

**CHARLOTTE PLANNING COMMISSION
SUBDIVISION REVIEW
FINDINGS OF FACT AND DECISION**

**In re: Jonathan Couture, Preliminary Plan Application for a Major Subdivision / Planned Residential Development Amendment
Permit Application No. PC-15-14**

Introduction and Procedural History

This proceeding involves preliminary review of an application for a Major Subdivision Amendment submitted by Jonathan Couture & Kim Anderson and Tom & Nancy Smith for approval under the Town of Charlotte Land Use Regulations.

The application was received on June 1, 2015. A notice of public hearing was published in The Citizen on June 11, 2015 and was posted at the following three locations: town offices, The Brick Store and Spear's Corner Store. A copy of the notice was also mailed to all adjoining landowners on June 24, 2015.

The application was considered by the Planning Commission at a public hearing on July 2, 2015. Jonathan Couture represented the applicants at the hearing. Tom & Nancy Smith were present but did not participate in the hearing.

Exhibits

1. Application form and two page document outlining proposed Subdivision Amendment and Waiver Requests; stamped, addressed envelopes for adjoining landowners; Wastewater and Potable Water Supply Site Development Plan, prepared by Lincoln Applied Geology, dated June 5, 2015; Preliminary Survey Plat, prepared by Stuart Morrow, and dated April 2015; and required fee
2. Copy of PC-10-25 plat and decision

Regulations in Effect

Town Plan, amended March, 2013

Land Use Regulations adopted November, 2010

Recommended Standards for Developments and Homes adopted September, 1997

Findings

Background

1. Jonathan Couture & Kim Anderson own 18.81 acres (previously approved Lots 3, 4 and 5 of the Windever Farm Subdivision) and Tom & Nancy Smith own 6.8 acres (previously approved Lots 1 and 2 of the Windever Farm Subdivision) located off of Vineyard View Drive in the Rural zoning district.
2. These lots were created via a Planned Residential Development (PRD) Subdivision that was approved in 2010 (PC-10-25).

3. The purpose of the current application is to amend the prior approval to allow for boundary adjustments among the lots to “better suit the space and needs of the owners and potential buyers of remaining lots”. Lot 1 will acquire 2.2 acres of open space from Lot 3. Lot 1 will now be 4.08 acres in size. The old Lot 4 will merge with Lot 3 so that Lot 3 is now 14.94 acres. The old Lot 5 will now be split into two separate lots – Lot 4 which will be 1.52 acres and Lot 5 which will be 2.35 acres.
4. This preliminary plan application proposes no changes to the previously approved Open Space Area associated with the subdivision. That area consisted of all of Lot 4 outside of the building envelope (now part of Lot 3 and applicant wishes to retain additional envelope on Lot 3), and the eastern portions of Lots 2 and 3.
5. Sketch Plan Review for an amendment to this subdivision was held on September 18, 2014 and the layout for this amendment relied on considerations presented by the Commission in the Sketch Plan review letter dated October 16, 2014. The Town Planner reviewed the revised proposal and determined that a second Sketch Plan Review was not necessary. The project was classified as a Major Subdivision Amendment in accordance with Section 6.1(C)(4)(b) of the Charlotte Land Use Regulations (“Regulations”), and the project will remain a Planned Residential Development as provided in Chapter VIII of the Regulations.

Relevant standards in Chapter VII of the Charlotte Land Use Regulations are reviewed below in Findings 6-19.

7.2 General Standards

6. The following Areas of High Public Value (AHPV) were identified on the parcel:
 - a. Scenic views from Mt. Philo State Park and Mt. Philo Rd
 - b. Kimball Brook and the associated wetland and wildlife habitat linkage
 - c. Active agriculture on parcel to West (Numondo America) and conserved status of that parcel
7. In their previous decision, the Commission determined these areas were effectively protected through layout and building envelope placement, conservation of open space and the inclusion of 'right-to-farm' language in property deeds.
8. In their sketch review letter dated October 16, 2014, the Commission accentuated the importance of the wildlife linkage and the Kimball Brook wetland and riparian area on Lot 4 (now part of Lot 3) and stated that no further development including that associated with facilities, services and utilities would be permitted on this lot¹.
9. The proposed, amended lot layout is consistent with the previous approval and meets the dimensional standards for the Rural Zoning District with the following exception: Lots 1, 4, and 5 do not meet the minimum lot size requirement.
10. The subdivision was previously approved as a Planned Residential Development which allows for flexibility in lot size among other things; thus, Lots 1, 4, and 5 are permitted to be less than 5 acres in size.

¹ A trail easement has been granted along the southerly boundary of Lot 4 (now Lot 3). Any future trail will be designed so as to not create adverse impacts to this area.

11. There is one new building envelope which is proposed on the newly defined Lot 5. During a site visit to this property in September of 2014, the Commission determined that the location of a building envelope in this location would not result in an undue, adverse impact to scenic views or vistas.
12. The locations of surveying monuments and lot corner markers were identified on the preliminary subdivision plat submitted at the hearing.

7.2 General Standards

13. The applicant has proposed drainage easements on Lot 3 which will benefit Lots 4 and 5. The proposed easements terminate just west of a state mapped Class 2 wetland buffer area and if designed appropriately will not result in erosion and adverse effects to this resource.

7.6 Water Supply and 7.7 Sewage Disposal

14. The applicant has applied for an amendment to a previously approved Wastewater and Potable Water Supply permit (WW-138-1101-1).

7.8 Stormwater Management and Erosion Control

15. There is a new 75 foot by 115 foot building envelope and approximately 20 foot by 200 foot driveway / utility easement associated with the new Lot 4. This will result in the addition of 12,625 square feet (0.29 acre) of buildable area to the project.
16. The property in the vicinity of the buildable area is relatively flat and drains via sheet flow in a southeasterly direction towards the low, wetland area east of Vineyard View Drive.
17. The applicant has proposed drainage easements on Lot 3 which will benefit Lots 4 and 5. The proposed easements terminate just west of a state mapped Class 2 wetland buffer area and if designed appropriately will not result in erosion and adverse effects to this resource.
18. A determination as to the need for a state stormwater permit was not provided as part of this application.

7.12 Legal Requirements

19. The Town Attorney has indicated the following documents do not need to be revised as the underlying rights associated with them has not changed:
 - a. Trail Easement
 - b. Open Space Agreement
 - c. Roadway Agreement and Waiver
 - d. Sewer Service Agreement and Waiver

Relevant standards in Chapter VIII of the Charlotte Land Use Regulations are reviewed below in Findings 20-26.

8.4 (B) General Standards

20. One new building envelope is proposed on the newly defined Lot 5. During a site visit to this property in September of 2014, the Commission determined that the location of a building envelope in this location would not result in an undue, adverse impact to scenic views or vistas.

21. Only one (1) principal use or structure shall be located on a single lot, unless otherwise allowed as an agricultural use under Section 4.2(B), or an adaptive reuse under Section 4.3, a mixed use under Section 4.12, or with the approval of the Planning Commission, as part of a planned residential or planned unit development under Chapter VIII.
22. The applicant has indicated that the building envelope previously situated on Lot 4 and now proposed as a second envelope on Lot 3 may be used for an accessory structure or principal structure via transfer of development right from Lot 2.
23. The previously approved building envelope for the primary structure on Lot 3 has been reduced in size so that the net buildable area on Lot 3 equals that as approved under PC-10-25.

8.4 (C) Rural District Standards

24. This preliminary plan application proposes no changes to the previously approved Open Space Area associated with the subdivision.
25. This application proposes the addition of one building envelope to the subdivision.
26. The location of the new envelope does not create an undue adverse impact on the identified areas of high public value.

Conclusions

Based on the foregoing Findings of Fact, it is the conclusion of the Commission that the project described in the application and supporting materials, if completed and maintained in conformance with all of the terms and conditions of that application and as required below, will meet the development standards of the Charlotte Land Use Regulations.

Decision

Based on the foregoing Findings of Fact and Conclusions, the Planning Commission approves the preliminary application for a Major Subdivision / Planned Residential Development subject to the following conditions:

1. The survey plat will be revised as follows:
 - a. The location of the driveway serving Lot 4 will be added.
 - b. Note 4 referencing Lots 6 and 7 will be removed.
 - c. Note 5 will be revised to reflect the location and width of easements on Lots 3 and 4.
2. The applicant will obtain necessary state permits. A project review sheet will be submitted with the final application.
3. The Wastewater and Potable Water Supply Plan(s) will be revised to denote the revised building envelope and the proposed second envelope (previous Lot 4 envelope) on Lot 3.
4. The applicant will provide a design for the proposed stormwater drainage outfalls on Lot 3. The design will be prepared by an engineer or similar professional.

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 latest date of 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 July 2, 2015: Marty Illick, Jeff McDonald, Peter Joslin, Paul Landler and Gerald Bouchard.

Vote of Members after Deliberations: The following is the vote for or against the application, with conditions as stated in this Decision:

- | | | | | |
|------------|--------------------------|--|--------------|------------------|
| 1. Signed: | <u>Gerald A Bouchard</u> | <input checked="" type="radio"/> For / <input type="radio"/> Against | Date Signed: | <u>7/27/2015</u> |
| 2. Signed: | <u>[Signature]</u> | <input type="radio"/> For / <input checked="" type="radio"/> Against | Date Signed: | <u>7/27/2015</u> |
| 3. Signed: | <u>[Signature]</u> | <input type="radio"/> For / <input checked="" type="radio"/> Against | Date Signed: | <u>7-27-15</u> |
| 4. Signed: | <u>[Signature]</u> | <input type="radio"/> For / <input checked="" type="radio"/> Against | Date Signed: | <u>7/29/15</u> |
| 5. Signed: | <u>[Signature]</u> | <input type="radio"/> For / <input checked="" type="radio"/> Against | Date Signed: | <u>7/30/15</u> |
| 6. Signed: | _____ | For / Against | Date Signed: | _____ |
| 7. Signed: | _____ | For / Against | Date Signed: | _____ |