

1 **Town of Charlotte**
2 **DEVELOPMENT REVIEW BOARD**
3 **Meeting Conducted at Town Hall and via Teleconference**
4 **November 9, 2022**

5
6 *Approved by the Development Review Board – 11.16.22*
7

8 **Development Review Board:** Charles Russell, JD Herlihy, Gerald Bouchard, Alexa Lewis (Christina
9 Asquith absent).

10
11 **Staff:** Larry Lewack, Town Planner; Lynn Monty, Recording Secretary
12

13 **OTHERS:** Emily Laird, Lawrence Robinson, Andrea Tieso, William Baker, Paula Johnson, Paul
14 Plante, John Creech, Jim Donovan, Patricia O'Donnell, Barry Finette, Sharon Mount, Maggie Citarella,
15 Pete Demick, Jim Donovan, Cathy Marshall, Valerie Graham, Frank Tenney
16

17 ***Posted Agenda:***

18 7:00 PM Call to Order; changes to agenda (if any)
19 7:02 PM Public Comment (not pertaining to pending applications)
20 7:05 PM DRB 22-160-SD O'Donnell Donovan– Final Plan review for proposed 3-lot
21 subdivision at 125 Lake Rd.
22 8:05 PM Markup & Approve draft Decisions (Public Deliberations; no public testimony or
23 comment allowed): DRB 183-VA Lesser-Goldsmith; DRB 218-CU TOC Recreation
24 8:25 PM Review & Approve meeting minutes: DRB Minutes October 26.
25 9:00 PM Adjourn
26

27 **CALL TO ORDER:** Charles Russell called the meeting to order at 7:03 pm.
28

29 ***CHANGES TO THE AGENDA:*** Update about upcoming meetings to be added.
30

31 **Public Comment:** Emily asked for an explanation of the process. Charles said this hearing is to allow
32 interested parties to submit testimony and ask questions. The board will then close the hearing and
33 deliberate on its decision.
34

35 **DRB 22-160-SD O'Donnell Donovan – Final Plan review for proposed 3-lot subdivision at 125
36 Lake Rd.**

37 Patricia O'Donnell was sworn in and presented on various aspects of the proposed subdivision
38 at 125 Lake Road. There will be shared infrastructure and individual driveways. Utility lines will be
39 installed underground. Each lot will have its own well. An engineer's study proves there is sufficient
40 water supply on site. There will be shared septic with lines running to an offsite leach field on the
41 applicant's land to the west. Steep slopes, wetlands, and wetland buffers are outside of building
42 envelopes. There are no designated special natural areas or wildlife habitats on parts of the parcel
43 proposed for development. This land is west of the Charlotte Wildlife Park and Refuge. Lot 1 is
44 proposed for continued agricultural use. Stormwater layout details were reviewed. They are in
45 discussion with the Charlotte and Vermont Land Trusts about the possibilities of purchasing an
46 agricultural easement on Lot 1. That said, no conservation is required with a minor subdivision. They
47 are willing to compromise on the size of the Lot 3 building envelope. They are asking for flexibility

48 about where to locate house sites within that envelope, as there are multiple sites that are suitable. In
49 lieu of requiring a fire pond, CVFRS has approved individual home sprinkler systems.

50 JD Herlihy mentioned the letters the Town has received regarding this subdivision. Charles
51 Russell noted the Board received letters from the Conservation Commission, Milliken, Mount, Finette,
52 Mucklow, Summer, Steve Kiernan, and Melanie Goodman. Charles asked if Steve or Melanie were
53 present and they were not. He said we need to understand which of these were landowners with
54 abutting properties, or residents who are not adjoining property owners.

55 Emily Laird, John Creech, Pete Demick, Barry Finette, Sharon Mount, Jim Donovan, Valerie
56 Graham, and Cathy Marshall were sworn in. They own land abutting the proposed subdivision.

57 Maggie Citarella of the Conservation Commission asked, "What is the status of the
58 Conservation Easement?" Patricia said she is working with the Charlotte and Vermont Land Trusts &
59 they are making progress. Patricia feels confident that "it will proceed." This is only for lot 1. This farm
60 parcel will need to be subdivided from the rest of the land, so that it can be sold as a parcel.

61 Maggie Citarella asked if the town could restrict development rights. A Conservation Easement
62 requires ownership of land with development potential, Patricia said. The funding for Land Trust Land
63 is agricultural, and this proposal has followed the Land Trust guidelines. They have been very clear that
64 the ag land needs to first be separated from the rest of the parcel through subdivision, Patricia said. She
65 said the applicants are not willing to withdraw their proposal or wait pending resolution of this process.

66 Maggie suggested the decision could set conditions to protect the aquatic life in Holmes Creek,
67 vs. simply placing this clause in the Homeowners' Association agreement. She would like the DRB to
68 restrict the use of chemical lawn fertilizers on residential lots.

69 Summary of other points raised:

- 70 • Emily Laird would prefer the DRB defer this decision until funding comes through for
71 conservation. She also asked about wastewater and septic plans. Charles Russell: that's not
72 possible, unless it's withdrawn by the applicant. DRB must make a decision within 45 days.
- 73 • Sharon Mount shared a postcard image of this land & read a statement into the record. She
74 shared her fear of large mega-mansions being built on this picturesque land.
- 75 • Barry Finette said if this project is approved, it could open the floodgates for development on
76 this parcel & across town. There is a lot of public interest in conserving this property. He asked
77 the DRB to require a visual analysis by an outside expert (a.k.a. the Queechee test).
- 78 • John Creech asked about the watershed and wells. He'd like to see the DRB require an
79 independent assessment of the parcel's water capacity (a draw-down test). He asked if the DRB
80 could require conservation of the land.
- 81 • Frank Tenney asked about the PRD process. JD Herlihy said it is time-dependent: the PRD
82 approach is required only if developing 4 or more lots on the same parcel within a 10-year
83 period.
- 84 • Cathy Marshall said she was happy to have it clarified that building will be restricted to stay
85 within the three proposed building envelopes. She is concerned that more than three lots could
86 be developed eventually. She would have preferred the entire property be conserved.
- 87 • Gerald Bouchard addressed the large building envelope for lot three. He said that would allow
88 for a home and a barn. Discussion ensued about residential building versus agricultural, and the
89 rules and regulations for this.
- 90 • Town Planner Larry Lewack said the Town has a history of enforcing strong protection of
91 natural resources in subdivision reviews. It's highly unlikely that these principles would be
92 abandoned to allow development on Holmes Creek banks, wetlands and forested portions of lots
93 2 and 3. Right now, this project is proposed as a minor subdivision with three lots. In the event

94 additional building lots are proposed in the future on this land, this would be reviewed as a
95 major subdivision and a PRD requiring at least half of the land to be conserved.
96

97 **MOTION by JD Herlihy, seconded by Alexa Lewis, to recess the meeting for five minutes.**

98 **VOTE: 4 ayes, motion carried.**
99

100 Charles asked if they needed to enter a motion for an executive session for preliminary disclosure that
101 might affect land transactions. It was decided to continue the hearing without an executive session.

102 Charles explained there was a question about whether this project can be considered under the LURs
103 subdivision rules in place prior to yesterday's vote to amend Sec. 3.6 definition of lot standards. Jim
104 Donovan said they are certain we can consider this under the previous standard, since this application
105 was submitted prior to the LURs amendments being warned for a vote.
106

107 **MOTION by Gerald Bouchard, seconded by Alexa Lewis, to exit recess and reconvene the DRB**
108 **meeting and to continue the meeting past 9 pm. VOTE: 4 ayes, motion carried.**
109

110 Continued hearing:

111 Following JD Herlihy's prompt, Charles Russell asked if there were any conflicts of interest or
112 'ex parte' communications with applicants or others among the board members. There were none.

113 *(Note: DRB member Christina Asquith previously recused herself.)*

114 JD Herlihy asked applicants if they have future development plans beyond the three lots. The
115 applicants responded, "no." Attachments to the application and water supply statistics were discussed
116 (Attachment E). Lot 3 building envelope flexibility was addressed. Only a third of that building
117 enveloped can actually be used to build any structures, according to the HOA.

118 Charles asked about the applicants' plan to delay buildout of the infrastructure until after the
119 lots are sold. He noted that septic, road, and water must be in place before the town can issue building
120 permits, he said. The town can require the applicants to post performance bonds to make sure that
121 happens. He asked if the applicants would be amenable to that. Patricia: yes.

122 Alexa Lewis asked if this land is taxed under the state's Current Use Valuation program (yes).
123 There is a forest management plan in place for Lot 3. A new plan will need to be submitted if the land
124 is subdivided. JD questioned if lot 2 has sufficient frontage. It is a corner lot. JD believes required
125 frontage should be 300 feet on both streets, and it's actually less than that. JD pointed out that an
126 easement over Lot 1 to Lots 2 and 3 removes the road frontage requirement.
127

128 **MOTION by Gerald Bouchard, seconded by JD Herlihy, to close the hearing for DRB 22-160-SD**
129 **O'Donnell Donovan. VOTE: 4 ayes, motion carried.**
130

131 Markup & Approve draft decisions:
132

133 **DRB 183-VA Lesser-Goldsmith:**

134 This revised draft was reviewed and discussed. The Board discussed whether or not there was a
135 hardship involved. JD said the topography of the lot, and the preexisting small lot, create a hardship.
136 Alexa said she cannot find evidence of an unnecessary hardship. Charles said there is an implication of
137 hardship due to the small lot size. Other language in the findings was clarified.
138

139 **DRB 218-CU TOC Recreation – seasonal ramp at Town Beach:**

140 Flood hazard and conditions language was amended.

141

142 **MOTION by JD Herlihy, seconded by Alexa Lewis, to approve the draft denial decision of DRB**
143 **183-VA Lesser-Goldsmith. VOTE: 4 ayes, motion carried.**

144

145 **MOTION by JD Herlihy, seconded by Alexa Lewis, to approve the draft decision of DRB 218-CU**
146 **TOC Recreation. VOTE: 4 ayes, motion carried.**

147

148 **Review & Approve meeting minutes: DRB Minutes October 26:**

149 MOTION by JD Herlihy, seconded by Alexa Lewis, to approve draft Oct. 26 DRB meeting minutes as
150 amended: VOTE: 4 ayes, motion carried.

151

152 **(Public Deliberations on DRB 22-160-SD O’Donnell Donovan; no public testimony or comment**
153 **allowed):**

- 154 • Gerald Bouchard asked if we should limit the height of buildings to minimize the visual impact
155 as seen from a distance. Charles is not in favor of that. The town’s underlying 35 ft. height limit
156 should be sufficient, he said.
- 157 • Findings about all of the areas of high public value need to be detailed (Table 7.1), JD said.
- 158 • The Board is not inclined to restrict the use of fertilizer on the building lots.
- 159 • The size of the Lot 3 building envelope was discussed. Applicants suggested the board could
160 restrict lot coverage within the envelope to one-third of the roughly 3-acre area, but not show
161 which area until it’s selected by the buyer later. This condition could be written to give Zoning
162 Administrator discretion to determine if the eventual building plans conform to that standard.
- 163 • A performance bond may be needed to ensure the septic, road and stormwater infrastructure is
164 built out as required. The board needs to be careful with this, JD said.

165

166 **Due to the late hour (11:00 p.m.), the Board decided to recess this discussion to be continued at a**
167 **special DRB meeting it scheduled for Wed. Nov. 16 at 7:00 p.m. Larry will get that scheduled.**

168

169 **Adjournment:**

170 **MOTION by Gerald Bouchard; seconded by JD Herlihy, to adjourn the meeting. VOTE: 4 ayes,**
171 **motion carried.** The meeting was adjourned at 11:05 pm.

172

173 *Minutes Respectfully submitted:*

174 Lynn Monty, Recording Secretary, with edits by Larry Lewack, Town Planner