

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

**Linda and John Radimer
Final Plan Application for a 2-lot Minor Subdivision/PRD at 2012 Prindle Road
Application # PC-19-55-SD**

Introduction and Procedural History

This proceeding involves the review for a 2-Lot Minor Subdivision / Planned Residential Development (PRD) submitted by Linda and John Radimer for approval under the Town of Charlotte Land Use Regulations (hereafter referred to as "the Regulations"). The application was received by the Planning and Zoning Office on April 16, 2019 and was scheduled for a public hearing to be held on June 6, 2019. A notice advertising the public hearing was published in "The Citizen" newspaper on May 23, 2019. A hardcopy of the notice was mailed to all adjoining landowners and was also posted at the following three locations: the Town Office Building at 159 Ferry Road, the Old Brick Store in the West Charlotte Village, and Spear's Corner Store in the East Charlotte Village on the week of May 16, 2018. Additionally, an electronic notice was posted on the Charlotte Town website calendar.

This application proposes to subdivide a 10.69 acre lot into two lots while conserving fifty percent as open space of the parent parcel under the auspices of a Planned Residential Development (PRD). A Sketch Plan Review letter (**PC-18-187-SK**) was issued from the Planning Commission on February 21, 2019 after one public hearing, which occurred on January 17, 2019. Two site visits took place to the property. The first was on Saturday January 12, 2019 at approximately 9:00 AM attended by the applicant and Planning Commissioners David Kenyon and Gerald Bouchard. The second site visit to the property took place on Thursday January 17, 2019 at approximately 9:30 AM (prior to the aforementioned Sketch Plan Review meeting held later that evening) and was attended by the applicant and Planning Commissioners Peter Joslin (Chair) and Marty Illick.

The subdivision application was considered by the Planning Commission at the public hearing on June 6, 2019 at approximately 7:00 PM. Present at the public hearing were the following Planning Commissioners: Peter Joslin (Chair), Charlie Pughe (Vice Chair), Gerald Bouchard, Marty Illick, and Shawn Coyle. Additional participants and attendees included the Town Planner and the applicant Linda Radimer. Further information was requested by the Planning Commission and the hearing was continued to September 5, 2019, as per the applicant's request. On June 11, 2019, the applicant requested an earlier date to continue the hearing, which was confirmed for July 18, 2019.

The July 18, 2019 hearing took place around 7:15 PM with the following Planning Commissioners in attendance: Peter Joslin (Chair), Gerald Bouchard, Marty Illick, and Shawn Coyle. Additional participants and attendees included the Town Planner, the applicant Linda Radimer, and surveyor Stuart J. Morrow. The Planning Commission closed the hearing that evening.

Exhibits

The following exhibits were submitted for the Final Plan application:

1. Completed Subdivision application form signed by both Linda and John Radimer (received April 16, 2019);
2. Preliminary Survey: "Final Plat Minor Subdivision – Property of John W. and Linda H. Radimer – 2012 Prindle Road – Charlotte, Vermont" (dated April 2019), prepared by Stuart J. Morrow, L.L.S. No. 565, Shelburne, Vermont;
3. Sketch Plan Review; Planning Commission Letter (**PC-18-187-SK** Radimer), dated February 21, 2019;
4. Map Slide 179, Page 4; Surveyor's Certificate - "Survey Plat – Parcel NO. 1 – Lands of Lee F. Weisman and Toby Helene Goldsmith / Parcel NO. 2 – Lands of Carol L. Hanley and Richard H. Bernstein – Southwesterly of Prindle Road, Charlotte, Chittenden County, Vermont" (dated February 2, 2012) by Timothy L. Short, L.S. No. 651, Short Surveying, Inc., Middlebury, Vermont;
5. Map Slide 126, Page 2; Survey - "Property Plat – Barbara Horsford – Town of Charlotte Vermont Prindle Rd & Roscoe Rd" (dated 27 Jun 2001 / approved 15 Nov 2001) by William A. Robenstein, L.S. No. 60, South Burlington, Vermont;
6. Map Slide 76, Book 10, Page 7; Survey - "Property Of William C. & Barbara B. Horsford to be Conveyed to Lydia & L. Howard Hibbard – Prindle Road - East Charlotte, VT." (dated May 24, 1986 / rev. June 27, 1990) by Mark V. Ward, L.S. No. 498, Palmer Company, LTD., So. Burlington, Vermont
7. Map Slide 50, Book 7, Page 8; Survey - "Property Of William C. & Barbara B. Horsford to be Conveyed to John & Linda Radimer – Prindle Road - Charlotte, Vermont" (August 1986) by Mark V. Ward, L.S. No. 498, Palmer Company, LTD., So. Burlington, Vermont;
8. Map Slide 12, Page 14; Survey - "A Map of Certain Lands of The A. Johnson Company – Sometimes known as the 'Prindle Lot'" (dated 24 June 1977) by Kenneth G. Weston, L.S. No. 165, Charlotte, Vermont;
9. Wastewater System and Potable Water Supply Permit (Case Number: WW-138-1906) – John and Linda Radimer, 2012 Prindle Road, Charlotte, VT 05445 (Approved May 17, 2019);
10. Site Plan Map - "Radimer – 2012 Prindle Road, Charlotte, Vermont – Subdivision/Septic Design" (dated 19 April 2019) by Vermont Contours Inc., Bristol, Vermont;
11. Charlotte Land Records Reviewed – Volume 125, Pages 564-568 (April 30, 2002) Quit-claim deed; Volume 66, Page 175 (July 2, 1991) Sewage Easement/Conveyance wastewater easement from Radimer to neighbor Hibbard; Volume 49, Pages 376-379 (September 11, 1986) Warranty deed/Conveyance from Horsford to Radimer; Volume 34, Page 262 (June 13, 1977) Edwin Sturges & A. Johnson Company Easement Agreement; Volume 28, Page 163 (September 28, 1961) Conveyance from Lupo to Horsford; Volume 26, Pages 386-387 (December 12, 1949) Conveyance from Poole to Palmer: Agreement: Right of Way;
12. Planning Commission Minutes from meetings held on January 17, June 6, and July 18, 2019; and August 12, 1986;

Regulations in Effect

Charlotte Town Plan, 2018

Charlotte Land Use Regulations, 2016

Recommended Standards for Developments and Homes, 1997

Vermont Agency of Natural Resources, Wastewater System and Potable Water Supply Rules, 2019

Findings

1. Linda and John Radimer own a 10.69 acre property (created as part of an approved 2-lot subdivision on August 12, 1986), which is located at 2012 Prindle Road within the Rural Zoning (RUR) district.
2. This application proposes to subdivide the existing property into; the southerly **Lot 1** (measuring approximately 7.3 acres) to host the existing residence; and the northerly **Lot 2** (measuring approximately a non-conforming 3.4 acres) that would host a proposed residence.

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

- a. The dimensional standards for the Rural (RUR) zoning district indicate the *Minimum Lot Area* to be five (5) acres. The proposed **Lot 2** does not conform to the district standard and therefore will be reviewed as a PRD (see **Finding 8.1(B)** below), as determined during the Sketch Plan Review (see **Exhibit 3** above).

7.2 General Standards – Areas of High Public Value

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

- a. Primary Agricultural Soils (Prime and Statewide - PAS): About 0.7 acres of Prime Agricultural soils exist on the northwestern corner of the property; with about 0.4 acres along the central eastern property boundary. About 0.6 acres of Statewide Agricultural soils exist on the northeastern corner; with about 1.5 acres on the southeastern corner of the property (according to the *USDA Natural Resources Conservation Service (NRCS) GIS database*).
- b. Steep Slopes (>=15%): About 6 acres of 15-25% slope are identified along the south and the north of the parcel. About 2.4 acres of >25% slope have been identified at the center of the property.
- c. Special Natural Areas: The Lewis Creek exists about 750 feet to the south of the southernmost property boundary.
- d. Surface Waters, Wetlands, and associated buffer areas: About 0.5 acre of Class II wetland is estimated to exist along the northeastern portion of the parcel, according to the Vermont Department of Environmental Conservation's *Vermont Significant Wetlands Inventory (VSWI)*. However, this would need to be field-checked by the Vermont DEC Wetlands Division Program. The Planning Commission requested the verification (and any resulting delineation) of Class II wetland for this location during the July 18, 2019 public hearing.

- e. Wildlife Habitat: Except for about 0.9 acres at the northwestern corner of the property, *Significant Forest Habitat* comprises all of the property (as identified within the GIS layers of the "Charlotte Significant Wildlife Habitat Map and Database"). About 1.6 acres of *Significant Linkage Habitat* has been identified along the northern portion of the property.

7.2(E) Building Envelopes

"All proposed lots intended for development shall include designated building envelopes within which all structures and parking areas shall be located, unless waived in accordance with Section 6.2. . . The Commission also may require the identification of specific building footprints if such information is needed to determine conformance with these regulations."

- a. The Sketch Plan Review (PC-18-187-SK) recommended that approximately one-acre sized building envelopes be created for both proposed lots, to further protect the *Significant Forest Habitat* of the property.
- b. The current application proposes approximate one-acre sized building envelopes for both proposed lots. The acreage and perimeter length of the envelopes should be added to the survey.

7.3(D) Rural, Shoreland, & Conservation Districts

"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. . .
- (2) Lot lines, infrastructure, and roads, driveways and utility corridors shall be located so as to not create any undue adverse impacts on Areas of High Public Value by the parcelization, fragmentation, isolation, or destruction of such areas."

7.6 Water Supply & 7.7 Sewage Disposal

- a. On May 17, 2019, the Town of Charlotte issued permit #WW-138-1906 (see **Exhibit 9**), which approved a three-bedroom home with a new mound system and an on-site drilled well on **Lot 2**; and an access easement for **Lot 1** from Prindle Road, a disposal system easement on to **Lot 1** to utilize and maintain the existing disposal system (constructed along the northwestern corner of proposed **Lot 2**) that serves the existing residence on **Lot 1**, and a designated replacement (wastewater) disposal system identified on at the northwestern corner of **Lot 1** (see **Exhibit 10** above for further details).

8.1(B) Planned Residential Development (PRD)

The Regulations regard the purpose of the Planned Residential Development (PRD) as follows:

"PRD provisions are intended to allow clustering of residential development and innovative design to promote the most appropriate use of land and the preservation of Areas of High Public Value identified in Table 7.1;"

- a. During the Sketch Plan Review (*PC-18-187-SK*) for the proposed subdivision, the Planning Commission classified the project as a "2-Lot Minor Subdivision / Planned Residential Development (PRD)" due to the non-conforming dimension of the proposed (approximate 3.4-acre) **Lot 2** (see **Finding 2.3** above). Therefore, this application shall proceed as a PRD.
- b. The proposed subdivision will require conservation of at least 50% of the total 10.69 acres of the property to preserve the identified *Significant Forest Habitat* of the property (see **Finding 7.2(e)** above).

8.6 Open Space & Common Land

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."*

- a. A majority of the property has been identified within *Significant Forest Habitat* (see **Finding 7.2(e)** above). A contiguous (approximately) 5.345 acres of area on the southern portion of **Lot 1** has been identified by the Planning Commission as the priority Area of High Public Value to conserve on the property. The delineation of this prospective open space/conserved area should be added to the submitted draft survey (see **Exhibit 2** above).
- b. A proposed Open Space Agreement (OSA) or a letter indicating an accepted agreement with a Land Trust to conserve the identified southern portion of **Lot 1** should be submitted as a condition for subdivision approval.
- c. The OSA or easement agreement should be drafted to emphasize protection of the *Significant Forest Habitat* (identified in **Finding 7.2(e)**).

Decision

Based on the foregoing Findings of Fact and Conclusions, the Planning Commission approves the application for a 2-Lot Minor Subdivision/Planned Residential Development 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. Submit letter documenting that the proposed **Lot 1** conservation area (discussed in **Findings 8.1(B)** and **8.6** above) has been accepted into a conservation easement by a Land Trust; or submit a draft Open Space Agreement (OSA) for the area that articulates the purpose of

protecting the *Significant Forest Habitat* (identified in **Finding 7.2(e)** above) in a form acceptable to the Town Attorney and the Planning Commission.

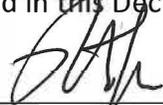
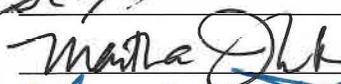
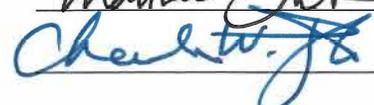
- b. Submit documentation that verifies whether there is existing Class II wetland on the property (as discussed in **Finding 7.2(d)** above).
- c. Revise the survey plat to include:
 - i. The delineation of the area to be conserved on **Lot 1** (discussed in **Findings 8.1(B)** and **8.6** above) and a label to indicate its acreage.
 - ii. A note indicating that the conserved area on **Lot 1** (discussed in **Findings 8.1(B)** and **8.6** above) has been conserved in accordance with Planning Commission decision PC-19-55-SD and recorded as an OSA in the Charlotte Land Records with its volume and page number.
 - iii. The approved wellhead to be drilled for the residence on **Lot 2**.
 - iv. The footprint(s) of the proposed wastewater mound to be constructed on **Lot 2**, and the designated backup disposal system on **Lot 1** (according to permit # *WW-138-1906*, **Exhibit 9** above).
 - v. Labels for the acreage of the **Lot 1** and **Lot 2** building envelopes.
 - vi. The delineation of any identified Class II wetland found (and its fifty-foot buffer), as per **Condition 2(b)** above.
 - vii. A reference note to, and where possible, the delineation of the “*construction, repair and maintenance easement from Prindle Road to the wastewater disposal area*” on the adjoining lot (represented in the survey of **Exhibit 5** above). This easement abuts the entirety of the easternmost property line of the existing 10.69-acre parcel.

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(s) held on June 6, 2019 and/or July 18, 2019: Peter Joslin (Chair), Charlie Pughe (Vice Chair), Gerald Bouchard, Marty Illick, and Shawn Coyle.

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: 8/15/19
2. Signed: Gerald A. Bouchard For / Against Date Signed: 8/15/19
3. Signed:  For / Against Date Signed: 8.15.19
4. Signed:  For / Against Date Signed: 8.15.19
5. Signed:  For / Against Date Signed: 8.15.19
6. Signed: _____ For / Against Date Signed: _____
7. Signed: _____ For / Against Date Signed: _____