

PLANNING COMMISSION scheduled for August 6, 2015 at 7:50PM

General Information	
Applicant:	Scott Hardy
Application No.: PC-15-12	Parcel ID: M05B03L08.1 (197 Mutton Hill Drive)
Status of Applicant:	Landowner
Requested Action:	Minor Subdivision
Purpose:	2-lot Subdivision
Existing Zoning:	Rural
Location:	197 Mutton Hill Drive
Size:	Lot 1 – 5.06 acres (with existing single-family dwelling) Lot 2 – 5.03 acres
Existing Land Use:	Low Density Residential / Forest
Surrounding Land Use and Zoning:	North – Forest / MDR South – Forest / LDR East – Forest / Agriculture West – Road / LDR
Town Plan:	Rural Area Strategies - During development review, Areas of High Public Value will be identified and prioritized based on the qualities and relative values of each resource. This analysis will be site specific, but will also consider resources in a broader context as appropriate.
Permitting History:	3-lot subdivision 1987; subdivision amendment 1988
Applicable Regulations:	Town Plan 2013 Land Use Regulations 2010 Recommended Standards for Developments and Homes, 1997

Status Update:

At the last hearing, neighbors to the project raised questions regarding the Mr. Hardy’s rights to use portions of Mutton Hill Drive that were constructed outside of the originally approved ROW. The Town Attorney has opined that although Mr. Hardy may have prescriptive rights to use this ROW for the property *as is*, this does not give him the right to use this access to serve another lot. Mr. Hardy has indicated his intention to develop access to Lot 2 by using the originally approved ROW which runs parallel to Mutton Hill Drive. Plans for this access have not been provided for review.

There was also discussion regarding the wastewater system for Lot 2. A revised plan was submitted and reviewed and comments are provided below.

Chapter VII – Subdivision Review Standards

7.2 General Standards

Table 7.1: Areas of High Public Value (AHPV)

- Steep slopes – 15 to 25 % slopes on portion of property (red dolomite ledge)
- Wildlife habitat – wooded area mapped as forest habitat (and state habitat block)
- Water supply source protection area – part of SPA for Champlain Water District
- Conserved land on adjacent parcels – 202 acre parcel with frontage on Mount Philo Rd.

(B) Charlotte Town Plan & Regulations

During development review, AHPV will be identified and prioritized based on the qualities and relative values of each resource. This analysis will be site specific but will also consider resources in a broader context as appropriate.

Sketch review letter identified steep slopes and forest habitat as prioritized AHPV.

(C) Lot Layout

The applicant has proposed two standard 5 +/- acre lots. The lots meet the minimum size, frontage and density requirements for the zoning district.

(D) Density

Required density is 5 acres per dwelling unit and this is what is proposed. There will be no remaining density on the property.

(E) Building Envelopes

Proposed building envelope and house location are in line with existing settlement pattern.

7.3 District Standards

Staff supports the location of the building envelope and proposed house site for Lot 2 barring any changes associated with the technical review of the wastewater application. Staff notes that although the wooded portions of the lot are mapped as forest habitat (Town Plan Map 6), the location of the building envelope on the western half of the property and in line with the existing settlement pattern keeps much of the forest block intact. Though staff agrees that clustering of houses closer together may afford additional room for wildlife movement, staff believes the improvements will be minimal due to the location of the existing house on Lot 1 (almost centered on parcel) relative to the locations of existing houses on neighboring lots.

Staff does not support the newly proposed access to Lot 2 (see Foley letter dated July 15, 2015) which would be via a driveway that runs parallel to the existing Mutton Hill Drive within the originally approved 60' ROW and along the western boundary of Lots 1 and 2. Such a proposal may conflict with the following subdivision standards and a plan addressing these standards has not been submitted:

7.3(A) - ...Subdivisions of land shall, to the extent feasible

- (1) maintain and extend traditional or planned settlement patterns, including lot areas and configurations, building locations, and road networks;
- (2) maintain contiguous tracts of open land with adjoining parcels, including but not necessarily limited to Areas of High Public Value as defined under Section Subsection 7.2 (A); and
- (3) connect with and extend existing roads, trails, and utility corridors.

7.3(D) Rural, Shoreland & Conservation Districts.

Within the Rural, Shoreland and Conservation Districts, all subdivisions and associated site development shall be designed and reviewed according to the following standards:

- (2) Lot lines, infrastructure, and roads, driveways and utility corridors shall be located so as to not create any undue adverse impacts on Areas of High Public Value by the parcelization, fragmentation, isolation, or destruction of such areas.
- (3) Roads, driveways and utility corridors, to the extent feasible shall be shared, and located to follow existing linear site feature such as existing roads and utility corridors, tree lines, or field edges, and to avoid creating undue adverse impacts by fragmenting Areas of High Public Value.

Section 7.10 Roads, Driveways & Pedestrian Access

(B) Standards. All subdivision intended for development must meet the road, driveway, and pedestrian access standards set forth in Section 3.2.

Section 3.2 Road, Driveway and Pedestrian Access Requirements

(A) Access Requirement. Pursuant to the Act [§4412(3)], land development may be permitted on lots which have either frontage on a maintained state or Class I, II or III public road or public waters, in accordance with district frontage requirements, or with the approval of the Planning Commission, access to such a road or waters by means of a Class IV road, legal trail and/or a permanent easement or right-of-way at least 50 feet wide, *all in accordance with the standards of this section*.

(C) Access Management Standards. The following access management standards shall apply to all land uses and development within the town under the jurisdiction of these Charlotte Land Use Regulations:

- (1) No lot may be served by more than one (1) access (curb cut), except for:
 - (a) a lot for which it is determined, subject to subdivision, site plan, or conditional use review, that one or more additional accesses are necessary to ensure vehicular and pedestrian safety; or
 - (b) instances in which strict compliance with this standard, due to the presence of one or more physical constraints (e.g., streams, wetlands, steep slopes) would result in adverse environmental impacts or a less desirable site design and layout than would be otherwise possible.
- (4) New driveways and roads should be located to achieve appropriate sight distances, at least 125 feet (on center) from the intersection with a private road, and at least 225 feet (on center) from an intersection with a public road.
- (5) The width of a proposed driveway, road or parking area shall not exceed the applicable state standard (B-71, A-76 as most recently amended) for the proposed use.
- (6) Shared access is encouraged, and *may be required for development subject to subdivision*, site plan or conditional use review. During subdivision review, site plan review, or conditional use review an access may be eliminated, combined, or relocated to meet the requirements of these regulations.

(D) Roads and Driveways. Driveways, which may serve up to two (2) lots, and private roads, which serve three (3) or more lots, must be designed and constructed to meet the standards as set forth in the Town of Charlotte's "Road and Driveway Standards" as most recently amended.

(2) Design. All roads, driveways and intersections shall be designed and constructed in accordance with the Town of Charlotte "Road and Driveway Standards" as most recently amended, and the following:

- (a) In evaluating use of an access, the *Planning Commission* may consider the intended use of the property, safety, traffic, road and site conditions in granting, conditioning or denying access approval. Conditions imposed by the Commission may include, but are not limited to, agreements that the town shall not be required to provide school busing beyond the public right-of-way, and that the owner of the property shall have the responsibility to upgrade and maintain the right-of-way for access by emergency vehicles.
- (b) Roads and driveways should logically relate to topography to minimize site disturbance, including the amount of cut and fill required, and to produce usable lots, reasonable grades and safe intersections in relation to the proposed use of the land to be served by such roads.
- (c) Roads and driveways should be located to avoid fragmentation of and/or adverse impacts to areas of high public value listed in Table 7.1. Additionally, to the extent feasible, roads should follow existing linear features such as utility corridors, tree lines, hedgerows and fence lines.

- (d) Techniques for the preservation of scenic views and cultural features should be employed for the construction and maintenance of roads, including but not limited to the selection of visually compatible materials, the preservation of existing features, and appropriate management of vegetation within the road corridor. The use of surfacing material that minimizes driveway visibility and enhances surface permeability is encouraged, and may be required by the Commission or Board for development subject to subdivision, site plan, or conditional use review. A crushed stone or gravel surface is recommended.
 - (e) Roads and driveways should be designed to enhance the connectivity of the road network, particularly within village areas.
 - (f) The arrangement of lots and road rights-of-way in a proposed subdivision should allow for the future extension of roads to serve adjoining parcels and allow for efficient traffic circulation, access management, and emergency vehicle access. Proposed road easements shall be shown on the plat, and may be required to extend to the subdivision and/or property boundary.
 - (g) Shared driveways are encouraged, and may be required for development subject to subdivision, site plan or conditional use review. The owner of each lot upon which the common or shared driveway crosses shall provide a deeded easement to the benefited landowner which shall be recorded in the town land records.
- (3) Drainage. Stormwater management shall be provided to manage stormwater runoff from all proposed roads and/or parking areas in accordance with Section 7.8 of these regulations.
- (4) Maintenance. The maintenance of all roads not designated as a Class I, II or III Town Highways or a State Highway shall be the responsibility of the applicant and subsequent owners. The applicant shall supply evidence and assurance that such roads will be adequately maintained either by the applicant, lot owners or an owners' association via an acceptable legal mechanism. For developments involving access by a Class IV Town Highways or a legal trail, a road/trail maintenance agreement approved by the Selectboard shall be required in association with final subdivision approval.
- (6) Modification of Road & Driveway Standards. In the case of unusual topographic conditions or other circumstances which would make strict adherence to these standards a substantial hardship, or result in a safety hazard, the Planning Commission may modify the application of one or more standards under this section, providing that the applicant demonstrates that the proposed road or driveway is accessible to emergency vehicles, does not pose a threat to motorists or pedestrians, will not result in unreasonable maintenance requirements for property owners, and is designed in a manner that is consistent with other applicable standards of these regulations.

The applicant has not provided any design information related to the newly proposed driveway location for Lot 2 and is suggesting that the development and submittal of these plans be a condition of approval. Given the lack of general design information, drainage concerns and challenging topography (ledge), staff does not support such a condition.

The applicant has also not provided sufficient design information related to the proposed upgrades to that portion of Mutton Hill Drive that will serve 6 or more houses or the driveway serving Lot 1. Discussions have occurred in the field and modifications to road standards have also been discussed; however, site plans for road design do not reflect those discussions. Drainage concerns along Mutton Hill Drive coupled with slopes and

challenging soil conditions warrant a design completed by a professional engineer (Standards 3.2(D)(3) and (D)(6)).

7.5 Facilities, Services & Utilities

(B)Emergency Services. The Planning Commission, in consultation with the Charlotte Volunteer Fire and Rescue Service, shall ensure that the applicant provide adequate access, water storage and/or distribution facilities for fire protection in accordance with the Charlotte Fire and Safety Standards as most recently amended.

Neither the Planning Commission nor CVFRS has reviewed a revised plan that includes the location of the newly proposed access to Lot 2.

7.6 and 7.7 Water Supply and Sewage Disposal

A Wastewater and Potable Water Supply Permit application is currently under review. Technical deficiencies of concern relate to a lack of design information provided for the replacement wastewater system for Lot 1. Soils data should be provided to show that it meets the WW Rules since a State permit is now required. Sizing data and the system footprint will also need to be shown on the plan.

7.8 Stormwater Management & Erosion Control

(A) Subdivisions shall incorporate temporary and permanent storm water management and erosion control practices as appropriate for the type and density of proposed development and lot coverage to ensure that the subdivision and subsequent development does not result in soil erosion, the degradation of surface waters and/or hazards to properties within the vicinity. Accordingly:

- (1) All stormwater management systems shall be designed to:
 - (a) use natural drainage systems to the extent feasible, and minimize the need for system maintenance,
 - (b) maximize on-site infiltration and treatment of storm water, and minimize surface runoff,
 - (c) accommodate anticipated flows, including existing surface water runoff and total runoff generated by the proposed development at build-out, including anticipated flows from storm events,
 - (d) provide storage areas and treatment to manage flows and protect water quality; and
 - (e) avoid damage to adjoining properties and downstream drainage facilities.
- (2) The Planning Commission may require the submission of stormwater management and/or erosion control plans, prepared by a licensed professional, for all phases of development. Such plans shall incorporate accepted management practices as recommended by the state in the *Vermont Stormwater Management Manual*, and the *Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites*, as most recently amended, and identify the person(s) or organization responsible for system maintenance.
- (3) The applicant shall demonstrate that existing downstream drainage facilities will be able to accommodate any additional runoff from the subdivision. If increased runoff exceeds the capacity of downstream drainage, storage or treatment facilities, the Commission may require that the applicant phase the subdivision and/or delay construction until such capacity exists, or install off-site improvements as needed to increase downstream capacity.
- (4) The Planning Commission also may require project phasing to minimize the extent of soil disturbance and erosion during each phase of development.
- (5) Unless the applicant provides sufficient information that supports an alternative design, or the Planning Commission determines that it is appropriate to design for a less frequent event, all drainage facilities shall be designed for the following storm frequency:
 - Facilities only impacting subdivision system: 10 Year Storm
 - Facilities impacting town road system: 25 Year Storm
 - Facilities impacting state highway system: 50 Year Storm.

Drainage concerns along Mutton Hill Drive coupled with slopes and challenging soil conditions warrant a site design completed by a professional engineer that includes stormwater management considerations.

Section 7.9 Landscaping & Screening

The preservation of existing vegetation or additional landscaping and screening may be required by the Planning Commission as needed to:

- (1) preserve existing specimen trees, tree lines, or wooded areas of particular natural or aesthetic value;
- (2) provide vegetative buffers to protect water quality or other natural features, in accordance with Section 3.15;
- (3) provide a buffer between developed and undeveloped areas of the subdivision, or the subdivision and adjoining properties, to increase privacy, reduce noise or glare, or to establish a barrier between incompatible land uses, including between residential and agricultural uses in accordance with Section 7.4; and/or
- (4) establish or maintain a tree canopy along roads or pedestrian paths where the Planning Commission deems it appropriate.
- (5) The Commission also may require a three (3) year landscaping plan, and/or a bond or other surety acceptable to the Charlotte Selectboard, to ensure landscaping installation and maintenance.

The applicant has provided deed language regarding cutting of trees on Lots 1 and 2. Staff believes the language gives too much latitude for trees outside of the building envelope (i.e. views to Camel's Hump, solar siting). It prevents clearcutting (of entire lot?) but does not prevent areas of clearcutting related to the above. Cutting should be prohibited outside of the envelope and thinning should be allowed with appropriate guidelines to be provided by the applicant after consultation with a forester or similar professional.

Recommendations:

The application as presented cannot be approved. The Commission can continue the application to give the applicant the opportunity to complete the process. The applicant needs to address access to the second lot, improvements to portion of Mutton Hill Drive, and stormwater management and must do so via an engineered site plan. A designed replacement area for Lot 1 must also be shown on the plans.

Staff requests that future submittals be presented as a revised application package (i.e. all at once versus piecemeal) and that this package be provided at least one month in advance of a continuance date. The Commission may hire an independent consultant to assist in the review of future application materials, and this review would be paid for by the applicant as permitted under VSA Title 24, Section 4440(d) and Section 5.2(c) of Charlotte's Land Use Regulations. Earliest recommended continuance date 10/1/15 with a revised application package due no later than September 1, 2015.

Public Notice: N/A - This application was continued from 6/4/15, 7/2/15, and 7/16/15

Attachments: Sketch Review letter, Latest plan revisions (water and wastewater), J. Foley letter dated 7/15/15, C. Dingle letter dated 7/21/15

Prepared By: Jeannine M. McCrumb, Planner / Zoning Administrator 7/30/15