and Waste Disposal

14. The applicant has obtained a Wastewater System and Potable Water Supply Permit (WW-138-1411).
15. The replacement leachfield location for Lot 2 is located on Lot 1 and no easement language has been provided by the applicant.

Section 7.10 Roads, Driveways & Pedestrian Access

16. An existing driveway serving Lot 3 traverses Lot 1 and no easement or right-of-way language has been provided by the applicant.
17. This driveway is linear and runs along the edge of the farmstead complex boundary.
18. Per Section 3.2 of Charlotte's Land Use Regulations, the right-of-way or easement serving Lot 3 shall be at least 50 feet wide.

Decision

Based on these Findings, the Planning Commission approved the application for a 3-Lot Subdivision subject to the following conditions:

1. One digital copy (pdf), two paper copies (one 11"x 17" and one full size) and a mylar (18" x 24") of a survey plat 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.

- a. The plat will include:
 - i. A building envelope for Lot 3 which insures that existing setback requirements are met. The existing forested buffer will be maintained along the LaPlatte River and will not be included in the building envelope.
 - ii. A building envelope for Lot 2 which insures that existing setback requirements are met.
 - iii. The location of the replacement leachfield for Lot 2 subject to an easement on Lot 1,
 - iv. The driveway right-of-way / easement for Lot 3, and
 - v. Demarcation of lands subject to the Vermont Land Trust easement.
- 2. Concurrent with the submission of the mylar, the applicant will submit
 - a. A letter from the surveyor certifying the survey markers have been set in accordance with the plat.
 - b. A copy of the recorded release agreement letter from the Vermont Land Trust.
 - c. Draft easement language pertaining to the replacement wastewater system and affecting Lots 1 and 2. This language will be subject to review and approval by Planning & Zoning staff and will be included in the deeds for Lots 1 and 2.
 - d. Draft language pertaining to the driveway serving Lot 3. This language will be subject to review and approval by Planning & Zoning staff and will be included in the deeds for Lots 1 and 3.
 - e. "Right to Farm" easement language which will be included in the deeds for Lot 2 and 3.

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 June 5, 2014: Marty Illick, Jeff McDonald, Linda Radimer, Gerald Bouchard and Paul Landler

Vote of Members after Deliberations:

- | | | | | | |
|------------|------------------------|--------------------------------------|---------|--------------|------------------|
| 1. Signed: | <u>Marty Illick</u> | <input checked="" type="radio"/> For | Against | Date Signed: | <u>7-15-14</u> |
| 2. Signed: | <u>Jeff McDonald</u> | <input checked="" type="radio"/> For | Against | Date Signed: | <u>7.15.14</u> |
| 3. Signed: | <u>Linda Radimer</u> | <input checked="" type="radio"/> For | Against | Date Signed: | <u>7.15.14</u> |
| 4. Signed: | <u>Gerald Bouchard</u> | <input checked="" type="radio"/> For | Against | Date Signed: | <u>7-16-2014</u> |
| 5. Signed: | _____ | For / | Against | Date Signed: | _____ |
| 6. Signed: | _____ | For / | Against | Date Signed: | _____ |
| 7. Signed: | _____ | For / | Against | Date Signed: | _____ |