

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

**Teresa & Rick Pete
Final Plan Application for a 2-lot Minor Subdivision for
730 Whalley Road
Application # PC-20-23-SD**

Introduction and Procedural History

This proceeding involves the review of an application for a 2-Lot Minor Subdivision submitted by Teresa and Rick Pete for approval under the Town of Charlotte Land Use Regulations (hereafter referred to as “the Regulations”) for their property located on 730 Whalley Road. The application was received on February 20, 2020 and was originally scheduled for a public hearing to be held on March 19, 2020. Notifications were posted on the Charlotte Town website calendar, and 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. A notice of the public hearing was published in *The Citizen* newspaper on February 27, 2020. However, the March 19th meeting was cancelled due to the 2020 coronavirus pandemic and the associated public health advisories. A new hearing was scheduled for May 7, 2020 via the “Zoom” cloud-based video-conferencing application. Hardcopy notifications for the public hearing were mailed to all adjoining landowners and were posted on the Charlotte Town website calendar, and at the following three locations: the Town Offices at 159 Ferry Road, the Post Office bulletin board in the West Charlotte Village, and Spear’s Corner Store in the East Charlotte Village. A public notification was published in *The Citizen* newspaper on April 16, 2020, and in the *Front Porch Forum* online community network a week before the hearing.

The site visit to the property had taken place at the property at 6:30pm, just prior to the Sketch Plan Review (**PC-19-140-SK**) public hearing of September 5, 2019, which was attended by commissioners Gerald Bouchard, Marty Illick, Peter Joslin, and David Kenyon; property-owners Teresa and Rick, and the Town Planner. The public hearing for the Sketch Plan Review was attended by commissioners: Peter Joslin (Chair), Marty Illick, Gerald Bouchard, Shawn Coyle, and Dave Kenyon; in addition to the applicants Richard and Teresa Pete, and the Town Planner. At the Sketch Plan Review hearing, the Planning Commission classified the project as a 2-Lot Minor Subdivision.

The Subdivision application for this proceeding was considered by the Planning Commission at the public hearing held on May 7, 2020 at approximately 7:30 PM via remote teleconference. Present at the public hearing were the following members of the Planning Commission: Peter Joslin (Chair), Charlie Pughe (Vice Chair), Gerald Bouchard, Marty Illick, and Bill Stuono. Additional participants and attendees included the Town Planner and the applicants Teresa and Rick, and others (see the meeting minutes from May 7th).

Exhibits

Application Exhibits for the proposed development included:

1. Completed application form signed by Rick Pete received on February 20, 2020;

2. Proposed draft survey map(s): “Subdivision Survey of Property Belonging to – Teresa R. Pete and Richard H. Pete Family Trusts – Whalley Road *T.H. N. 9) Charlotte, Vermont” (dated: Aug 2019 / Addition of Building Envelope 1/7/2020) by Sunrise Surveying, PLLC, Vergennes, Vt. (FILE No. A 19 – 538);
3. Sketch Plan Review; Planning Commission Letter (PC-19-140-SK Pete), dated October 17, 2019;
4. Sketch Plan Review; Planning Commission Letter (PC-17-46-SK Pete), dated June 29, 2017;
5. Map Slide 115, Clip 3, Page 32; Survey - “Plan of Property Belonging to – Richard H. & Teresa R. Pete – Town Highway No. 11 Whalley Road - Charlotte, Vermont” (dated March 1999) by Sunrise Surveying, Lisa M. Ginett (No. 528);
6. Wastewater System and Potable Water Supply Permit (Case Number: WW-4-1736-1 / EJ02-0244) – Richard & Teresa Pete, 730 Whalley Road, Charlotte, VT 05445, by Vermont Contours, Inc., Bristol, Vermont (dated August 4, 2019);
7. Wastewater System and Potable Water Supply / Subdivision Site Plan Map – Richard & Teresa Pete, 730 Whalley Road, Charlotte, VT 05445 (Approved December 12, 2019);
8. Charlotte Land Records – Volume 103, Pages 439-40 (1 Feb 1999) Conveyance from Ross to Pete; Volume 33, Pages 184-185 (26 Feb 1975) conveyed to Ross with 60’ easement along the southerly boundary of the property for the purpose of passage of persons and vehicles, and for the installation of utilities;
9. Planning Commission Minutes from meetings held on *September 5, 2019*; and *May 7, 2020*;

Regulations in Effect

Charlotte Town Plan, 2019

Charlotte Land Use Regulations, 2016

Recommended Standards for Developments and Homes, 1997

Findings

Background

1. Teresa and Rick Pete own a 15.81 acre property located on 730 Whalley Road within the Rural Zoning district (RUR), according to their most recent survey (see **Exhibit 2** above).
2. This application proposes to subdivide the property into two parcels, separating the accessory dwelling from the primary lot, creating: **Lot #2** (with the primary house) as a 10.64 acre property, and **Lot #1** (the accessory house) as a 5.17 acre property.

7.2 General Standards - Areas of High Public Value

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

- A. Primary Agricultural Soils (Prime and Statewide - PAS): Prime Agricultural soils compose a majority of the property, where Statewide soils comprise about 1.3 acres along the eastern property boundary, and about 0.7 acres have been identified along the southwestern corner of the parcel (according to the *USDA Natural Resources Conservation Service (NRCS) GIS* database).

- B. Surface Waters, Wetlands, and associated buffer areas: An ANR identified small stream and its 50 foot setback directly discharges into Lake Champlain and adjoins the property boundary to the southwest.
- C. Wildlife Habitat: About seven (7) acres of *Significant Forest Habitat* exists on the property. Most of the habitat has been identified on the southern and eastern portions of the existing parcel. The property adjoins *Significant Aquatic Habitat* to the southwest along the ANR identified small stream within an approximate 100' buffer, according to the "*Charlotte Significant Wildlife Habitat Map and Database*".
- D. Water Supply Source Protection Areas (SPAs): The parcel abuts a property to the north that is within the "*West Wind Water System*" Source Surface Water Protection Area (System ID: VT0005557).
- E. Historic Districts, Sites, and Structures: A historic site (the "*Lawrence Estate*") abuts the property to the west, across Whalley Road (according to the *Vermont Division for Historic Preservation*, Survey #: 0403-57 / HSID #: 1815).

7.2(E) General Standards – 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 submitted survey plat (see **Exhibit #2**) demarcates building envelopes for both **Lot #1** (1.377 acres = 26.6% lot coverage) and **Lot #2** (1.377 acres = 12.94% lot coverage); each conforming with 30% *Maximum Lot Coverage* for the Rural (RUR) zoning district standard.

7.3(D) District Standards – Rural, Shoreland & Conservation Districts

"... 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. . ."

- Each of the proposed building envelopes will minimize the encroachment on the identified *Areas of High Public Value*, discussed in **Finding 7.2**, above.

7.6 Water Supply & 7.7 Sewage Disposal

According to the property's approved water supply and wastewater permit WW-4-1736 (issued November 27, 2002), permit amendment WW-4-1736-R (issued December 3, 2002), and the most recent permit amendment (WW-4-1736-1) approved on December 12, 2019, the shared-system capacity for both properties are designed to serve a maximum of eight bedrooms. There are approved wellheads for both residences on **Lot #1** and **Lot #2**, respectively.

Decision

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

1. Prior to the submission of the mylar to the Planning Commission, the applicant shall:
 - a. Revise the survey plat to include:
 - i. A note indicating that the subdivision and the indicated building envelopes are in accordance with Planning Commission decision **PC-20-23-SD**, as recorded in the Charlotte Land Records including its *Volume* and *Page* number.
 - ii. The location of the designated wellheads, wastewater infrastructure (including the footprint of all mounds, septic tanks, and replacement areas), and any required easements for their access for both **Lots #1 and #2**.

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. In accordance with H.681 (*An act relating to government operations in response to the COVID-19 outbreak*), **this approval shall expire if the mylar for the survey is not filed and recorded in the Charlotte land records within 180 days, or 90 days after the date that the declared state of emergency ends.**

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 May 7, 2020: Peter Joslin (Chair), Charlie Pughe (Vice Chair), Gerald Bouchard, Marty Illick, and Bill Stuono.

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:	3 Jun 2020
2. Signed:		For / Against	Date Signed:	3 Jun 2020
3. Signed:		For / Against	Date Signed:	3 Jun 2020
4. Signed:		For / Against	Date Signed:	3 Jun 2020
5. Signed:		For / Against	Date Signed:	3 Jun 2020
6. Signed:	_____	For / Against	Date Signed:	_____
7. Signed:	_____	For / Against	Date Signed:	_____