

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

In re: W. Terence Breen Family Trust and Breen & Shea Ventures LLC, Final Plan Application for a Minor Subdivision Amendment
Permit Application No. PC-15-24

Introduction and Procedural History

This proceeding involves review of an application for Minor Subdivision Amendment submitted by W. Terence Breen Family Trust and Breen & Shea Ventures LLC for approval under the Town of Charlotte Land Use Regulations.

The application was received on November 3, 2015. A notice of public hearing was published in The Citizen on November 19, 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 November 16, 2015.

The application was considered by the Planning Commission at a public hearing on December 5, 2015. Terry Breen, the applicant, and Scott Homstead, P.E. with Krebs & Lansing Consulting Engineers were present at the hearing.

Exhibits

1. Cover letter from Scott Homstead, application form, addressed envelopes for adjoining landowners, draft plat prepared by Larose Surveys, P.C. and dated July 30, 2015 showing revised boundaries for Lots 1 and 2, Wastewater Disposal Plans prepared by Krebs & Lansing and dated September 17, 2015 and required fee
2. Staff report dated November 29, 2015 which includes an Areas of High Public Value (AHPV) map
3. Minutes from 1991 Goetsch decision
4. PC-05-34 McDonald 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. Breen & Shea Ventures LLC owns a 35.3 acre lot (M06B03L23-0) and the W. Terence Breen Family Trust owns a 12.3 acre lot (M06B03L23-1). These lots are adjacent to one another and are located off Red Truck Lane in the Rural zoning district.
2. These lots were created via a 3-lot Subdivision that was approved in 1991 (Goetsch) and amended in 2005 (McDonald). The amendment resulted in the merging of Lots 2 and 3 into a single Lot 2.

3. The purpose of the current application is to amend the prior approval to allow for a boundary adjustment between Lots 1 and 2 to get all existing buildings onto Lot 2 and to retain a wastewater system on Lot 1 for future development. A building envelope has also been proposed for Lot 1. The new Lot 1 will be 30.2 acres and the new Lot 2 will be 17.4 acres.
4. Sketch Plan Review was deemed unnecessary by the Town Planner. The project was classified as a Minor Subdivision Amendment in accordance with Section 6.1(C)(4)(a) of the Charlotte Land Use Regulations ("Regulations").

Relevant standards in Chapter VII of the Charlotte Land Use Regulations are reviewed below in Findings 5-16.

7.2 General Standards

5. The following Areas of High Public Value (AHPV) were identified on the parcel:
 - a. Land in active agricultural use for hay and pasture (per applicant)
 - b. Primary (statewide) agricultural soils (NRCS data)
 - c. Surface waters, wetlands and associated setback and buffer areas (Town Plan Map 7 and ANR Atlas)
 - d. Mapped wildlife habitat (Town Plan Map 6)
6. The proposed lot layout conforms to applicable zoning district standards (Chapter II), general regulations (Chapter III) and specific use standards (Chapter IV). Lots will remain greater than 5 acres in size (minimum density requirement) and are served by a 60 foot right-of-way known as Red Truck Lane.
7. The locations of surveying monuments and lot corner markers were identified on the draft subdivision plat submitted at the hearing.

7.3 District Standards

8. A building envelope has been proposed for the new Lot 1 and is located south of an existing woods road and east of the wastewater disposal areas on the boundary between forest habitat area and agricultural field. This envelope is not depicted on the survey plat.
9. The applicants proposed a building envelope for Lot 2 that included all areas within the 50-foot setback area excepting the forest habitat south and west of the existing single-family dwelling. Lot 2 is improved with a 1-bedroom carriage house (accessory apartment) and a horse barn. An equipment barn is proposed in the future and may be considered an agricultural structure (serves 4 or more equines) which is permitted outside of the building envelope. The Commission recommended reducing the size of this envelope by moving the easternmost boundary to the edge of the pond area so as not to include the agricultural structures. The building envelope for Lot 2 was also not depicted on the survey plat.

7.4 Compatibility with Agricultural Operations

10. The proposed building envelope on Lot 1 is closer than 200 feet to the agricultural fields on the parcel.
11. The building envelope is situated on the edge of a wooded area at a slightly higher elevation than the agricultural field, so will be somewhat buffered from impacts from the agricultural operation.

12. A well was not permitted for Lot 1 and future development will require an amendment to the applicant's Wastewater and Potable Water Supply permit. The well shall be sited so as to not interfere with the agricultural use of the property.
13. Although the lot is currently proposed to be under common ownership by the applicant, notice of the agricultural operation should be included in any future conveyance deed for Lot 1.

7.6 Water Supply and 7.7 Sewage Disposal

14. The applicant has obtained a Wastewater and Potable Water Supply permit (WW-4-2182-1) for the project.
15. The wastewater disposal system, which is to serve Lot 2 is located on Lot 1. The land deeds that establish and transfer ownership of these parcels shall contain a legal easement which grants the purchaser(s) and any future owner(s) the right to enter upon the property for the construction, repair, maintenance and other such reasonable purposes as may arise regarding the wastewater disposal system.

7.10 Roads, Driveways & Pedestrian Access

16. The location of the driveway serving Lot 1 has not been presented at this time. Future development of that parcel will require an amendment to this subdivision permit at which time the final layout of the driveway will be reviewed. The Commission recommends that the driveway be sited to minimize impacts to the agricultural field(s) and forested areas.

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 application for a Minor Subdivision Amendment subject to the following conditions:

1. The survey plat will be revised as follows:
 - a. Building envelopes will be depicted on the subdivision plat
 - b. The parcel with the existing structures will be labelled Lot 2 and the 30.15 acre parcel will be labelled Lot 1.
2. Future conveyance deeds will be revised to include 'right-to-farm language' and to identify wastewater disposal system easements on Lot 1 benefitting Lot 2.
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 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. Prior to or concurrent with the submission of the mylar in accordance with Condition 3 above, the applicant will submit a letter from the surveyor indicating he has set the survey markers or pipes in the field as indicated on the plat.

5. This decision addresses amendments to relevant findings and conditions under previous decisions (Goetsch and McDonald). All other findings and conditions under those decisions shall remain in full force and effect.

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 December 3, 2015: Jeff McDonald, Peter Joslin, Gerald Bouchard, Charlie Pughe and Marty Illick.

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>12/17/2015</u> |
| 2. Signed: | <u>[Signature]</u> | <input checked="" type="radio"/> For / <input type="radio"/> Against | Date Signed: | <u>12/17/15</u> |
| 3. Signed: | <u>[Signature]</u> | <input checked="" type="radio"/> For / <input type="radio"/> Against | Date Signed: | <u>12-17-15</u> |
| 4. Signed: | <u>Charlie Pughe</u> | <input checked="" type="radio"/> For / <input type="radio"/> Against | Date Signed: | <u>12.17.15</u> |
| 5. Signed: | _____ | For / Against | Date Signed: | _____ |
| 6. Signed: | _____ | For / Against | Date Signed: | _____ |
| 7. Signed: | _____ | For / Against | Date Signed: | _____ |