

## Town of Charlotte Staff Report – DRB 23-085-PUD (FP)/SP/CU Maguire

DEVELOPMENT REVIEW BOARD hearing of **May 8, 2024 @ 7:05 pm**

Major changes since Preliminary Plan approval [appear in blue](#).

### General Information:

Applicant:	Jonathan Maguire (Consultant: Don Welch)
Application:	<b>DRB 23-085-PUD/SP/CU</b>
Parcel IDs:	00002-2760 <a href="#">00002-2834</a>
Status of Applicant:	Landowner
Requested Action:	Planned Unit Development/Three-Lot Subdivision (FP) and Site Plan Review and Conditional Use (Café)
Purpose:	Planned Unit Development (PUD), proposed 3-lot subdivision. Lot 3: <a href="#">renovate</a> existing 5-bedroom historic house and <a href="#">redevelop former garage site into cafe with a second-floor accessory-dwelling unit</a> . Lot 2: proposed <b>future</b> development of multi-unit elderly housing. Lot 1: proposed <b>future</b> development of a single-family dwelling. <a href="#">Transfer 0.3 from 2760 Spear Street to 2834 Spear Street</a>
Existing Zoning:	East Charlotte Village District
Location:	2760 Spear Street
Size:	Subject parcel is 14.8 acres. Proposed new lots: lot 1 = 5 acres; lot 2 = 4.5 acres; lot 3 = 5 acres. 0.3 acres are proposed to be transferred to the lot of Britta Johnson (2834 Spear Street).
Existing Land Use:	Open land and residential
Surrounding Land Use:	Adjacent to East Charlotte Village District on Spear Street and Hinesburg Road; residential.
Town Plan:	<i>The purposes of the East Charlotte Village District are (1) to allow for residential, limited civic and neighborhood uses that reinforce East Charlotte Village as a principally residential hamlet, and (2) to ensure that new development is consistent with the district's village character and pattern of development ....</i>
Recent Permitting History:	<a href="#">24-034-ZP: permit for addition to existing residence</a> <a href="#">HAP-24-01 (access off Spear Street)</a> <a href="#">23-085-PUD/SD (PP)</a> 22-48-ZP: new foundation work on existing dwelling and barn, March 21, 2022 DRB-23-008-SK Sketch Plan Letter
Applicable Regulations:	<i>Charlotte Land Use Regulations</i> , as amended 2022 <ol style="list-style-type: none"><li><b>Section 2.3, Application of District Standards, Table 2.2 (D-F) East Charlotte Village District (ECV): Conditional Uses; Dimensional Standards; District Standards</b></li><li><b>Section 3.2 Roadway, Driveway and Pedestrian Access</b></li><li><b>Section 3.11, Table 3.1 Minimum Off-Street Parking Requirements</b></li><li><b>Section 3.12(A) Performance Standards</b></li><li><b>Section 4.3 Adaptive Reuse of an Existing Structure</b></li><li><b>Section 5.4 (C) Conditional Use Review; General Standards</b></li></ol>

**7. Section 7.1-7.12 Application of Subdivision Standards**

**8. Section 8.5 Planned Unit Development**

---

**Staff Comments:**

Applicant Jonathan Maguire owns a [14.8-acre](#) parcel at the intersection of Hinesburg Road and Spear Street in the East Charlotte Village District. Maguire proposes to subdivide the parcel into three lots and create a planned unit development (PUD), which will include a house, [accessory dwelling unit](#), and [café](#) on Lot 3, multi-unit elderly housing on Lot 2, and a single-family house on Lot 1. [This project received preliminary plan approval on July 26 2023. The DRB granted a six-month extension to apply for Final Review in January 2024.](#)

[Since receiving Preliminary Plan approval, the owner of neighboring property to the west on Hinesburg Road \(Merritt\) surveyed her property, which revealed that the Maguire property had approximately half an acre less than originally thought. The new known property size of Maguire’s lot is 14.8 acres.](#)

[Unlike most projects that come before the Charlotte DRB, this proposal involves a long-term phasing schedule, including a phased approach to permitting. At this time, the applicant seeks approval for the three-lot subdivision and for conditional use and site plan for a proposed café on Lot 3. Permitting of the multi-unit elderly housing will occur at a later time. The proposed single-family dwelling on proposed Lot 1 is a permitted use, but it requires subdivision approval before being developed. The remaining 0.3 acres in the lot – a ravine area - are proposed to be transferred to the Johnson property located south at 2834 Spear Street.](#)

[The proposed lot configuration is as follows:](#)

[Lot 1: 5 acres \(future single-family residence\)](#)

[Lot 2: 4.5 acres \(future multi-unit elderly housing\)](#)

[Lot 3: 5 acres \(existing single-family residence with future accessory dwelling unit and café\)](#)

[2834 Spear Street: 0.87 acres \(no additional development proposed\)](#)

[This development is an opportunity to discuss pedestrian improvements. To date, the Board and applicant have discussed the VAST path that passes through the property, but have not discussed the potential for sidewalk and crosswalk improvements at any length.](#)

[For final subdivision review and for site plan and conditional use review of the café, the Board may wish to focus on the following issues:](#)

- [1. Density requirements pertaining to Lot 3](#)
- [2. Future phasing](#)
- [3. Lighting and hours of operation](#)
- [4. Size and impact of proposed parking facility](#)
- [5. Owner-occupancy requirement for accessory dwellings in Section 4.2](#)

**Exhibits received in support of this application:**

- [1. Subdivision Application, updated March 6, 2024](#)
- [2. Conditional Use Application, updated March 6, 2024](#)
- [3. Narrative, updated March 6, 2024](#)

## Town of Charlotte Staff Report – DRB 23-085-PUD (FP)/SP/CU Maguire

4. Waiver Requests, January 20, 2023
5. Architectural Plans, S.1-A2.1, Don Welch, January 8, 2023
6. Civil Engineering Plans, C0.0-C2.1, Civil Engineering Associates, October 14, 2022
7. [Charlotte Volunteer Fire and Rescue Service, Ability to Serve Letter, February 27, 2024](#)
8. Charlotte Conservation Commission, Letter dated July 7, 2023
9. Civil Engineering Associates, Wastewater System and Potable Water Supply Report, June 12, 2023
10. Don Welch (consultant for applicant), Preliminary Site Plan Application for 2760 Spear Street, Received June 12, 2023 with [updates submitted March 6, 2024](#) (includes results from ANR Permit Finder)

### Standard of Review:

The application requires review under the following sections of the *Land Use Regulations for the Town of Charlotte*, as amended 2021, hereafter referred to as the LURs:

1. **Section 2.3 Application of District Standards, Table 2.2 – East Charlotte Village District (ECV)**
2. **Section 3.2 Road, Driveway and Pedestrian Access Requirements**
3. **Section 3.11 Parking, Loading & Service Requirements**
4. **Section 3.12(A) Performance Standards**
5. **Section 4.3 Adaptive Reuse of an Existing Structure**
6. **Section 5.4 (C) Conditional Use Review; General Standards**
7. **Section 7.1-7.12 Application of Subdivision Standards**
8. **Section 8.5 Planned Unit Development**

### **Section 2.3 Application of District Standards, Table 2.2 – East Charlotte Village District (ECV):**

**(C) Permitted Uses:** Dwelling/Single Family is a permitted use. The development of a single-family house on proposed Lot 1 requires review only under subdivision standards.

**(D) Conditional Uses:** [Cafés are included in the definition of restaurant, which is a conditional use.](#)

**(E) Dimensional Standards:** *Minimum Lot Area / Density Residential = 5 acres/dwelling unit; Minimum Lot Area / Density Non-Residential = 1 acre.*

- Lot 3 = 5 acres. Applicant proposes to maintain the former Sheehan house as a single-family residence and to building an accessory dwelling unit (ADU) on the second floor of the proposed café.
- The existing house on proposed lot 3 is within the 25 feet minimum front yard setbacks on two sides, Hinesburg Rd. and Spear St.

**(F) (2) District Standards:** *Planned unit or planned residential developments review is required for all subdivisions within this district in accordance with Section 8.2.*

### **Section 3.2 Road, Driveway and Pedestrian Access Requirements (C)(5):**

- [The applicant received Highway Access Permit HAP 24-01 for the access to Lot 3 off Spear Street. The applicant's proposal for a driveway serving Lots 1 and 2 is before the Selectboard](#)

## Town of Charlotte Staff Report – DRB 23-085-PUD (FP)/SP/CU Maguire

on May 6, 2024. The current HAP application proposes to construct a driveway that will provide a 24-foot, two-way access across the road from 2149 Hinesburg Road. DRB members may refer to the full traffic analysis provided by Civil Engineering Associates for more detail.

### Section 3.11 Parking, Loading & Service Area Requirements (A)(2), Table 3.1:

- Proposed accessory dwelling unit requires (2) parking spaces based on 2 (*parking spaces*) per dwelling unit. The proposed café is approximately 1500 square feet and would therefore require 10 parking spaces under Table 3.1. The applicant has proposed 34 spaces, which greatly exceeds the required number.

### Section 3.12 Performance Standards:

- Applicant claims the proposed development will conform to all performance standards.
- The applicant has provided a lighting plan that appears to comply with the LUR standards. The Board may wish to discuss the hours lights will be on during the night.

### Section 4.3 Adaptive Reuse of an Existing Structure

The applicant no longer seeks review of a restaurant under adaptive re-use. The applicant proposes that the existing house will remain a residence.

**Section 5.5 Conditional Use review standards:** Applicant's responses follow in bold:

1. *Effect on community facilities and services that will result from the proposed development:* **Wastewater and water systems will be on site.**
2. *Character of the area affected ...:* **There will be little change to the massing and scale of the existing buildings. A (34) space parking area will be built with screening south of the buildings.**
3. *Traffic on roads and highways in the vicinity ...:* **Applicant conducted a traffic study.**
4. *Does proposed development conform to other municipal bylaws?* **Yes.**
5. *Will the proposed development interfere with the use of renewable energy resources?* **No.**

The applicant has reduced the number of proposed parking spaces from 41 to 34, which is almost three times the number of spaces required for a 1500-square-foot café and accessory dwelling unit. One neighbor has expressed concerns about the potential impact of this parking lot on neighboring property values. The Board should discuss the rationale for such a large-scale parking structure and how it fits into the character and future planning of the East Charlotte Village. The applicant has provided a detailed lighting plan, which appears to comply with the LURs.

### General Standards - Areas of High Public Value (Table 7.1):

The following Areas of High Public Value (AHPV) were identified on the property (*source: ANR data via layers in Charlotte Map Viewer, courtesy CCRPC*):

1. Agricultural use: n/a
2. Primary Agricultural Soils (Prime and Statewide): Statewide agricultural soils comprise ~60% of the eastern portion of the parcel. There is a small bit (approx. 20,000 sq. ft.) of prime agricultural soil in the central south portion of the parcel, i.e., on proposed Lots 1 and 2.
3. Steep Slopes (equal to or in excess of 15% grade): n/a

## Town of Charlotte Staff Report – DRB 23-085-PUD (FP)/SP/CU Maguire

4. Flood hazard areas: n/a
5. Surface Waters, Wetlands, and associated buffer areas: Mud Hollow Brook watershed. Wetland delineations and buffers from July 2022 are identified on the *Proposed Subdivision Site Plan, C.O.*, submitted by applicant. Aquatic habitat is associated with the aforementioned wetlands.
6. Wildlife Habitat: The southwestern edge of the parcel is composed of forest habitat. Aquatic habitat is associated with the aforementioned wetlands.
7. Water supply source protection areas: n/a
8. Scenic Views and Vistas: “Most scenic” road status for Spear Street ends at the intersection of Hinesburg Road and Spear Street going south, i.e., the northeast corner of the parcel.
  - Proposed Lot 3 with the [proposed café](#) is located in the Designated Village Center as per State Program.
  - Please refer to the Charlotte Conservation Committee review of the application, dated February 17, 2023, for an analysis of the Areas of High Public Value.

**Section 7.2 (D) Density:** Proposed Lot 1 (5 acres) conforms to the minimum density requirement of 5 acres/dwelling unit for the proposed future development of a single-family dwelling. [Proposed Lot 2 \(4.5 acres\) is proposed to be developed with multi-unit elderly housing at a later time. The applicant is currently working on a transfer of development rights to determine the possible number of elderly units that could be permitted.](#) Proposed Lot 3 (5 acres) conforms to the minimum density requirement of 5 acres/dwelling unit for the single-family dwelling [and accessory dwelling unit. However, the western side of Spear Street is not considered part of the Village Commercial District, and the proposed café requires 1 acre of density. The Board may need to exercise its discretion to determine whether the review of the project under PUD standards allows the development of the café on the same lot as the two living units.](#)

### **Section 7.2 (E): Building Envelopes:**

- All proposed buildings have been identified on the (3) proposed lots (see Proposed Conditions Plan, C2.0, CEA). Applicant will need to designate a building envelope on proposed Lot 3.

**Section 7.3 (B): District Standards for Village & Commercial Districts:** *Subdivisions within the ... East Charlotte Village Districts shall be designed to reflect and reinforce the historic character and the intended village neighborhood pattern of development in these districts. To achieve this objective, all subdivisions within these districts shall be designed and reviewed as either a planned residential development or planned unit development in accordance with the terms and standards under Chapter VIII, which allows greater flexibility with regard to the respective district dimensional standards.*

- This application is presented as a planned unit development (PUD), it is reinforcing the character of the village pattern by converting an historic house into a restaurant, suitable for a village neighborhood. It further endeavors to reinforce the village neighborhood pattern of development by proposing high density housing in the form of elderly housing.

### **Section 7.4: Compatibility with Agricultural Operations: (N/A)**

## Town of Charlotte Staff Report – DRB 23-085-PUD (FP)/SP/CU Maguire

### Section 7.5: Facilities, Services and Utilities:

- The proposed subdivision is located 3.2 miles from the Charlotte Volunteer Fire and Rescue Services (CVFRS) fire station. [The Charlotte Volunteer and Fire Rescue Service indicates that they can provide emergency services to the site, but advises the following: \(1\) install a Knox box with keys and codes provided to Fire and Rescue; \(2\) a minimum parking lot entrance width of 24 feet; and \(3\) installation of a monitored alarm system.](#) The Board may wish to discuss the potential hours of operation of the proposed café, but typical café hours would seem to have no adverse impact on the surrounding neighborhood.

### Sections 7.6, Water Supply / 7.7 Sewage Disposal:

- Civil Engineering Associates has provided an extensive and detailed analysis of the site to support all proposed development and found adequate wastewater and potable water capacity.
- The applicant appears to be well-prepared for the submission of a wastewater permit application for the proposed developments. [Charlotte’s municipal delegation over wastewater permitting has now fully ended, and State of Vermont now reviews those applications.](#)
- There is an existing well adjacent to the existing house on Lot 3. New drilled wells are proposed to be located adjacent to the proposed developments on Lots 1 & 2. There are (4) proposed wastewater mounds located on the western side of the parcel (see Proposed Conditions Plan, C2.0, CEA).

### Section 7.8, Stormwater Management & Erosion Control:

- Stormwater Management and Erosion Control plans to protect natural resources during the development of Lot 3 and any future development have not yet been submitted by applicant.

### Section 7.9, Landscaping and Screening:

- Applicant will propose landscaping to screen the south and east edges of the proposed parking lot. Applicant will not disturb the existing vegetation to the west of the proposed parking lot, existing house and (garage), which act as wetland buffers. The proposed restaurant may require additional screening of equipment, e.g., the exhaust fan.

### Section 7.10, Roads, Driveways & Pedestrian Access:

- [The applicant received Highway Access Permit HAP-24-01 for Lot 3 \(Spear Street access\). The Highway Access Permit for the Hinesburg access is before the Selectboard May 6, 2024.](#) DRB members may refer to the full traffic analysis provided by Civil Engineering Associates for more detail.

### Section 7.11, Common Facilities, Common Land & Land to be Conserved:

- Applicant intends to preserve the middle portion of the parcel, which includes a trail and wetlands, as open space. The revised plans show a proposed relocation of the VAST trail that will serve as a walking trail during warmer months.

**Section 8.5 Planned Unit Developments (PUDs) (B) General Standards.** *In addition to the subdivision standards set forth in Chapter VII, PUDs shall meet the following:*

## Town of Charlotte Staff Report – DRB 23-085-PUD (FP)/SP/CU Maguire

- (1) *The PUD shall be an effective and unified treatment of the development possibilities of the site, which is consistent with the goals and policies of the Charlotte Town Plan.*
  - The proposed development meets numerous goals of the Charlotte Town Plan, particularly with the inclusion of affordable senior housing in the East Charlotte Village.
- (2) *A PUD may include any use allowed within the district(s) in which it is located, including a mix of residential and nonresidential development, and associated accessory structures and uses. Dwelling units within a PUD may, at the discretion of the Development Review Board, be of varied types, including single-family, two-family, or multi-family construction, and may be attached or detached. In no case shall multi-family dwellings exceed six (6) dwelling units per building, except as provided in Section 4.4 for Affordable and Elderly Housing.*
  - Applicant proposes affordable elderly housing as part the development of the PUD, and therefore can exceed the maximum of (6) dwelling units per building.
- (3) *A greater concentration or intensity of development may be located within some portion(s) of the site provided there is an offset by a lesser concentration in another portion(s) or an appropriate reservation of open space on the remaining land in accordance with Section 8.6.*
  - See below.
- (4) *The overall density of the project shall not exceed the density allowed, in the Development Review Board's judgment, if the land were subdivided into lots in accordance with the standards for the district(s) in which the land is situated, except as provided for in Section 4.4 with regard to PUDs that incorporate affordable housing.*
  - The overall density of the fully developed PUD will exceed the density allowed -- applicant is proposing **affordable** elderly housing, **a transfer of development rights, or both to meet the standards.**
- (5) *A PUD may involve the creation of separate building lots, or may include a development in which multiple buildings and uses are constructed on a single parcel in common ownership.*
  - *The applicant proposes a café, single-family residence, and accessory dwelling unit to be located on Lot 3.*
- (6) *The PUD shall be designed to establish or extend an interconnected network of streets, and distinct streetscapes defined by consistent building setbacks, sidewalks, and street trees.*
  - *The applicant is maintaining existing setbacks on proposed Lot 3. Neither the Board nor the applicant has discussed sidewalks and crosswalks to any great length. This project presents an opportunity to discuss pedestrian infrastructure. The applicant has provided plans for pedestrian flow within the site, mainly by delineating and improving VAST trail that crosses the property.*
- (7) *Provision shall be made for year-round pedestrian circulation within the site, and for pedestrian access to adjacent properties. Pedestrian circulation should include a network of pathways and sidewalks connecting existing land uses within and adjacent to the site. Provision for safe and*

## Town of Charlotte Staff Report – DRB 23-085-PUD (FP)/SP/CU Maguire

*efficient transit access also may be required.*

- Applicant proposes to modify the existing trail that runs diagonally through the site starting at Hinesburg Rd., and to build additional 4 ft. wide paths off that would connect the proposed elderly housing buildings to [the café](#).

(8) *Buildings envelopes (or footprints) shall front toward and relate to streets, entrance drives and public spaces (e.g., greens, parks, plazas), both functionally and visually, and not be oriented toward parking lots. Proposed building envelopes (or footprints and elevations) shall reflect a diversity of building scale and massing. Excessively large, monolithic buildings shall be avoided. Lots and building envelopes within Village Districts shall be configured to be consistent with the pattern created by historic structures within the district/vicinity.*

- [The existing building and former garage on proposed Lot 3](#) relate to the street. [The proposed elderly housing has not been designed yet, but a large footprint set back a considerable distance from Hinesburg Road appears on the site plan.](#) None of the proposed buildings are oriented toward parking lots. The parking for the elderly housing is proposed to be underground. As mentioned in a previous staff report, the single-family dwelling proposed for Lot 1 does not relate to the street.

(9) *Proposed building sites shall be clustered and integrated within a compact village pattern, present a well-defined edge between the built environment and surrounding open space, and visually enhance village entrances.*

- The wetland buffers provide a natural “well-defined edge” between the buildings on Lot 2 and the buildings on Lot 3 and the surrounding open space.

(10) *Site design and landscaping shall be compatible with neighboring properties. In instances in which a PUD abuts a residential property, greater setback requirements for structures and parking areas and appropriate screening may be required.*

- Applicant proposes a vegetative buffer to screen the parking lot from the residential neighbor to the south.

(11) *All proposals shall demonstrate the extent to which they protect and utilize renewable energy resources through such means as developing south-facing slopes in lot layout and enabling solar access to all future buildings.*

- The proposed new buildings, in particular the elderly housing multi-unit buildings, should be evaluated for (best) utilizing renewable energy resources when they are presented for review in the future.

### [The Question of Owner Occupancy](#)

[The applicant proposes that the apartment above the café will be an accessory dwelling unit to the existing single-family residence. This implies that the owner of the lot would live in one of the two residential units because Section 4.2 of the LURs requires owner occupancy of either the primary or accessory dwelling. State statute governing accessory units reads in part: “Except for flood hazard](#)



## Town of Charlotte Staff Report – DRB 23-085-PUD (FP)/SP/CU Maguire

[areas]...no bylaw shall have the effect of excluding as a permitted use one accessory dwelling unit that is located within or appurtenant to a single-family dwelling on an owner-occupied lot” ([24 VSA 4412\(1\)\(E\)](#)).

Section 4.2(A)(3) of the LURs states that development that does not meet the owner-occupied standard “shall be considered...two (2) detached, single-family dwellings for which subdivision approval is also required.” This project is under review as a major subdivision/Planned Unit Development. Section 8.5(B)(2) adds that “Dwelling units within a PUD may, at the discretion of the Development Review Board, be of varied types, including single-family, two-family, or multi-family construction, and **may be attached or detached**” (emphasis added). Per Section 8.5(B)(4), the Board must find that “the overall density of the project shall not exceed the density allowed, in the [DRB’s] judgment, if the land were subdivided into lots in accordance with the standards for the district(s)...”

The Board should discuss with the applicant the goals for the two housing units on Lot 3. It’s possible that an owner will always live in one of the two dwelling units. It also possible the applicant might consider making the apartment above the café Affordable under Section 4.4, in which case ¼-acre of density would be required if neither structure is to be owner-occupied (the term accessory dwelling would then not apply and the Board would be approving two detached single-family dwellings on a single lot under PUD standards). On a practical note, it may be impossible to find a housing finance agency willing to administer a single unit in East Charlotte.

### *Proposed 0.3-acre Transfer*

The applicant has proposed transferring 0.3 acres of land, categorized as an undevelopable ravine area, presumably to serve as an additional buffer to the café and parking area. As of this writing, the applicant needs to provide written authorization from the receiving lot’s owner. Staff does not have further comment on the proposal.

**Prepared by:** Aaron Brown, Zoning Administrator, May 2, 2024, incorporating former staff reports