

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

**Peter Schneider and Jessica Donovan
Final Plan Application for a 2-Lot Major Subdivision
for 124 Elfin Lane
Application # PC-18-106-SD**

Introduction and Procedural History

This proceeding involves review of the second and final application for a Major Subdivision submitted by Peter Schneider (the property owner) for approval by the Charlotte Planning Commission under the Town of Charlotte Land Use Regulations.

The original Preliminary Plan Application was received by the Charlotte Planning & Zoning Office on February 6, 2018 proposing to subdivide the 42.83-acre property located at 124 Elfin Lane within the Rural (RUR) District. A preliminary decision by the Planning Commission was rendered on June 15, 2018 after one public hearing that occurred on May 3, 2018 (further details are covered in decision **PC-18-08-SD**, which is recorded within the Charlotte Land Records; included within the Charlotte Planning & Zoning Office parcel and subdivision files; and posted on the Town of Charlotte website).

The applicant submitted the Final Plan Application to the Planning & Zoning Office on June 22, 2018. A notice of public hearing was published in *The Citizen* newspaper on June 28, 2018, electronically posted on the Charlotte Town website calendar, and posted in hardcopy at the following three locations: the Town offices, the Old Brick Store, and Spear's Corner Store on June 29, 2018. Fifteen (15) copies of the notice were also mailed to all known adjoining landowners (and known interested parties that participated in the Preliminary Plan hearings) on June 29, 2018.

The Final Plan Application was considered by the Planning Commission at one public hearing that was held on July 19, 2018.

Present at the July 19th hearing were the following members of the Planning Commission: Peter Joslin (Chair), Charlie Pughe (Vice Chair), Gerald Bouchard, Marty Illick, David Kenyon, Shawn Coyle, and Richard Eastman. Additional attendees and participants of the hearing included: Jessica Donovan, Bill Kallock, Jim Squires, the Charlotte Town Planner, and others.

The following Findings of Fact and Decision are based on the Final Plan proceedings, and the Preliminary Decision for **PC-18-08-SD**. This document primarily covers the items related to the conditions of the **PC-18-08-SD** decision for Peter Schneider and Jessica Donovan. All other details related to this subdivision project are covered within this preliminary decision document.

Exhibits

The following exhibits were submitted for the Final Plan Application:

1. Completed Subdivision Application;

2. Letter of support to the Town of Charlotte Town Planner, from Bill Kallock (Williams Hill Homeowners Association representative) confirming the support for the proposed subdivision of **Lot #1** and the intention of the homeowners' association to purchase and steward the newly divided open space lot under the current open space agreement and forest management plan (dated: July 12, 2018);
3. Letter of intent to the Town of Charlotte Town Planner, from Bill Kallock (Williams Hill Homeowners Association representative) confirming the agreement of the Homeowners' Association to purchase the open space parcel of the Williams Hill Subdivision (dated: July 19, 2018);
4. Revised Survey Map of "Final Plat – Subdivision Modification – Williams Hill Subdivision – Property of Jessica Donovan and Peter Schneider, Charlotte, Vermont" (dated Jan 2009 / updated 27 Jun 2018), Stuart J. Morrow (No. 565), Consulting Land Surveyor, Shelburne, Vermont;
5. Planning Commission Decision (PC-18-08-SD Schneider-Donavan); Peter Schneider and Jessica Donovan Preliminary Plan Application for a 2-Lot Major Subdivision for 124 Elfin Lane, final signature added on June 15, 2017;
6. Planning Commission Minutes from meetings held on; July 19, 2018 and May 3, 2018;

Regulations in Effect

Town Plan, 2018

Land Use Regulations, 2016

Recommended Standards for Developments and Homes adopted September, 1997

Findings

Outlined below are the three (3) conditions of the Preliminary decision (PC-18-08-SD) with the applicants' response to the condition and the subsequent findings of the Planning Commission:

1. The survey plat will be revised to reflect the following, the applicant shall: update the proposed boundary lines for **Lot #1** and **Lot #9**, add a label for the newly created **Lot #9**, and update the current property information (including references to adjoining properties).

Commission Findings: Where the information for **Lots #1** and **#9** were updated on the draft survey (see **Exhibit #4** above), the references for the adjoining property have not been updated (example: the property adjoining to the northwest is no longer owned by Moore and Rushford, but by Yergeau,¹ etc.). All adjoining property owners should be verified and updated. The condition has not yet been met.

2. A signed agreement from the prospective steward of the Open Space land will be included as part of the Final Plan Application.

Applicant Response: *"The Williams Hill HOA agrees to be stewards of the Williams Hill Open Space property. We will follow the guidelines set forth by Williams Hill covenants, the open space agreement and the forest management plan. We have demonstrated our willingness and ability to be stewards of this open space over the past 5 years, and look forward to continuing to do so as a community into the future."*

¹ Charlotte Land Records Volume 223, Pages 392-95 (20 May 2016).

Commission Findings: The above quote from **Exhibit #2** conveys the intent of the Williams Hill Homeowners' Association to steward the open space land, as well as the original forest management plan. The condition has been met.

3. A signed agreement from the Homeowners' Association to purchase the Open Space land (including a proposed schedule for organizing the purchase/conveyance of the property) will be included as part of the Final Plan Application.

Applicant Response: *"The undersigned, being the designated representative-owner from the Williams Hill Homeowners' Association, Ltd. (the "Homeowners' Association"), hereby confirms that all of the owners of sold lots at the Williams Hill Subdivision, acting by and through the Homeowners' Association, have reached an agreement on all essential terms with the original developers, Peter Schneider and Jessica Donovan, to purchase the Open Space Parcels at the Williams Hill Subdivision once they are subdivided off from the homesite area of Lot 1. The intent of this transaction is to title the Open Space Parcels in the name of the Homeowners' Association so that the Homeowners' Association can take responsibility for the ownership, maintenance and management of the Open Space Parcels for the benefit of all owners. We are in the process of completing our purchase and sale agreement and expect to close on the purchase as soon all necessary final permits are in place. We hope this letter clarifies the intent of the Homeowners' Association."*

Commission Findings: The above quote from **Exhibit #3** conveys the consensus and intent of the Williams Hill Homeowners' Association to purchase the open space land and states that the purchase will be closed after the final permit has been granted. The condition has not yet been met.

Decision

Based on the foregoing Findings of Fact and Conclusions, the Planning Commission approves the application for a 2-Lot Major Subdivision subject to the following conditions:

1. Two paper copies (one full size and one 11"x 17"), an electronic copy, and a mylar (measuring 18" x 24", with a margin of 2" outside of the border line for binding on the left edge of the sheet with a 1" border on all remaining edges) of the plat will be submitted to the Planning Commission for review within 160 days. The applicant will record the mylar of the plat in the Charlotte Land Records within 180 days, after being signed by the Chair or Vice-Chair of the Planning Commission. Approved plats not filed and recorded within this 180 day period shall expire.
2. Prior to the submission of the mylar to the Planning Commission, the applicant shall;
 - a. Update the survey plat as per **Finding #1** above (and **Condition #1** of Preliminary decision **PC-18-08-SA**).
 - b. Update the survey plat with a note stating that there is no further density available for further residential unit development, as per Planning Commission decision **PC-18-106-SD**.
 - c. Submit a letter from the surveyor indicating that he or she has set the survey pins in the field as indicated on the survey.
3. The purchase of the open space land by the Williams Hill Homeowners' Association shall be completed within one (1) year of the date of this decision, or this permit shall expire.

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 the 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 the permit and would be subject to enforcement action by the Town. This approval shall expire if the mylar is not filed and recorded in the Charlotte land records within 180 days.

This decision may be appealed to the Environmental Division of the Vermont Superior 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 19, 2018: Peter Joslin (Chair), Charlie Pughe (Vice Chair), Gerald Bouchard, Marty Illick, David Kenyon, Shawn Coyle, and Richard Eastman.

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>8/27/18</u> |
| 2. Signed: | <u>Charlie W. Pughe</u> | <input checked="" type="radio"/> For / <input type="radio"/> Against | Date Signed: | <u>8/27/18</u> |
| 3. Signed: | <u>Richard P. Eastman</u> | <input checked="" type="radio"/> For / <input type="radio"/> Against | Date Signed: | <u>8/27/18</u> |
| 4. Signed: | <u>[Signature]</u> | <input type="radio"/> For / <input type="radio"/> Against | Date Signed: | _____ |
| 5. Signed: | <u>[Signature]</u> | <input checked="" type="radio"/> For / <input type="radio"/> Against | Date Signed: | <u>8/27/18</u> |
| 6. Signed: | _____ | <input type="radio"/> For / <input type="radio"/> Against | Date Signed: | _____ |
| 7. Signed: | _____ | <input type="radio"/> For / <input type="radio"/> Against | Date Signed: | _____ |