

# CHARLOTTE PLANNING COMMISSION

## FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

### Greenwood America, LLP Final Plat Application For A 4-Lot PRD Subdivision Creating 3 Building Lots and 1 Common Lot, Application # PC-01-50

#### Background

Sketch Plan Review (PC-01-11) was held on 3/15/01; Preliminary Plat Approval (PC-01-26) was granted on October 4, 2001. The applicant also applied for a Subdivision Modification (PC-01-45) to change the boundary of the subject parcel with an adjoining parcel owned by the applicant, which reduces the size of the subject parcel from 38.73 acres to 15.18 acres. That application was heard and approved at the meeting on January 17, 2002 prior to the public hearing for this subdivision application.

#### Application

The application consists of:

1. A Subdivision Application form. The appropriate fee was paid with submission of the Preliminary Plat application.
2. A survey map entitled "Greenwood America, Lake Road, Charlotte, Vt., Subdivision Plat" by Trudell Consulting Engineers dated 5/5/01, last revised 1/4/02.
3. A map entitled "Country Home Products, Ferry Road, Charlotte, Vermont, Master Site Plan, SP2A" by Trudell Consulting Engineers, dated 2/06/01, last revised 1/14/02.
4. A map entitled "Country Home Products, Ferry Road, Charlotte, Vermont, Site Plan, SP3A" by Trudell Consulting Engineers, dated 3/24/01, last revised 12/7/01.
5. A map entitled "Country Home Products, Ferry Road, Charlotte, Vermont, Details, D1A" by Trudell Consulting Engineers, dated 3/23/01, revised last 11/07/01.
6. A map entitled "Country Home Products, Ferry Road, Charlotte, Vermont, Details, D2" by Trudell Consulting Engineers, dated 5/05/01, revised 10/31/01.
7. A map entitled "Country Home Products, Ferry Road, Charlotte, Vermont, Details, D3" by Trudell Consulting Engineers, dated 5/05/01, no revisions.
8. A plan entitled "Country Home Products, Ferry Road, Charlotte, Vermont, Landscape Plan" by LandWorks, dated 7/19/01, last revised 11/01/01
9. A plan entitled "Country Home Products, Ferry Road, Charlotte, Vermont, Details" by LandWorks, dated 7/19/01, last revised 11/05/01
10. A document entitled "Protective Covenants"
11. A document entitled "By-Laws of Greenwood America Homeowner's Association, Inc."
12. A document entitled "Sewage Service Agreement, Waiver and Easement."
13. A document entitled "Roadway Agreement and Waiver."
14. A document entitled "Draft Open Space Agreement"
15. A document entitled "Services Contract" offered by Trudell Consulting Engineers, dated

December 17, 2001

16. A document entitled "Offer of Irrevocable Dedication"
17. A document entitled "Trail and Wildlife Easement"
18. A letter from Michael S. Adams of the Department of Army to Mr. Kent S. Koptiuch dated October 12, 2001.
19. A Department of the Army permit # 200102152 signed by David H. Killoy to construct the access roadway.
20. A letter from April J. Moulaert of the Vermont Agency of Natural Resources to Kent S. Koptiuch dated October 19, 2001.

## **Public Hearing**

A Public Hearing for this application was opened and closed on January 17, 2002. Deliberations were held on February 21, 2002.

Present at the public hearing representing the applicant were: Mel Hawley, William Lockwood, John Pitrowiski, and Joseph Perotto.

Adjoining property owners present were: Steven Mack and Robert Mack.

## **Regulations in Effect**

Town Plan readopted March 2000

Zoning Bylaws as amended March 1997

Subdivision Bylaws as amended March 1995

## **Findings**

1. The applicant has obtained a Subdivision Permit (EC-4-2396) from the Department of Environmental Conservation for the building lots (Lots 1-3).
2. The proposed subdivision is located within the Rural Zoning District.
3. The pattern of residential development in the vicinity of the proposed development is relatively compact. The residential structures in the vicinity of the proposed development are of a moderate size.
4. The proposed subdivision is located near parcels which are actively used for agriculture.
5. Chapter VI. Section 2.C. of the Charlotte Subdivision Bylaws states "The proposed density, building sizes, pattern of development, and configurations of open space are compatible with the surrounding natural and/or built environment."
6. In April Moulaert's letter of October 19, 2001 (submitted with the application), she recommends that either a split rail fence or a row of trees should be installed along the limit of the wetland buffer zone.
7. Section 5.15.B.1. of the Charlotte Zoning Bylaws states "the PRD shall...make appropriate provision for preservation of ...wetlands, ...natural areas, wildlife areas."
8. Section 5.15.D.4. of the Charlotte Zoning Bylaws states "Land shown as open space shall be protected for its intended use through a mechanism approved by the Planning Commission, such as the granting of a conservation restriction to the Town."

## **Decision**

Based on these Findings, the Planning Commission approves the Final Plat application for a four-lot subdivision creating three building lots and one common lot, with the following conditions:

1. The Protective Covenants will be amended as follows:
  - A. Paragraph 3; the last sentence will be deleted. A new paragraph will be created with the following:

The combined above-grade *interior living space* on Lots 1-3 will not exceed 8,000 square feet, not including basements or unheated outbuildings. No individual lot may have more than 2,850 square feet of above-grade *interior living space*, not including a basement or unheated outbuildings. *Interior living space* includes any enclosed living and home office areas, enclosed porches and decks, and space in accessory structures such as barns or garages used for such purposes. *Interior living space* will not include unheated garages, barns, sheds, open porches, open decks, open patios, etc. No structure may be taller than thirty (30) feet in height (see definition of “Building Height” in the Charlotte Zoning Bylaws).
  - B. Paragraph 4, change “lots” to “the requirement in the first sentence of this paragraph.”
  - C. Paragraph 5, add the sentence: “No pole-mounted light fixture will be taller than 10’ off the ground, and no building-mounted light fixture will be taller than 20’ off the ground.
  - D. Paragraph 13, change “or” to “as” in the 2<sup>nd</sup> sentence.
  - E. Paragraph 14 will state “No dwelling unit may have more than four bedrooms, as provided in the State Subdivision Permit.” Change “field” to “system” wherever it appears; delete “Operation and Maintenance Agreement” where it currently appears; add “Prior to a Certificate of Occupancy being issued for the first house built in this development, the Developer or Board of Directors will execute a Service Contract similar to that submitted with the Final Plat application.”
  - F. Paragraph 18 will indicate the Class III wetland as being subject to Army Corps of Engineers Permit #2001-02-152, and will also indicate the Class II wetland and buffer on Lot 4 is under the jurisdiction of the State of Vermont Agency of Natural Resources Water Quality Division. Also the paragraph will indicate that a fire pond may be allowed in the Class III wetland if permitted by the Army Corps of Engineers.
  - G. A paragraph will be added with the following:

Prospective homeowners should understand the importance of agriculture to the town of Charlotte, and should also recognize that agricultural practices may create conditions—including odor, dust, noise (including noise at night), and flies—and include the use of chemicals, genetically engineered seeds, and large buildings, that can impact neighbors’ desired lifestyles. In general, neighbors should try to resolve any problems among themselves; however, it should be understood that reasonable agricultural practices, which are defined by the State of Vermont, are necessary for viable farming operations and contribute to a working landscape and community pride.
2. The Offer of Irrevocable Dedication will be amended to indicate that once the location of the trail is specifically identified by the Town, the Grantor will agree to execute an amended Trail Easement Deed which references the specific location of the easement.
3. The Landscape Plan will be amended by the addition of a row of trees added along the limit of the wetland buffer, to reflect the recommendation of April Moulaert in her letter of October 19, 2001 to Kent Koptiuch ie: #2 on page 2.
4. Prior to construction of the access roadway, the applicant will obtain a permit from the Road Commissioner for the road-cut on Lake Road.

5. Prior to any building permits being issued for lots created by this subdivision, the access roadway, septic field and force mains (up to the boundary line of each building lot) will be constructed, and the existing diversion ditch will be filled.
6. Prior to any building permits being issued signed, stamped and dated “as-built” drawings of the road, septic system, and utility conduit will be submitted by the design engineer. (See Chapter V Section 12 of the Subdivision Bylaws).
7. Prior to any building permits being issued for lots created by this subdivision, the Landscaping Plan will be implemented as submitted except as amended in Condition #3 above. A representative of the designing landscape architect will attest to the conformance of the plantings in the field with the approved design prior to any building permits being issued.
8. No further subdivision will be permitted on Lots #1-#4.
9. All signs will be in conformance with the Zoning Bylaws.
10. All utility lines will be underground.
11. Within 90 days after the review and approval by the Town’s attorney, and prior to the sale of the proposed lots, the applicant will execute and record in the Charlotte Land Records the following documents: “By-Laws of Greenwood America Homeowner’s Association, Inc.,” “Protective Covenants,” “Roadway Agreement and Waiver,” “Sewage Service Agreement, Waiver and Easement,” “Open Space Agreement,” “Offer of Irrevocable Dedication” with the revision noted in Condition 2 above, and “Trail and Wildlife Easement.”
12. A mylar of the following three maps will be submitted to the Planning Commission for review within 60 days, and recorded in the Town Land Records within 90 days:
  - A. The survey map entitled “Greenwood America, Lake Road, Charlotte, Vt., Subdivision Plat” by Trudell Consulting Engineers dated 5/5/01, last revised 1/04/02.
  - B. The map entitled “Country Home Products, Ferry Road, Charlotte, Vermont, Master Site Plan, SP2A” by Trudell Consulting Engineers, dated 2/06/01, last revised 1/14/02.
  - C. The plan entitled “Country Home Products, Ferry Road, Charlotte, Vermont, Landscape Plan” by LandWorks, dated 7/19/01, last revised 11/01/01, with the revision noted in Condition #3 above.
13. The access roadway and individual driveways shall be surfaced with non-white crushed stone.

**Additional Conditions:** All plats, plans, drawings, testimony, evidence and conditions listed above or submitted at the hearing and used as the basis for the Decision to grant 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 permit and be subject to enforcement action by the Town.

**You and any interested parties are entitled to appeal this decision to the Environmental Court within 30 days as per requirements of 24 VSA Chapter 117, Sections 4471 and 4475.**

**Members Present at the Public Hearing:** Jeff McDonald, Josie Leavitt, Al Moraska, Jim Donovan and Gordon Troy.

**Members Present at the Deliberations:** Jeff McDonald, Jim Donovan, Gordon Troy and David Brown.

**Vote of Members Present after Deliberations:**

AYES: Unanimous

NAYS: 0

ABSTENTION:

Date Approved: February 21, 2002

Signed: \_\_\_\_\_ (Chair/Vice Chair)

Date Signed: \_\_\_\_\_