

CHARLOTTE PLANNING COMMISSION

FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

Clark W. Hinsdale III Subdivision Modification and Amendment of the Estate of Marietta J. Palmer Subdivision and the George and Merry Lynn Reynolds Subdivision Application # PC-05-37

Background

The applicant owns Lot 2 of the Estate of Marietta J. Palmer subdivision (PC-04-20), and also owns the adjoining lot to the east (volume 143 page 428), which is sometimes referred to as the “Commercial Lot”. The applicant also owns another adjacent lot (volume 146 page 391) sometimes referred to as the “Shop Lot”; and the applicant owns rights as specified in volume 146 page 396 to the wastewater disposal system that was approved for the George and Merry Lynn Reynolds subdivision (PC-03-32, also known as the Kingsland Farm subdivision).

Application

Materials submitted with the application are listed in Appendix A.

Public Hearing

A public hearing was held for this application on September 1, 2005. Clark Hinsdale, III was present and represented himself as the applicant. No other interested parties were present.

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 makes two requests. One request is to change the boundaries between Lot 2 and the Commercial Lot. The result would be called Lot 2A, which would be a 2.55 acre lot associated with an approved building envelope, and Lot 2B, which would include the remainder of Lot 2 (27.25 acres) and the Commercial Lot (26.57 acres), totaling 53.82 acres.
2. The other request is to change the location of wastewater disposal for the resulting Lot 2A from an individual system that was designed and approved when the property was subdivided (the Estate of Marietta J. Palmer Subdivision) to the community system that was created for the George and Merry Lynn Reynolds Subdivision (“Kingsland system”), and also to add the Shop Lot to the Kingsland system.
3. Chapter VIII Section 6 of the Charlotte Subdivision Bylaws states that “no...modifications or revisions shall be made on any subdivision plat after final

approval, unless said plat is first properly submitted in accordance with these Bylaws to the Planning Commission as a modification to the subdivision and the modified plat is approved.”

4. The Subdivision Bylaws do not provide standards specifically for reviewing modified plats, however the standards for Boundary Adjustments (Chapter III Section 4) are appropriate for reviewing modifications to lot lines within approved subdivisions.
5. The application will not create any new lots.
6. The application will not impact access to any parcel.
7. The application will not adversely impact any significant natural resources.
8. As proposed, Lot 2A is 2.55 acres, which is less than the minimum lot size (five acres) specified in Chapter IV Section 4.2.D. of the Charlotte Zoning Bylaws.
9. The Estate of Marietta J. Palmer subdivision (PC-04-20) was approved under the provisions of Chapter V Section 5.15 (Planned Residential Development) of the Charlotte Zoning Bylaws, which allows lots to be less than the minimum lot size provided that the total number of units is not greater than what could be created in a conventional layout.
10. The allocation of density for the Estate of Marietta J. Palmer subdivision was indicated in a note labeled “Density Alternate” on the plan by T. J. Boyle and Associates (“Boyle plan”) recorded in slide 141 of the Charlotte land records. The note indicates that for density purposes Lot 2 has 25.2 acres.
11. The Commercial Lot has been conserved by a Grant of Development Rights recorded in volume 150 page 639. This grant allows development of a “Farm Market Complex”, but no residential or commercial uses, therefore no density is currently associated with the Commercial Lot.
12. Condition 17 of the Estate of Marietta J. Palmer subdivision (PC-04-20) states: “No development shall ever be located in the portions of Lot 1 and Lot 2 that are labeled (on the Boyle plan) as ‘Area of the property that has been used for agricultural purposes in recent years.’ Also, these areas shall not be internally subdivided.”
13. Condition 17 of the Estate of Marietta J. Palmer subdivision (PC-04-20) restricted the development of Lots 1 and 2, but did not remove the density from these lots.
14. The resulting density for Lot 2B is calculated as follows: Lot 2 was considered 25.2 acres for density purposes (see Boyle plan); the Commercial Lot has been conserved except for a farmstand, so it has no density for residential or commercial purposes; Lot 2A is 2.55 acres, which is 2.45 acres less than the required minimum lot size of five acres. So Lot 2B will have a “density acreage” of 22.75 (i.e. 25.2 – 2.45).
15. The Kingsland system has sufficient capacity to serve Lot 2A and the Shop Lot. The applicant has reserved appropriate force main easements over Lot 5 of the Estate of Marietta J. Palmer subdivision and Lot 6 of George and Merry Lynn Reynolds subdivision. The project will need an amendment of the state wastewater permit.

Decision

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

1. The survey by Civil Engineering Associates, Inc. will be amended as follows:
 - A. The building envelope for Lot 2A will remain in the configuration that was

approved for the Estate of Marietta J. Palmer subdivision (PC-04-20).

- B. A note will be added similar to the “Density Alternate” on the Boyle plan. The note will indicate that for density purposes Lot 2B has 22.75 acres.
- 2. A mylar of the survey as amended by Condition #1 above will be submitted to the Planning Commission for review within 60 days and recorded in the Charlotte Land Records within 90 days.
- 3. Prior to the submission of the mylar, the applicant will submit a letter from the surveyor indicating that the survey pins have been set in the field as indicated on the survey.
- 4. Prior to the submission of the mylar for recording, the applicant will obtain the appropriate wastewater disposal permit amendment from the State. Alternatively, the applicant shall submit a letter to the Planning and Zoning Office from the Vermont Wastewater Management Division indicating that no permit is needed.
- 5. Lot 2B is not to be developed except as provided in the Grant of Development Rights recorded in volume 150 page 639.
- 6. The portions of Lot 2B that are the subject of this application are considered as merged and cannot be developed or conveyed separately unless allowed by an action of the Planning Commission.
- 7. Prior to the conveyance of Lot 2A or the Shop Lot, the documents entitled “Second Amendment To Shared Septic System Easement, Construction, Maintenance and Operation Declaration of Covenants and Agreement” and “Third Amendment To Shared Septic System Easement, Construction, Maintenance and Operation Declaration of Covenants and Agreement” shall respectively be executed and recorded in the land records essentially as submitted.

Additional Conditions: All plats, plans, drawings, documents, evidence and testimony submitted with the application or at the hearing and used as the basis for the Decision to grant permit, as well as all conditions listed above 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 Public Hearing on September 1st: Jeff McDonald, Jim Donovan, Linda Radimer, Robin Pierce, 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

The application consists of:

- 1. An application form and appropriate fee.
- 2. A plan by Civil Engineering Associates, Inc. entitled “Subdivision Modification, Property of Suzanne Hinsdale and Clark Hinsdale III, Route 7 & Thompson’s Point Road, Charlotte, Vermont Plat of Proposed Subdivision, Drawing Number P1” dated July 5, 2005, no revisions.
- 3. A plan by Summit Engineering, Inc. entitled “Site Plan, Kingsland Farm Subdivision, Route 7, Charlotte, Vermont” dated 10/17/03, last revised 7/14/05.
- 4. A sheet by Summit Engineering, Inc. entitled “Septic Details, Kingsland Farm Subdivision, Route 7, Charlotte, Vermont” dated 10/17/03, last revised 7/14/05.
- 5. A draft document entitled “Second Amendment To Shared Septic System Easement, Construction, Maintenance and Operation Declaration of Covenants and Agreement”.
- 6. A draft document entitled “Third Amendment To Shared Septic System Easement, Construction, Maintenance and Operation Declaration of Covenants and Agreement”.
- 7. A copy of the Warranty Deed from the applicant to Alen and Nedzida Kadic (Lot 5 of the Estate of Marietta Palmer subdivision, recorded in volume 155 page 307.