

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

**Randi McCuin; Lance, James, Lynn, & Marjorie Mansfield; Lisa Gere; and Louise Selina Peyser
Preliminary Plan Application for a 3-lot Major Subdivision/PRD at 700 Mount Philo Road
Application # PC-18-73-SD**

Introduction and Procedural History

This proceeding involves the review of an application for a 3-Lot Major Subdivision / Planned Residential Development (PRD) submitted by Melanie Peyser on behalf of Louise Selina Peyser for approval under the Town of Charlotte Land Use Regulations (hereafter referred to as “the Regulations”). The application was received on May 3, 2018. Electronic notice was posted on the Charlotte Town website calendar. Hardcopies posted at the following three locations: the Town Offices at 159 Ferry Road, the Old Brick Store in the West Charlotte Village, and Spear’s Corner Store in the East Charlotte Village on May 8, 2018. A notice of the public hearing was published in *The Citizen* newspaper on May 10, 2018. Hardcopy notices were also mailed out to all adjoining landowners to the property during the week of May 21, 2018.

A site visit was conducted at the property on October 5, 2017 at 6:30 PM, just prior to the initial Sketch Plan Review (PC-17-117-SK) held that evening at the Planning Commission meeting at 7:00 PM. However, due to unintended circumstances, a quorum was not established for the meeting and the hearing was continued to October 19, 2017 at 7:30 PM. Attendees of the site visit included: Commissioners Peter Joslin and Richard Eastman; the applicants Selina Peyser, Melanie Peyser, Gregory Peyser, Norman LeBoeuf; the Town Planner; et al. A Sketch Plan Review letter was subsequently sent to the applicants Selina Peyser and Randi McCuin on December 1, 2017.

The subdivision application was considered by the Planning Commission at the public hearing on June 7, 2018 at approximately 7:45 PM. Present at the public hearing were the following members of the Planning Commission: Charlie Pughe (Acting Chair), Gerald Bouchard, Marty Illick, and Richard Eastman. Additional participants and attendees included: the Town Planner; the applicants Selina Peyser and Randi McCuin (property owner and representative); Applicant representatives Melanie Peyser and Greg Peyser; Consultants Arthur Gilman of Gilman and Briggs Environmental, Inc.; Jeff Goller of Trudell Consulting Engineers; Seth Kittredge of Kittredge Land Surveying, PLLC; Steve Revell of Lincoln Applied Geology, Inc.; Brent Rakowski of Otter Creek Engineering; Norman LeBeouf of HJL Building; Bonnie Gridley and Kris Kimball of Remax North; and Rob Woolmington (attorney). Additional participants included: Arthur Gilman; Chance Cardemone-Knewstub; Larz Barber; Jen and TJ Whalen; Bonnie Heaslip; Clark and Suzanne Hinsdale; and others.

Exhibits

1. Application Exhibits for the proposed 3-Lot Major Subdivision, including;
 - A. PC-18-73-SD application form signed by Louise Selina Peyser;
 - B. Narrative – “Major Subdivision and Planned Residential Development 700 Mount Philo Road, Charlotte”, including the sections:
 - I. General Description,

- II. Subdivision Review Waiver Requests and Submissions,
- III. Additional Information for Planned Residential Development Review,
- IV. Design Adjustments and Measures Taken in Response to Sketch Plan Review, Vermont Wetlands Program Review, and Requested Studies;
- C. Sketch No. 1 – Habitat Exhibit (Otter Creek Engineering: dated 4/19/2018);
- D. Sketch No. 2 – Soils Exhibit (Otter Creek Engineering: dated 4/19/2018);
- E. Drawing No. C-1 – Overall Plan (Otter Creek Engineering: dated 4/19/2018);
- F. A preliminary plat of the proposed of 3-lot subdivision: “Subdivision Plat of Lands Owned by James Mansfield, et-al, That are to be Conveyed to L. Selina Peyser – Westerly Side of Mount Philo Road, Town of Charlotte, County of Chittenden, State of Vermont” (dated APR 2018) by Seth W. Kittredge, L.S. (LS #060709), Kittredge Land Surveying, PLLC, Vergennes, Vermont.;
- G. Letter from Lincoln Applied Geology, Inc. Environmental Consultants, Lincoln, VT, signed by Stephen Revell, CPG, Licensed Designer #178BW (dated: May 1, 2018) Re: “Mansfield Property, Peyser Lot A, B, and C Proposed Subdivision, 700 Mt. Philo Rd, Charlotte, VT- Lot B & C Site & Soil Evaluation Results and Mound Design Details.”;
- H. “Site Plan with Proposed Subdivision and Proposed Water & Wastewater Systems”, Peyser Property, Mount Philo Road, Charlotte, Vermont (Lincoln Applied Geology, Inc., dated: Dec. 2017), by Stephen Revell, CPG, Licensed Class B Designer #178;
- I. Driveway Profiles by Brent F. Rakowski, No. 7898, Otter Creek Engineering, Inc., East Middlebury, VT (dated 4/19/2018), including:
 - I. Drawing No. C-6 – Details and Notes: Silt Fence Detail, Erosion Control Notes, Safety Notes, Drive Cross Section;
 - II. Drawing No. C-7 – Plan and Profile, south of Lot B for Stations 0+00 to 3+00;
 - III. Drawing No. C-2 – Plan and Profile, south of Lot C for Stations 0+00 to 5+00;
 - IV. Drawing No. C-3 – Plan and Profile, cont’d from C-2 for Stations 5+00 to 11+00;
 - V. Drawing No. C-4 – Plan and Profile, cont’d from C-3 for Stations 11+00 to 17+00;
 - VI. Drawing No. C-5 – Plan (for house site), cont’d from C-4;
- J. Proposed Conservation Easement (Open Space Agreement);
- K. Driveway Easement and Maintenance Language to be included in Deeds to Purchasers of Lots B and C;
- L. Forest Management Plan for Louise Selina Peyser – For the 10 years beginning April 1, 2019, prepared by: Harris Roen, Vermont Licensed Forester #148.0122043, Long Meadow Resource Management, Burlington, VT;
- M. Forest Management Plan Map – Drawn January 2018 by Harris Roen;
- N. Memorandum to the Charlotte Planning Commission from Art Gilman of Gilman & Briggs Environmental, Barre, VT (dated: 8 April 2018), Re: “Wildlife Assessment, 700 Mt. Philo Road”, which is intended to guide the Forest Management Plan and includes the following sections:
 - 1.0 Introduction;
 - 2.0 Site Visits and Information Sources;
 - 3.0 Project Description (Land Use History, Planned Land Use);
 - 4.0 Habitat Description (Forest Habitat, Natural Communities, Wetlands);
 - 5.0 Ecological Principles for Detection of Significant Habitat (Core Habitat, Priority Species Habitat, Landscape Scale, Community Scale, Rare Landscape Features, Connectivity, Maintenance of Ecological Processes, Rare Species Protection, Representation);

6.0 Conclusions;

7.0 Planned Avoidance, Mitigation, Restoration and Habitat Support Measures;

O. Peyser Visual Analysis – 700 Mount Philo Road – Charlotte, VT 05445 (dated: April 30, 2018), Trudell Consulting Engineers, Williston, VT;

L. Visual Analysis – Attachments:

Figure 5.1 (A)(i) – Attachment 7 – Existing Conditions Map (dated 02/07/2018),

Figure 5.1 (A)(ii) – Attachment 8 – Abutters Map,

Figure 5.2 (H)(v) – Attachment 10 – Simulation Viewpoint Map,

Figure App (A)i – Attachment 12 – Photo Location Map,

Figure 1 – Attachment 2 – Visual Analysis Site Plan,

Figure (H)(xiv) Attachment 11 – Cross Section,

Assessment of Scenic and Conservation Values of Charlotte Roadsides: A Joint Project of the Charlotte Tree Warden and Conservation Commission, Larry Hamilton, Fall 1998;

2. Map Slide 165, Page 6; Survey - "Subdivision Plat – Lynn Mansfield, 768 Mount Philo Road, Charlotte, Vermont" (dated 25 Nov 2009) by Larry D. Young (No. 568), Summit Engineering, South Burlington, VT.;
3. Map Slide 108, Clip 2, Page 24; Survey - "Boundary Survey Plat – Property of Demeter Fund, Inc. to be transferred to the Conservation Fund" Charlotte, Vermont (dated Nov 1996) by Stuart J. Morrow, L.L.S. (No. 565);
4. Sketch Plan Review; Planning Commission Letter (PC-17-117-SK McCuin-Peyser), dated December 1, 2017;
5. Planning Commission Decision; Lance and James Mansfield, Lisa Gere, Lynn Mansfield, Randi McCuin, and Marjorie Mansfield, Final Plan For A Two-Lot Subdivision and Application #PC-09-19, Approved by the Planning Commission: September 24, 2009;
6. Legal Opinion for proposed Open Space Agreement for PC-18-73-SD McCuin-Peyser from the Town Attorney, Joe McClean (dated July 17, 2018);
7. Planning Commission Minutes from meetings held on *October 19, 2017* and *June 7, 2018*.

Regulations in Effect

Charlotte Town Plan, 2018

Charlotte Land Use Regulations, 2016

Recommended Standards for Developments and Homes, 1997

Findings

Background

1. James, Lance, Marjorie, and Lynn Mansfield; Lisa Gere; and Randi McCuin own a 44.6 acre property located at 700 Mount Philo, which is primarily within the Rural Zoning district (RUR) and partially (about 0.1 acre) within the Conservation District.
2. This application proposes to subdivide the property into:
 - Lot A:** a 32.04 acre parcel with 27.46 of designated open space, and a 2.73 acre irregular-shaped building envelope and is located west of Lot B and Lot C.
 - Lot B:** a 3.00 acre parcel with a 1.36 acre building envelope and is located on the southeasterly side of the property, abutting Mt. Philo Road.

Lot C: a 3.00 acre parcel with a 1.39 acre building envelope and is located on the northeasterly portion of the property, abutting Mt. Philo Road.

3. During the Sketch Plan Review (PC-17-117-SK) for the proposed subdivision, the Planning Commission classified the project as a “3-Lot Major Subdivision / Planned Residential Development (PRD)” (in accordance with Section 6.1(C)(2) of the Regulations) because the most recent subdivision for this property occurred during September of 2009 (i.e. PC-09-19 Mansfield). A Major Subdivision is described in the Regulations as “*any residential subdivision, or re-subdivision of land resulting in the creation of four (4) or more lots within any 10 year period, regardless of any change in ownership*”. Therefore this application shall proceed as a PRD.
4. The previous 2009 subdivision (PC-09-19 Mansfield) decision created the existing delineation of the property from a 50-acre parent parcel. *Condition #5* of that decision stipulated that any future subdivision of the property would require the designation of 25 acres of open space:

“The designation of open space will be required at the time of any future subdivision of Parcel 1. The total current acreage (50 acres) will be considered when calculating the percentage of open space as provided for in the Charlotte Land Use Regulations in effect at that time.”

The existing regulations (amended in 2016, see above) state that for conservation projects; “A minimum of 50% of the lot(s) shall be designated as open space in accordance with Section 8.6”. Therefore, for the purposes of the current application, a minimum of 25 acres will be designated as open space. The applicant has proposed designating 27.46 acres as Open Space land.

2.3 Application of District Standards – Table 2.5 Rural District (RUR) – (E) Dimensional Standards

1. The dimensional standards for the Rural District indicate the *Maximum Lot Coverage* to be 30%. The proposed building envelopes for **Lot B** and **Lot C** (covered in Finding 2 above) would potentially allow for structures and improvements to exceed the lot coverage requirement. As the lots are proposed to be three (3) acres, each of their associated building envelopes should be reduced to a maximum of 0.9 acres.

3.2 Road, Driveway and Pedestrian Access Requirements

1. Access to **Lot A** would be served by a proposed shared-driveway (within a designated 60’ right-of-way easement) originating from Mt. Philo Road between the northern property line of 768 Mount Philo Road (owned by Cardamone-Knewstub and Sunderland) and the southern property line of proposed **Lot C**, located about 0.27 miles south of the intersection of Lime Kiln Road. A Highway Access Permit was granted for this location (HAP-18-06) by the Selectboard on June 19, 2018.
2. Access to **Lot C** would be served by the same driveway originating from **Lot A** (as described above).
3. Access to **Lot B** would be served by a driveway within another designated 60’ right-of-way easement originating from Mt. Philo Road along the southern property line of **Lot A**, located about 0.45 miles south of the intersection of Lime Kiln Road. A Highway Access Permit was granted for this location (HAP-18-05) by the Selectboard on June 19, 2018.

Although the driveway accessing **Lot B** would be located along (and parallel to) the hedgerow

of the southern property boundary, the footprint of the driveway should commence well beyond the outside northern edge of the crown of the tree stand, in order to prevent any damage to the roots of the trees and shrubs that compose the hedgerow.

4. According to the Overall Plan (see **Exhibit 1(E)**, above), the proposed driveway is estimated to run about 1600' in length from Mt. Philo Road to the primary house on **Lot A**. The *"Recommended Standards for Developments and Homes"* (adopted September, 1997) states:
 - A. *"All driveways 500' or more in traveled length shall have a turnaround at the house site large enough to accommodate 3 emergency vehicles at one time (Approx. 1,600 sq. ft.)"*

In discussions with the Charlotte Volunteer Fire and Rescue Services (CVFRS), it has been noted that their requirement for fire truck turnarounds has been raised to minimum 84' diameter for driveways over 500' in length in order to accommodate their new vehicles. The Assistant Chief, Rob Mullin has stated that CVFRS could live with an 80' wide turnaround, as the minimum turning radius for the new trucks are 63' for a right turn and 72' for a left turn. Additional accommodation must be made for new drivers and potential snowbank impact. Assistant Chief Mullin has further stated that there is an option to develop the required apparatus as a 40' x 40' hammerhead turnaround.

- B. *"All Driveways longer than 800' will have vehicle turn-outs (12' wide x 35' long) near the halfway point or every 800'."*

The application indicates a gravel hammerhead pulloff along the main driveway for **Lot A** (see **Exhibits 1(E)** and **1(I)(V)**, above). However, the hammerhead should be replaced with a "pulloff" as indicated within the above quote.

As it is not entirely clear if all of the 1997 standards will meet the modern requirements of CVFRS, the final design for the driveway and associated access infrastructure will require a letter of approval from CVFRS, which may recommend additional improvements (e.g. a fire pond, dry hydrant, etc.).

7.2 General Standards - Areas of High Public Value

The following Areas of High Public Value (AHPV) have been identified on the property:

1. Land in Active Agricultural Use: The property is not in current active agricultural use, but is eligible for enrollment. The large building envelopes of **Lot B** and **Lot C** would consume much of the 6 acres of the identified Primary Agricultural soils along the eastern boundary of the property adjoining Mt. Philo Road.
2. Primary Agricultural Soils: The eastern portion of the parcel along the Mt. Philo Road comprises Primary Agricultural soils. Most of the remainder of the field and the western portion of the parcel contains Statewide Agricultural soils (according to the USDA Natural Resources Conservation Service GIS database).

The previous 2009 subdivision (PC-09-19 Mansfield) decision (see **Exhibit 5** above) states:

"The Planning Commission finds that the agricultural and wildlife resources are particularly important natural features (areas of high public value) associated with the parcel."

3. Steep slopes (equal to or greater than 15%): About 0.3 acres of 15-25% slope has been identified along the western border of the property **Lot A** (according to geospatial data obtained from VCGI), which is not proposed for any development.
4. Flood Hazard Areas: The property is within "*Area of Minimal Flood Hazard*" in the FEMA National Flood Hazard Layer (NFHL).
5. Surface Waters, Wetlands, and associated buffer areas: McCabe's Brook runs along the western border, on the adjacent Nordic Farms parcel. Areas of Class II wetland have been mapped on proposed **Lot A** by the Vermont ANR Department of Environmental Conservation Wetlands Program, and are described in detail in the applicant's Wildlife Assessment (see **Exhibit 1(N)** above) and partially depicted in the Overall Site Plan (see **Exhibit 1(E)** above).
6. Wildlife Habitat: The western wooded portion of the property is part of a substantial forested block among adjoining properties (totaling about 114.6 acres), which alone host about 30 acres of *Significant Forest Habitat*. A small area of *Significant Aquatic Habitat* exists along the western border of the property abutting the Nordic Farms parcel (according to the "*Charlotte Significant Wildlife Habitat Map and Database*"). The applicant undertook a detailed Wildlife Assessment (See **Exhibit 1(N)** above), which includes a chapter on "*Ecological Principles for Detection of Significant Habitat*" (on page 9) and summarizes proposed mitigation and habitat preservation measures (see page 13).
7. Water Supply Source Protection Areas (SPAs):
 - a. Ground water: N/A
 - b. Surface water: The parcel is entirely within the surface water source protection area for the Champlain Water District.
8. Historic Districts, Sites, and Structures: According to the Vermont Division of Historic Preservation "*Historic Sites & Structures Survey*", the historic site #0403-18 (The School House #15, built c.1860) exists on the adjoining parcel to the north (owned by Heaslip). The site was listed on the State Historic Register on 9 Apr 1980.
9. Scenic Views and Vistas: According to the Charlotte Town Plan, the northern portion of Mt. Philo Road is not a '*scenic*' road, Lime Kiln Road is a '*most scenic public road*', and US Route 7 is a '*scenic highway*'. The applicant undertook a Visual Analysis study (see **Exhibit 1(L)** above) as advised within the Sketch Plan Review letter. The study extensively covers the "Quechee Lakes Analysis" that is undertaken by the State of Vermont within Act 250 proceedings to determine undue adverse aesthetic impacts, under Criterion 8 – "*Aesthetics, Scenic, and Natural Beauty*".

The study narrates a thorough walk-through of the three major questions of the Quechee Lakes Analysis and includes a conceptual visual design of the proposed home to be constructed on **Lot A**, and implements a three-dimensional tree density model (e.g. the "SketchUp" plug-in known as "Skatter"). Analysis from locations on each of three roadways (on foot and automobile) concludes that "*No significant view of any of the proposed buildings would be possible from these viewpoints*", and that there would be no undue adverse impact from the proposed project. The reasons mainly include: existing tree coverage, hedgerow coverage, and geomorphic shielding.

Where it appears that there may be a possible visual impact, particularly from US Route 7 during the winter (“leaf-off”) months, the applicant offers suggestions for mitigation, including: utilization of earth tones for structures; implementation of an extensive planting regime of some 600 native trees; removal of invasive species, which would most likely improve forest health; maintenance of hedgerows; minimization of glare on reflective surfaces; et al.

To further protect the eastern viewshed from US Route 7 and the eastbound approach from Lime Kiln Road during the winter months, the applicant should follow the guidance from the *Dark Night Sky* section of Chapter 2.2 of the 2018 Town Plan, and **Section 3.9** of the Regulations, which addresses “Outdoor Lighting”.

10. Conserved Land on Adjacent Parcels: About 405 acres of open space is conserved in an easement with the Vermont Land Trust on the adjoining Nordic Farms property to the south and west.

7.2(E) General Standards – Building Envelopes

1. “. . .*The size and shape of each building envelope shall be established in accordance with these regulations, including all applicable standards under this chapter and the district. The Commission also may require the identification of specific building footprints if such information is needed to determine conformance with these regulations. . .*”
 - a. The proposed 2.73 acre building envelope for **Lot A** is demarcated in a highly irregular shape that would be difficult to enforce (see the proposed survey in **Exhibit 1(F)** above). Except for the wastewater disposal area, the proposed survey does not indicate structural placement. The applicant should propose a regular shaped building envelope for **Lot A** that is dimensioned from its corners to the parcel boundary and/or corner pins, and include the planned structures within as a requirement for the Final Plan application.
 - b. The proposed 1.36 acre building envelope for **Lot B**, and the 1.39 acre building envelope proposed for **Lot C** each have regular shapes. However, each appear to push their boundary to the setback limits of the property. Given the proposed three acre (3) lot sizes, the building envelopes for **Lots B** and **C** should be reduced to a maximum size of 0.9 acres each as per Finding 2.3(E)(1) above.

7.3(D)(1) Rural, Shoreland, & Conservation Districts

1. *“Within the Rural, Shoreland and Conservation Districts, all subdivisions and associated site development shall be designed and reviewed according to the following standards:*
 - (1) *Building envelopes, to the extent feasible, shall be located, sited and configured so as not to create any undue adverse impacts on Areas of High Public Value. In the event that no other land in the parcel to be subdivided is suitable for development, building envelopes shall be designed to minimize encroachments into these areas and to minimize undue adverse impacts.”*

The entirety of the proposed irregular-shaped building envelope is within the *Significant Forest Habitat* (see Finding 7.2(6) above). For the purpose of reasonable ground verification, the envelope should be redesigned to a more regular and manageable dimension.

7.6 Water Supply & 7.7 Sewage Disposal

1. A Wastewater System and Potable Water Supply Permit has not been submitted to the Town for this project. However, the applicant has undertaken all of the necessary preparation to submit a water supply and wastewater permit for a discrete system (i.e. an individual well site and a wastewater disposal mound) to be developed on each of the three lots, pending approval of this subdivision application (see **Exhibits 1(F), 1(G), and 1(H)** above).

8.4 Planned Residential Developments (PRDs)

1. Subsection 8.4(C)(1) of the Regulations stipulate that PRDs within the Rural District designed as a Conservation Project *“shall be designed in a manner that maximizes the reduction of lot sizes and modification of setbacks and other dimensional standards to minimize undue adverse impacts to, and fragmentation of, Areas of High Public Value.”*
 - a. The western portion of **Lot A** is an ideal area of the property to protect with an Open Space Agreement (OSA) because it is part of a substantial non-fragmented block of *Significant Forest Habitat* (an Area of High Public Value), which is also conserved on the adjoining Nordic Farms property in an easement with the Vermont Land Trust.
 - b. The western portion of Lot A also contains a recently delineated area of Class II wetland (also an Area of High Public Value).

8.6 Open Space & Common Land

1. Subsection 8.6(A) of the Regulations states: *“In designating open space and/or common land, applicants and the Planning Commission shall consider the location of the project and associated site features as identified in Table 8.1.”*

This includes Areas of High Public Value. As a substantial portion of **Lot A** on the western side has been identified within *Significant Forest Habitat*, the applicant has proposed designating 27.46 acres of the open space/conserved land within that portion of the lot, currently depicted within the submitted survey (see **Exhibit 1(F)** above).

2. Subsection 8.6(B)(1) of the Regulations stipulate that open space shall be delineated *“for the protection of resources on the site including agricultural land, productive woodland, wildlife habitat, natural areas, aquifer protection areas, wetlands, views and vistas, streams, stream banks, the lake shoreline, and historic and archeological sites.”*

The applicant has drafted a comprehensive wildlife assessment (see **Exhibit 1(N)**, above) that details specific planned development; identifies dominant cover types, wetlands, natural communities, and their species; and employs the Ecological Principles for Detection of Significant Habitat. The latter closely follows the Charlotte Conservation Commission’s *“Protocol for Assessment of Impacts of Proposed Development on Significant Wildlife Habitat in Charlotte*, and informs the Forest Management Plan (see **Exhibit 1(L)** and **1(M)**, above).

The Forest Management Plan details a thorough description (including the history, health, data, and management recommendations), and a set of maintenance and protection goals for the various tree stands on the property.

3. The proposed Open Space Agreement (OSA) that was submitted for the application (see **Exhibit 1(J)**, above), titled "Conservation Easement" provides unusually wide latitude for its permitted uses of the open space area. According to the Town Attorney:

"I have reviewed the remaining provisions in the proposed Conservation Easement and I do have concerns regarding the language and scope of some of those provisions, which tend to grant or reserve in the Grantor rights that go beyond what I have typically seen in a conservation or open space easement."

The OSA should be drafted to emphasize protection of the Significant Forest Habitat (identified in Finding 7.2(6) above), delineated wetlands, and the scenic views and vistas as discussed in Finding 7.2(9). In its current form, the OSA reserves the following rights where it proposes that the Grantor may:

- a) Use the Open Space Area for forest production, maple sugaring and non-commercial recreation;

Planning Commission Observation: Where maple sugaring and most non-commercial recreational uses may have minimal impact on the forest habitat, the term "*forest production*" could be construed to allow more intensive forestry practices. The term should either be removed from the sentence, or be rephrased to stipulate the specific uses (e.g. "The open space area may be used for forest production for the following: maple sugaring . . .").

- b) Clear, construct and maintain trails for walking, horseback riding, cross-country skiing and hunting, non-internal combustion motorized vehicles, and or similar non-commercial recreational activities within and across the Open Space Area.

Planning Commission Observation: Where trails for non-motorized vehicles may be appropriate for recreation and forest maintenance, use of trails to allow "*non-internal combustion motorized vehicles*" could be misconstrued as allowing more intensive trail development to accommodate motorized vehicles. The OSA should include the provision that "*the Open Space Area for Lot A shall be maintained in its natural state, in which no cutting (except for the removal of invasive species and dead or diseased trees), clearing, or mowing (except for a minimal number of three foot (3') wide footpaths that would only be maintained by non-motorized, non-mechanized means, and utilize a soil or woodchip surface.), grazing of animals, or other disturbance to the land, nor interference with the geomorphic features (except for restorative work undertaken to correct damage by previous human impact) is allowed.*"

- c) Take any and all actions reasonably associated with management or restoration of the forest, including but not limited to tree planting, vegetation management, removal and control of invasive species, disposal off-site of the contents of any old farm dumping areas, and restoration of original contours of areas disturbed by machinery prior to Project approval, provided that all such actions shall be taken in accordance with a written forest management plan, which shall be updated from time to time;

Planning Commission Observation: Any updates or alteration to the forest management plan should be approved by the Charlotte Conservation Commission (CCC). Furthermore, the CCC should approve of the current draft of the plan before it is recommended for approval by the Planning Commission. Any proposed geomorphic work should not adversely impact established healthy non-invasive trees.

d) Reconstruct, restore and maintain any constructed ponds in accordance with State and federal laws and regulations;

Planning Commission Observation: None.

e) Construct, install, repair, maintain, replace or remove any energy, water, or telecommunications facilities reasonably necessary to serve the dwellings, buildings, accessory structures, and agricultural, forestry, or maple sugaring operations on the Property; and

Planning Commission Observation: Aside from equipment to support maple sugaring operations, any energy, water, telecommunications, or other infrastructure intended to serve any dwellings on Lot A should be located only within the building envelope associated with the lot. All utility lines should run along or underneath the driveway that would access the building envelope.

f) Mitigate or remove any health or safety hazard.

Planning Commission Observation: None.

4. Subsection 8.6(B)(5) of the Regulations indicate that additional measures “*may be imposed to protect resources identified on the parcel. . .*”

Decision

Based on the foregoing Findings of Fact and Conclusions, the Planning Commission grants preliminary approval of the application for a 3-Lot Major Subdivision/PRD subject to the following conditions:

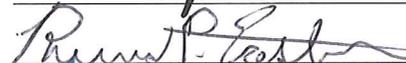
1. The survey plat will be revised to reflect the following, the applicant shall:
 - a. Update the building envelope for **Lot A** to a regularized shape and add dimensional lines as per Finding 7.2(E)(1)(a).
 - b. Add the proposed structures to be developed within the building envelope for **Lot A** as per Finding 7.2(E)(1)(a). The structures shall have a note indicating their proposed heights above grade.
 - c. Update the building envelopes for **Lot B** and **Lot C** to a maximum of 0.9 acres each as per Finding 2.3(E)(1) and Finding 7.2(E)(1)(b).
 - d. Add the full footprint of the proposed driveway and associated infrastructure as per the design recommendations of Charlotte Volunteer Fire and Rescue Services discussed in Finding 3.2(4).
 - e. Add the identified wetland delineations.
2. Update the draft Open Space Agreement to include details discussed in Finding 8.6(3) above, which will be re-submitted in a form acceptable to the Town Attorney and the Planning Commission.

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 for the applicant to submit a Final Subdivision Plan application to the Planning Commission for a Major Subdivision. The Application shall be submitted in accordance with such approved plans and conditions.

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 June 7, 2018: Charlie Pughe (Acting Chair); Gerald Bouchard, Marty Illick, 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:  For / Against Date Signed: 7/19/18
- 2. Signed:  For / Against Date Signed: 7/19/18
- 3. Signed:  For / Against Date Signed: 7/19/18
- 4. Signed:  For / Against Date Signed: 7/19/18
- 5. Signed:  For / Against Date Signed: 7-19-18
- 6. Signed:  For / Against Date Signed: 7-19-18
- 7. Signed: _____ For / Against Date Signed: _____

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