

CHARLOTTE PLANNING COMMISSION  
Charlotte Town Office  
PO Box 119  
Charlotte, VT 05445  
Phone: 802.425.3533

August 15, 2018

Susan & David Miskell  
718 Greenbush Road  
Charlotte, VT 05445

Re: Sketch Plan Review – Application Number PC-18-14-SK

Dear Mr. and Mrs. Miskell,

The purpose of this letter is to summarize the Sketch Plan Review for a proposed Boundary Adjustment of your 12.7 acre property comprising two parcels, which are located at 718 Greenbush Road within the Rural District (RUR) in the Town of Charlotte.

It is understood by the Planning Commission (as displayed on the map within your application - <https://is.gd/6J4pPK>) that you propose to adjust your parcels into the following configuration:

1. **Lot #1A:** The existing 5.55 acre parcel on the eastern side of the property would decrease to a 5.0 acre parcel with a road frontage reduced from 550' to 389'.
2. **Lot #1B:** The existing 7.17 acre parcel on the western side of the property would increase to a 7.72 acre parcel with newly created road frontage on Greenbush Road measuring 161'.

A public meeting for the project was held at the Planning Commission meeting at 7:00 PM on Thursday July 5, 2018. In attendance were Commissioners Peter Joslin (Chair), Charlie Pughe (Vice Chair), Gerald Bouchard, Marty Illick, and David Kenyon; the Applicant Susan Miskell; and consultant Stuart J. Morrow. The site visit to the property took place at 6:30 PM prior to the public meeting for the Sketch Plan Review. Electronic notice was posted on the *Meeting Calendar* of Town of Charlotte website.

The Planning Commission has classified your project as a "Boundary Adjustment" in accordance with **Section 6.1(C)(3)** of the Regulations.

The Planning Commission is providing the following observations on your proposed application that will require your consideration:

1. The following Areas of High Public Value (AHPV) were identified on the property:
  - a. Land in active agricultural use: The land on the property is enrolled in the Use Value Appraisal (UVA)/Current Use Program.

- b. Primary Agricultural Soils (Prime and Statewide - PAS): Both parcels contain about 50% Statewide and Prime Agricultural soils, according to the *USDA Natural Resources Conservation Service (NRCS)* GIS database.
  - c. Surface Waters, Wetlands, and associated setback and buffer areas: Both parcels are flagged to have possible areas of Class II wetland along the eastern side of the property surrounding the pond, according to the Vermont Department of Environmental Conservation's *Vermont Significant Wetlands Inventory (VSWI)* "Wetlands Class Inventory Layer".
  - d. Wildlife Habitat: Identified within the GIS layers of the "*Charlotte Significant Wildlife Habitat Map and Database*" there is less than an acre of *Significant Aquatic Habitat* likely existing around the pond.
  - e. Conserved land on adjacent parcels: The entire property is within an easement with Vermont Land Trust (VLT). About 100 acres of land owned by VLT adjoins to the south. About 10 acres of VLT easement adjoins to the west of the property.
2. **Section 2.3(E)** of the Regulations; Application of District Standards - **Table 2.5** Rural District (RUR) Dimensional Standards call for a minimum road frontage of 300 ft. Your property boundary design proposes to create two non-conforming lots: **Lot #1B** with a road frontage that is less than 300 feet, and **Lot #1A** with a northern sideyard setback to the existing greenhouses of less than 50 feet.

According to the Commission meeting minutes of July 5, 2018, the consultant Stuart J. Morrow had stated that the Planning Commission allowed a 25' setback for the Larson property on (1007) Lake Road. Please note that the Larson application (**PC-14-78**) that was approved on January 8, 2015 allowed for the reduced building envelope setback because it was undertaken as Planned Residential Development (PRD), which allows the Commission waive lot dimensional standards. The relevant findings of the decision for **PC-14-78** were:

*8. The Town Plan encourages the use of PRDs to cluster development and preserve important resource areas. By reducing the size of the new lot and locating it near Lake Road, the subdivision effectively meets this goal.*

*9. The new lot will be 2.67 acres in size and will follow the existing settlement pattern along Lake Road.*

With respect to your proposed project, the Commission did not classify it as a Planned Residential Development (PRD), nor did the previously approved subdivision of January 15, 2004 (**PC-03-36**), which created the two lots. As the PRD is the only method that the Planning Commission would utilize to modify dimensional lot requirements, the Commission therefore may not consider approving the proposed lot dimensions.

Nevertheless, Planning and Zoning staff contacted the Town Attorney for guidance to support the Planning Commission's consideration to create non-conforming lots, either by granting a waiver (under **Section 6.2** of the Regulations) or by other means cited

within the Regulations. The resulting legal opinion stated that doing so was inconsistent with the general principles of municipal land use regulations in Vermont, where the municipal regulatory authority does not create non-conformance, it eliminates it. The attorney further referenced **Section 3.6(B)(1)** of the Regulations, which states:

**(B) Dimensional Standards.** *The following requirements apply to lots within all zoning districts, with the exception of existing nonconforming lots in accordance with Section 3.7 (i.e. Nonconforming Lots (Existing Small Lots)).*

**(1)** No lot shall be so reduced in area that it cannot meet area, yard, setback, frontage, coverage and other dimensional requirements for the district in which it is located, except as approved by the Planning Commission for a planned residential or planned unit development under Chapter VIII.

3. The design further proposes the creation of an irregular-shaped lot (**Lot #1B**). **Section 7.2(C)(5)** of the Regulations state the following:

*“Irregularly shaped lots (e.g., with curves, jogs, doglegs; excessively rectilinear, etc.) shall not be created unless warranted by topography, surface waters, or to avoid the fragmentation of significant natural or cultural features.”*

4. **Section 7.3(D)(2)** of the Regulations states that lot lines *“shall be located so as not to create any undue adverse impacts on Areas of High Public Value by parcelization, fragmentation, isolation, or destruction of such areas.”*

The Planning Commission feels that the proposed move of the existing boundary between **Lot #1A** and **Lot #1B** away from the existing hedgerow into an existing agricultural field would thereby fragment the continuity of the field for future potential agricultural use.

5. It is the opinion of the Planning Commission that the intent of the Regulations would not allow for the creation of the irregular-shaped lot, fragmentation of the agricultural field, nor the approval of any of the proposed non-conforming dimensions, as per the Rural district and Subdivision Review standards.

Please let me know if I can answer any further questions.

Sincerely,



Peter Joslin, Chair  
Charlotte Planning Commission

