

# CHARLOTTE PLANNING COMMISSION

## FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

**Clark W. Hinsdale, Jr.**

**Final Plat Hearing  
For A  
Two-Lot Subdivision  
Application # PC-05-14**

### **Background**

The subject parcel was most recently subdivided in 1994, which created a building lot on Windy Ridge Road. Sketch Plan Review for the current project (PC-04-22) was held on November 4 and 18, 2004.

### **Application**

Materials submitted with the application are listed in Appendix A.

### **Public Hearing**

A public hearing for this application was held on April 7, 2005. Clark Hinsdale, Jr. and Clark Hinsdale, III were present representing the applicant. Adjoining property owners Kate Lampton, Bill Youngblood, Lynn Maiorani, Denis Maiorani, Chris Hurd and David Garbose were also 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 proposes to create two parcels: Parcel A-1 is 46.49 acres, and is not proposed to be a building lot; Parcel A-1A is proposed to be a building lot of 8.17 acres.
2. The subject parcel is currently in agricultural use, and is part of an extensive and productive agricultural network surrounding Mount Philo.
3. The subject parcel is adjacent to (across the road from) Mount Philo State Park.
4. Mount Philo Road is depicted as a "Most Scenic Road" on Map 13 in the Town Plan, and *most scenic views* are indicated on this map and Map 12 from Mount Philo Road to the west.
5. The Mount Philo Inn complex is listed in the Town Plan as an historic site, and is also on the State Register.
6. The topography in the vicinity of the proposed building lot slopes upward towards Mount Philo Road. The Trudell plan shows elevations within the building envelope to be 34-60

feet, and elevations at Mount Philo Road (adjacent to the Mount Philo Inn) to be 90-96 feet. The change in topography allows the proposed dwelling and associated buildings to be “tucked” into the hillside; for this reason, the southeast corner of the parcel is the least visible from Mount Philo Road and from the summit of Mount Philo, and therefore is the preferred location for the proposed dwelling in terms of minimizing the impact on scenic resources in the vicinity of the project.

7. Because of the difference of elevation between the building envelope and Mount Philo Road, the proposed structures should be mostly below the panoramic views from the road. However a limitation on the height of the structures is necessary to guarantee this, since alterations to the existing grade may occur.
8. A VAST trail runs through the parcel. The location of the proposed lot should not prohibit continued use of the trail.
9. The proposed building lot is larger than would be optimum, since it will reduce the size of the remaining land available for agricultural use. However the application proposes significantly less density than is allowed based on the acreage of the subject parcel. Additionally, the prospective home-owners have expressed a strong interest in engaging in small-scale farming activities on the building lot, which would be enabled by the proposed lot-size.
10. The applicant has stated that he is attempting to conserve the remaining parcel (Parcel A-1), and members of the Charlotte Land Trust have indicated that the land trust is assisting with funding applications, although the outcome is not certain.
11. The applicant has stated that if funding is not available to conserve the entire remaining parcel, he will likely propose one house on the entire parcel as a “mini-farm” with a farmstead and associated land, which would be conserved (via donation).
12. If the scenario described in Finding #11 occurs, the Planning Commission preliminarily notes that the northwestern corner of the parcel would be the most desired location for such a farmstead (in terms of minimizing impacts on the resources reviewed in association with the current application).
13. The subject parcel has soils that are classified as prime and statewide agricultural soils, as shown on Map #4 of the Charlotte Town Plan. The proposed building lot is located directly on the prime agricultural soils, which would normally be a significant concern. However the applicant has stated that the westerly portion of the parcel (with statewide agricultural soils) has been “tiled”, and in his experience the areas with statewide soils are as productive as the areas with prime soils on this parcel.
14. Highway Access Permit (HAP-05-01) for a driveway has been approved by the Selectboard at the location indicated in the Trudell plan.
15. The application is not proposing wastewater disposal for Lot A-1, as allowed under the provisions of Chapter VII Section 13.2 of the Charlotte Subdivision Bylaws.
16. The application meets the requirements of Chapter VII Section 13.2 of the Subdivision Bylaws. The Town does not currently have an “agricultural stabilization program”, however the subject parcel is enrolled in the state Use Value Appraisal Program (“current use”).
17. With regard to Section 13.2 (B), the location of the proposed building lot (with the conditions indicated below) respects patterns of agricultural use by limiting the development footprint to the southeast corner of the parcel and further limiting the location of the dwelling to the southeast corner of the building envelope.

18. The proposed building envelope is located in the vicinity of other development, and also resembles the pattern of development along this portion of Mount Philo Road, which is primarily adjacent to or slightly set back from the roadway.
19. The Town's septic consultant has indicated that staff at the state Wastewater Management Division has indicated a wastewater permit is needed for this proposed subdivision.
20. The "septic parcel" located to the east of the subject parcel and south of the Barnes and Youngblood parcel has been depicted as a separate lot on several previously approved plats. It is designated exclusively for wastewater disposal; it currently serves the Mount Philo Inn, and is proposed to serve parcel A-1A.
21. Over the past two years Verizon has installed new utility poles along Mount Philo Road, and Verizon has indicated that it will remove the poles and telephone line within the utility easement running through the subject parcel.

## Decision

Based on these Findings, the Planning Commission approves Final Plat Application PC-05-14 with the following conditions:

1. The subdivision plat will be amended as follows:
  - A. The 200' x 350' building envelope will remain the size as proposed, but will be shifted to 75 feet from the southerly property line, and adjacent to the New England Telephone easement. It will be labeled "general building envelope".
  - B. Within the general building envelope, a "house envelope" will be created. The house envelope will measure 150 feet on all four sides, and will be located in the southeast corner of the general building envelope, sharing the southerly and easterly boundaries of the general building envelope.
  - C. Dimensions on the general and house building envelopes and distances from the envelopes to the two closest property will be labeled.
2. Two paper copies (one full size and one 11"x 17") and a mylar (18" x 24") of the plat, as amended in accordance with Condition #1 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.
3. Prior to the submission of the mylar in accordance with Condition #2 above, the applicant will obtain the appropriate wastewater disposal permit 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.
4. Prior to the submission of the mylar in accordance with Condition #2 above, the applicant will submit a letter from the surveyor indicating that s/he has set the survey pins in the field as indicated on the survey.
5. Prior to the submission of a Zoning Permit application, the applicant will set wooden stakes at the corners of the general building envelope and the house envelope.
6. The dwelling will be located entirely within the house envelope; all outbuildings shall be located within the general building envelope, and may be also located within the house envelope.
7. The maximum height of all structures at the ridgeline will be the lesser of the following two measurements: 35 feet (as "building height" is defined in the Zoning Bylaws), or the

elevation of the centerline of Mount Philo Road at the intersection of a perpendicular line between the road and the highest point of the ridgeline.

- 8. No pole-mounted light fixture will be taller than 8 feet off the ground, and no building-mounted light fixture will be taller than 20 feet off the ground, and a minimum of 15 feet below the centerline of Mount Philo Road at the intersection of a perpendicular line between the road and the light fixture. Fixtures will be shielded to direct light downward.
- 9. All new utility lines will be underground.
- 10. The driveway will be constructed from Mount Philo Road to the property line of Lot A-1A as depicted in the plan by Trudell Consulting Engineers submitted with the application.
- 11. The driveway will be surfaced with non-white crushed stone.
- 12. Any future subdivision will require the designation of open space, for which the current acreage (ie: 54.66 acres) will be used for determining the minimum requirement of open space.
- 13. Prior to any development of Lot A-1, a Subdivision Amendment will be required for which, at a minimum, access, wastewater disposal, and a building envelope will be reviewed.

**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.

**You and any interested parties are entitled to appeal this decision to the Environmental Court within 30 days of the date of 4<sup>th</sup> signature below approving this decision, as per requirements of 24 VSA Chapter 117, Sections 4471.**

**Members Present at the Public Hearing:** Jeff McDonald, Jim Donovan, Linda Radimer, and John Owen

**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**

1. An application form and appropriate fee.
2. A memo entitled “Final Plat Application—Property of Clark W. Hinsdale, Jr., Mount Philo Road, Charlotte, Vermont”
3. A map entitled “Final Plat, Minor Subdivision, Property of Clark W. Hinsdale Jr., Charlotte, Vermont by Stuart J. Morrow, dated December 2004, no revisions.
4. A plan entitled “Clark Hinsdale III, Mount Philo Road, Charlotte, Vermont, Sanitary Plan, SP1” by Trudell Consulting Engineers, dated 1/19/2005, no revisions.
5. A sheet entitled “Clark Hinsdale III, Mount Philo Road, Charlotte, Vermont, Driveway Profile, P1” by Trudell Consulting Engineers, dated 3/1/2005, no revisions.
6. A letter to Dean Block (sic) from Christopher W. Davis, Chief, Charlotte Volunteer Fire Department dated March 10, 2005.
7. A document entitled “Shared Septic System Agreement”, dated August 30, 1990, between Clark W. Hinsdale, III and David M. and Jane Garbose.
8. A packet entitled “Pump Station Design Computations for a single family dwelling, Mount Philo Road, Charlotte, Vermont, Clark Hinsdale III, Clark Hinsdale III, Mount Philo Road, Charlotte, Vermont, Project No. 2004127” dated February 14, 2005, by Trudell Consulting Engineers.