

CHARLOTTE PLANNING COMMISSION

FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

**Clark W. Hinsdale, Jr.
Subdivision Amendment
Application # PC-05-27**

Background

The applicant received Final Plat Approval for a two-lot subdivision with Findings of Fact of Decision for Application PC-05-14 dated 5/6/05. The current application seeks to amend conditions in that permit.

Application

Materials submitted in support of the application are listed in Appendix A.

Public Hearing

A public hearing for this application was held on June 30, 2005.

The following interested parties were present and participated: Clark Hinsdale Jr., Clark Hinsdale III, David Garbose, Jane Garbose, Damon Silverman and Laurie Silverman.

A site visit was conducted prior to the hearing at 6:00 PM. The following interested parties were present: Clark Hinsdale Jr., Clark Hinsdale III, David Garbose, Jane Garbose, Kate Lampton, Damon Silverman, Laurie Silverman.

Regulations in Effect

Town Plan as amended March 2002

Zoning Bylaws as amended March 2002

Subdivision Bylaws as amended March 1995

Findings

1. The application proposes to site the building envelope where it was originally proposed, and to eliminate the house envelope.
2. The Mount Philo Inn complex is listed in the Town Plan as an historic site, and is also on the State Historic Register.
3. The Mount Philo Inn is an operating business that provides rental apartments for various lengths of stay. The current owners, David and Jane Garbose, have operated the Mount Philo Inn as a business for the past fourteen years.
4. David Garbose testified at the hearing that the Mount Philo Inn's orientation to the western view of Lake Champlain and the Adirondack Mountains is a significant contributor to the appeal of the Mount Philo Inn to visitors and its economic viability as a business.
5. David Garbose testified at the hearing that, in his opinion, the current siting of the house

would have a negative impact on the historic western view that has remained relatively open for the last 100 years, thereby making the Inn a less desirable place to stay, compromising the ability of the Inn to run as a profitable business.

6. The location of the dwelling on Lot A-1A, as conditioned by Findings of Fact and Decision PC-05-14, would be prominently in the foreground of the westward view from the Mount Philo Inn. Although the intent of PC-05-14 was that the impact of the house would be mitigated by the sloping topography between the Mount Philo Inn and the conditioned house site, and by a restriction on the height of the house, the site visit at the Mount Philo Inn on June 30th provided a strong indication that this may not be so.
7. The original building envelope on Lot A-1A (as proposed in PC-05-14 and in the current application) is less prominently in the view from the Mount Philo Inn, and it is also shielded fairly heavily by existing vegetation.
8. Submissions and testimony from the applicant and interested parties indicated that the utility line which runs along the eastern edge of Lot A-1A is likely to be removed, and the right-of-way may also be moved.
9. *Most scenic views* are indicated on Town Plan Maps 12 and 13 along Mount Philo Road near the base of Mount Philo State Park, directed westerly. Additionally, Mount Philo Road is depicted as a “Most Scenic Road” on Town Plan Map 13.
10. The location of the proposed building envelope does not significantly increase the impact of the dwelling on the view from Mount Philo Road, in comparison to the building envelope that was conditioned in PC-05-14.
11. The proposed building envelope is not within the view from the base of Mount Philo State Park, which is where the *most scenic views* are indicated on Map 12 of the Town Plan.
12. The proposed building envelope is somewhat less desirable than the conditioned building envelope when viewed from the summit of Mount Philo; however the distance between the summit and the proposed building envelope reduces the impact of the proposed site to the point where the difference may well be indistinguishable. From the summit, the house will still appear to be located at the edge, rather than in the middle of, the field.

Decision

Based on these Findings, the Planning Commission approves the Subdivision Amendment with the following conditions:

1. The building envelope on Lot A-1A will be as proposed by the applicant in terms of the distance from the north and south lot lines, however it will be shifted 50 feet to the east so that it is adjacent to the utility line easement. The house envelope and the height limit required by Findings of Fact and Decision PC-05-14 are hereby removed.
2. The subdivision plat submitted with the application will be amended as follows:
 - A. The proposed building envelope will be shifted 50 feet to the east so that it is adjacent to the utility line easement.
 - B. Dimensions on the building envelope and distances from the envelope to the two closest property lines will be labeled.
3. Two paper copies (one full size and one 11” x 17”) and a mylar (18” x 24”) of the plat, as revised by Condition #2 above will be submitted to the Planning Commission for review

within 60 days; the applicant will record the mylar of the plat in the Charlotte Land Records within 90 days.

- 4. This approval amends PC-05-14 only with respect to Conditions 1, 5, 6 and 7. Conditions 2, 3, 4, 8, 9, 10, 11, 12 and 13 of Findings of Fact and Decision PC-05-14 are in full force and effect.
- 5. Prior to the submission of a Zoning Permit application, the applicant will set wooden stakes at the corners of the building envelope.
- 6. All buildings on Lot A-1A shall be located within the building envelope.

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 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.

This decision may be appealed to the Vermont Environmental Court by the applicant or an interested person who participated in the proceeding. Such appeal must be taken within 30 days of the date of the 4th 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 site visit and the Public Hearing on June 30th: Jeff McDonald, Jim Donovan, Linda Radimer, John Owen, Peter Joslin and Robert Mack

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

APPENDIX A

Materials submitted in support of the application consisted of:

1. An application form and the appropriate fee.
2. A memo from Clark W. Hinsdale Jr. to the Charlotte Planning Commission dated May 31, 2005 re: Request for Subdivision Modification.
3. A plan by Stuart Morrow entitled “Final Plat Minor Subdivision, Property of Clark W. Hinsdale Jr.” dated December 2004, no revisions. This was the same plan that the applicant had submitted with PC-05-14.
4. An e-mail from Karen K. Farnham (Right-of-Way Manager for Verizon Vermont) to Mr. Hinsdale, Mr. Miskell and Mr. Garbose dated May 18, 2005.
5. David and Jane Garbose submitted the following items:
 - A. Two photographs towards Lot A-1A from the Mount Philo Inn with a superimposed image of a dwelling under construction sited in two different locations (labeled “South Location” and “North Location”).
 - B. A memo from David C. DeSmet of Galvani Interactive to the Charlotte Town Planning Commission dated June 30, 2005
 - C. A letter from Terry Krinsky of TK Landscape Architects to Dean Bloch, Town Planner dated June 14, 2005.
 - D. A letter from Daryl Stoors of Daryl V. Storrs Artworks to the Charlotte Planning Commission dated June 14, 2005, with accompanying copies of pastel paintings.
6. At the hearing, the applicant submitted a letter from James Ouimette to the Charlotte Planning Commission dated June 30, 2005.