

CHARLOTTE PLANNING COMMISSION

FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

**Clark W. Hinsdale, Jr.
Subdivision Amendment
For Sheehan Green Lots 16, 17 and 18
Application # PC-05-33**

Background

The Sheehan Green development has received approvals in several phases (four phases to date). Lots 16, 17 and 18 were created in Phase IV, however these lots were not approved for development. The current application seeks approval to develop the lots. Sketch Plan Review for the current proposal was held on April 21, 2005.

Application

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

Public Hearing

A public hearing for this application was held on July 28, 2005. The following interested parties were present and participated: Clark Hinsdale Jr., David Miskell (representing Clark Hinsdale III), Linda Randall, Robert Adsit, Richard H. Stowe.

Regulations in Effect

Town Plan as amended March 2002
Zoning Bylaws as amended March 2002
Subdivision Bylaws as amended March 1995

Findings

1. Lots 16, 17 and 18 were created in 1998 (volume 102 page 294 & map slide 114), but were not approved for development.
2. Applications for development, including subdivisions, subdivision amendments, and zoning permits, are reviewed in accordance with the bylaws that are in effect at the time of the application submission.
3. Lot 16 and 17 are proposed to share a wastewater disposal system that will be located within the Restricted Farm Land owned by Clark W. Hinsdale Jr. The existing Open Space Agreement allows for this. The wastewater disposal system for Lot 18 is located on Lot 18.
4. The applicant has received a permit from the State for the wastewater disposal systems for Lot 16, 17 and 18 (WW-4-2418) and the Town's septic consultant has indicated that the soils and designs are satisfactory.
5. It is noted that Condition 19 of the Final Plat Decision dated December 4, 1998 states that access to Lot 18 will be via Sheehan Green Road and Murphy Road. The plat recorded in

Slide 114 depicts the driveway for Lot 18 branching from Sheehan Green Road east of the intersection with Murphy Road, because a Class II wetland is located on the northern side of Lots 17 and 18 and to the east of Lot 18. However driveway location is problematic in that there is poor sight distance at the intersection of the originally proposed driveway and Sheehan Green Road, especially in the winter as a result of snow drifts. This location also would result in the driveway prominently cutting through a scenic open field to the south of Sheehan Green Road.

6. Additional curb-cuts on main roads are discouraged, however the proposed access for Lot 18 off of Hinesburg Road is less problematic with regard to safety and aesthetics than the access from Sheehan Green Road envisioned in the 1998 approval. Also, additional curb-cuts are not as problematic in village areas, which this is.
7. The development of Lots 16 and 17 will result in six lots using Murphy Road for access. Therefore Murphy Road needs to be upgraded to comply with the “Charlotte Volunteer Fire and Rescue Services Recommended Standards for Developments and Homes” as well as condition 20 of the Final Plat Decision dated December 4, 1998.
8. Sheet 1 by Lincoln Applied Geology (LAG) indicates that there is a class II wetland along the northern edge of Lots 17 and 18, to the east of Lot 18, and to the north of Murphy Road. A CUD permit (90-190.2) was issued on August 25, 1998 to address the project’s wetland impacts.
9. The Morrow plat and LAG sheet #1 depict building envelopes for Lot 17 and 18 located at the edge of the 50-foot wetland buffer. This siting of the building envelopes doesn’t provide for a mowed lawn, if a house is located right at the edge of the envelope, without encroaching in the 50-foot wetland buffer. Therefore a larger setback from the Class II wetland is appropriate in order to maintain a 50-foot buffer as required by Section 5.12. of the Zoning Bylaws.
10. LAG sheet #1 appears to indicate a 75’ setback between the primary mound and the house site, although LAG sheet #2 indicates a 25’ down-slope setback from the mound.
11. The class II wetland at the northern edge of Lots 17 and 18 is associated with a large drainage system which runs northward into Mud Hollow Brook.
12. At the public hearing the owner of Lot 15 commented that she has experienced significant flooding in the basement of her house.
13. No information was provided by the applicant regarding the size and adequacy of the existing culvert under Murphy Road.
14. It is noted that the isolation zone for proposed well on Lot 16 impacts adjoining property to the south and east.

Decision

Based on these Findings, the Planning Commission approves the Subdivision Amendment to allow Lots 16, 17 and 18 of Sheehan Green to be developed, with the following conditions:

1. The plans submitted with the Final Plat Application will be revised as follows:
 - A. Lincoln Applied Geology (LAG) sheet 1 and Morrow plat:
 1. The building envelopes for Lots 17 and 18 will provide a 75-foot setback from the edge of the Class II wetland.
 2. The building envelope on Lot 18 will provide an appropriate setback from the

primary mound disposal area located on Lot 18 based on the required separation distance from the wastewater disposal area.

3. Revision dates will be indicated.

B. LAG sheet 1:

1. The label on the Nola parcel will be corrected from “Potential House Site” to “Existing House Site”.
2. The culvert under Murphy Road will be depicted and specifications labeled.
3. The potential house site on Lot 16 will be placed within the building envelope.
4. Lot 5 will be corrected to Lot 15.

C. Morrow plat:

1. The easement for the secondary wastewater system for Lot 17 will be as depicted on the LAG plan.
 2. Distances between building envelopes and the nearest property line or other feature (e.g.: wetland) will be indicated.
 3. Note #3 will indicate that survey also depicts building envelopes and the proposed easement on Lot 18 in favor of Lot 17 for the secondary wastewater system.
2. Two paper copies (one full size and one 11”x 17”) of each of the Morrow plat, with amendments as indicated in Condition #1 above, will be submitted to the Planning Commission for review within 60 days; the applicant will record a mylar (18” x 24”) of the Morrow plat in the Charlotte Land Records within 90 days.
 3. Prior to the conveyance of Lots 16, 17 and 18, the Open Space Agreement will be submitted to the Selectboard for approval, and once approved, executed by the Selectboard and the applicant and recorded in the Charlotte Land Records.
 4. Prior to the conveyance of Lots 16, 17 and 18, the document entitled “Shared Septic System and Easement Agreement, Lots 16-18—Sheehan Green” will be executed and recorded in the Charlotte Land Records essentially as submitted, with minor edits for clarity.
 5. The conveyance deed for Lot 18 will include the easement language submitted with the application.
 6. Prior to the submission of an application for a Certificate of Occupancy for Lot 17, Murphy Road will be improved to conform to the standard for access roads serving six house sites as provided in the “Charlotte Volunteer Fire and Rescue Services Recommended Standards for Developments and Homes” from Sheehan Green Road to at least the westerly edge of the driveway for Lot 17, and the applicant shall submit a written certification from an appropriately certified engineer stating that the road has been constructed to the standard, and that the culvert under Murphy Road is appropriately sized.
 7. The driveway for Lot 17 will be located outside of the Class II wetland and the 50-foot wetland buffer.
 8. Prior to the submission of a Zoning Permit for Lot 18 and prior to the construction of the Lot 18 driveway, the centerline of the driveway for Lot 18 will be staked by a licensed surveyor to assure proper setbacks from the replacement septic systems for Lots 16 and 17.
 9. All new utility lines will be underground.

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 July 28th: Jeff McDonald, Robin Pierce, John Owen, and Peter Joslin.

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 plan by Stuart Morrow entitled “Final Plat, Subdivision Modification, Property of Clark W. Hinsdale Jr.” dated February 2005, no revisions.
- 3. A plan by Lincoln Applied Geology entitled “Clark Hinsdale, Jr. Property, Charlotte, Vermont, Sheehan Green Lots 16, 17, & 18, Site Development Plan,” Sheet #1, dated May 2005, no revisions.
- 4. A sheet by Lincoln Applied Geology entitled “Clark Hinsdale, Jr. Property, Charlotte, Vermont, Sheehan Green Lots 16, 17, & 18, Disposal Area Plan Details,” Sheet #2, dated May, 2005, no revisions.

5. A sheet by Lincoln Applied Geology entitled “Clark Hinsdale, Jr. Property, Charlotte, Vermont, Sheehan Green Lots 16, 17, & 18, Site Development Plan Details,” Sheet #3, dated May, 2005, no revisions.
6. A copy of the application to the Vermont Environmental Conservation Department for WW permits with a cover letter to Mr. Ernie Christianson dated May 27, 2005.
7. A draft document entitled “Amendment to Open Space Agreement—Sheehan Green.”
8. A draft document entitled “Shared Septic System and Easement Agreement, Lots 16-18—Sheehan Green.”
9. Draft language for an easement entitled “Lot 18 Easement for Access Over the C.W. Hinsdale Jr. Restricted Farm Land.”
10. At the hearing the applicant submitted a revised plat by Stuart Morrow. It had the same title and date as the original submission.
11. At the hearing the applicant submitted a memo to the Charlotte Planning Commission from Clark W. Hinsdale, III, re: Sheehan Green Lots 16, 17, and 18, dated July 28, 2005.