

**TOWN OF CHARLOTTE  
PLANNING COMMISSION  
NOVEMBER 7, 2013**

**APPROVED**

**MEMBERS PRESENT:** Jeff McDonald, Chair; Gerald Bouchard, Paul Landler, Donna Stearns, Linda Radimer, Marty Illick. Absent: Peter Joslin.

**ADMINISTRATION:** Dean Bloch, Town Planner, Tom Mansfield, Zoning Administrator.

**OTHERS:** Joann Cummings, Meg Walker, Peter Walker, Michael Abrams, Clark Hinsdale III, Suzanne Hinsdale, Tom Nola, Fritz Tegatz, Michael Russell, Chris Fortin, Becky Fortin, Kristen DeStigler, Tim Hotaling, Kathy O'Brien, Liam Murphy, Thomas Hergenrother, Tom Baginski, Allison Baginski, Nate Howells, Heather McKim, Charlotte Citizen, and others.

**AGENDA ITEMS:**

- **Clark Hinsdale, Jr Testamentary Trust; Final Plat Hearing; Minor subdivision Amendment in the form of a Boundary Adjustment; south side of Hinesburg Road west of Spear Street (solar array parcel)**
- **Thomas Hergenrother; Final Plat Hearing; 3 lot Minor Subdivision; 478 Guinea Road**
- **George Burrill & Lola Van Wagenen; Continued Sketch Plan Review; 7 lot subdivision; 283 Higbee Road**
- **Christopher & Rebecca Fortin; Sketch Plan Review; Site Plan for Contractor's Yard; 2737 Lake Road**

**CALL TO ORDER**

Mr. McDonald, Chair, called the meeting to order at 7:07 p.m.

**APPROVE REGULAR AGENDA AND CONSENT AGENDA**

The Regular Agenda was approved with the addition of a draft Planning Commission budget discussion.

Consent Agenda: none.

**PUBLIC COMMENT**

None.

**MINUTES: October 3, and October 17, 2013**

**MOTION** by Ms. Illick, seconded by Ms. Stearns, to approve the Planning Commission minutes of October 3, 2013 as written, with additions as follows:

- Page 3, line 109, delete the word "said" between the words "Davis" and "told him"
- Page 3, line 116, insert the word "mast" between the words "good" and "trees".
- Page 3, line 125, 2<sup>nd</sup> sentence, change the word "was" to "looked".
- Page 4, line 165, change the word "address" to "addresses".
- Page 6, adjournment was at 9:30 p.m.

**VOTE:** 6 ayes, 1 absent (Mr. Joslin); motion carried.

**CLARK HINSDALE, JR TESTAMENTARY TRUST; FINAL PLAT HEARING; MINOR SUBDIVISION AMENDMENT IN THE FORM OF A BOUNDARY ADJUSTMENT; SOUTH SIDE OF HINESBURG ROAD WEST OF SPEAR STREET (solar array parcel)**

Clark Hinsdale III, agent, appeared on behalf of the application.

#### STAFF NOTES

Mr. McDonald reviewed staff notes.

#### APPLICANT COMMENTS

Mr. Hinsdale handed out copies of a Final Plat that included a boundary line correction of the 15 acre solar array farm parcel surveyed by Stuart Morrow. The correction was different from a previous site plan by 2-3' that reduced the acreage by 0.01 of an acre. Stakes have been set, said Mr. Hinsdale.

Mr. Hinsdale said that he did not agree with the Zoning Administrator's classification of the application as a minor subdivision amendment. It was a boundary adjustment of two existing lots of 33.63 acres and 46.03 acres. The adjustment made one lot smaller and one lot larger. The two lots were different parcels bought from two different farms. The 33 acre wood lot was purchased from the Carpenter farm and the other parcel was purchased from the LeClair farm. The solar array on Lot 1 was now surveyed as 14.65 acres, clarified Mr. Hinsdale.

Mr. Hinsdale reviewed that there was no change in the existing Lot 1 farm access, which was approved to serve the solar array farm and agricultural uses. One lot has road frontage and the other lot was served by a right-of-way, explained Mr. Hinsdale.

#### PLANNING COMMISSION QUESTIONS/COMMENTS

Ms. Radimer asked if the Lot 1 right-of-way sloped downhill. Mr. Hinsdale replied slightly. The field was used for rotational grazing, said Mr. Hinsdale. Ms. Radimer asked if the land would be more useable if the roadway was moved over to follow the boundary. Mr. Hinsdale pointed out that the land rose at the access point. He had no objection, but there was a low point in the corner, which was not farmed. A hedge row came out to the road and could be cut back for visibility. Lot 2 had the entire road frontage on Hinesburg Road. The Public Service Board (PSB) and the Town of Charlotte had input in siting the solar arrays during the PSB hearings. The north line of Lot 1 was the line of woods. The PSB decision was to put the solar array at the edge of the woods. There was a 150' buffer along Sheehan Green. West of Lot 2 he had originally thought to continue the meadow to an old fence line. That meant that the road would come in straight to the solar array and the meadow in a straight line. But it got pushed back. The solar was located all on the farm land and 30-32 acres were tillable, explained Mr. Hinsdale.

Mr. McDonald reviewed a Planning Commission question at Sketch Plan regarding boundaries. Was it different from what was presented to the PSB, asked Mr. McDonald. Mr. Hinsdale said that it was a discussion between the lawyers and he had received an email from the Town Attorney regarding that a discussion. Mr. Bloch clarified that the Town Attorney hadn't had discussions with the Solar Farm lawyer. The Town Attorney only received the information from the Solar Farm lawyer, said Mr. Bloch.

Mr. Hinsdale said that Stuart Morrow had confirmed that the road, array and everything fit on the land area as approved during the survey.

Mr. Hinsdale said he was asked about a handout regarding landscaping requirements along the road and between neighbors. The purpose was for site control to make sure the solar people kept the agreements, said Mr. Hinsdale.

Ms. Radimer said that there was talk about buffers and landscaping on the east part of array farm as screening from Sheehan Green. Mr. Hinsdale explained that the agreement allows him to maintain an agricultural access across that strip. The solar array was fenced to allow grazing. The old Bean farm was all in rotational grazing. The LeClair lot was used the same way. No crops were raised there. The PSB process had interested party vectors giving input from every point. He tried to push the array to the south, but it ended up by the woods as approved by the PSB, said Mr. Hinsdale.

#### PUBLIC COMMENTS

Mr. Nola, adjoining land owner, expressed concern regarding legal questions related to the boundary lines and an agricultural use versus a commercial use in the Rural District. He understood that the solar array leased 15 acres of the 46 acre parcel for 25 years, which was what the PSB agreed to. Was this application a change of that legal proposal and would this affect the PSB approval. He would like specificity, stated Mr. Nola. Mr. McDonald clarified that the solar array issue was not germane to the application regarding lot size.

Mr. McDonald asked Mr. Hinsdale to speak to the 14.6 acre lot. Mr. Hinsdale said that was why Stuart Morrow set the pins and made an adjustment that affected 0.01 of an acre. The solar project and legality was addressed and a matter of record. The agreement with the solar firm included "up to" 15 acres. The leased area included landscaping and a fenced area, which ended up as 14.65 acres, has been verified. The PSB reduced the array area down to 11 acres. There had been a lengthy work planning regarding the East Charlotte Village area. During the process his original thinking as a land owner was that the meadow might be added to the East Charlotte Village area sometime in the future. He had conserved the Bean farm, but not the LeClair meadow. He decided to make economic use of the LeClair land via a lease to the solar array for 25 years. In creating a lot around the solar array he could sell it and be done with it, said Mr. Hinsdale.

Mr. McDonald stated that the property was in the rural district, not a commercial district.

In response to comments regarding the PSB determination on use of the parcel for a solar array that sold electricity, Mr. McDonald pointed out that solar uses were regulated by the PSB. Mr. Hinsdale noted that the Town worked/participated during the PSB process as a community to testify for things the Town sought to change.

Ms. Radimer asked if there was an open space requirement if the land was sold, or a lot was created. Mr. McDonald said that a lot was not being created. It already exists and was being modified. Mr. Hinsdale stated that there was a difference between a boundary adjustment versus a subdivision amendment.

Mr. Bloch entered an e-mail from Steve Colvin into the record, dated 11/04/2013, seeking to establish interested party status.

Mr. Landler asked if the parcel could be continually used for a commercial use when the 25 year lease ran out, or would it revert back to an agricultural use in the Rural District, asked Mr. Landler. Mr. Bloch stated that the agreement was to revert the land back to an agricultural field via reclamation for the Rural District.

Ms. Radimer asked if the solar farm could renegotiate the use. Mr. Hinsdale pointed out he didn't know if a solar installation would have value in 25 years. The technology could be outdated at the end of 25 years. There was a decommissioning plan and money has to be set aside for that. The

solar arrays would be removed, the ground plowed and reseeded. He didn't know what zoning would be in affect 25 years from now, said Mr. Hinsdale.

Mr. Landler suggested putting in language that the lot would revert back to an agricultural use in the Rural District. Mr. Hinsdale said that the Town should ask the Town Attorney since they had been actively involved. Mr. Bloch pointed out that the PSB governed everything regarding the solar array use. The Planning Commission Sketch Plan letter would provide the Town an opportunity to ask questions, said Mr. Bloch.

Ms. Baginski, Sheehan Green resident, said she agreed with Tom Nola. Nothing could be guaranteed with this parcel in 25 years if it was sold, said Ms. Baginski.

Mr. Walker, neighbor from across Hinesburg Road, said he understood was the PSB agreed that the parcel would return to agricultural use and that was written in law. Mr. McDonald said that the testimony at this application hearing was for a boundary adjustment to put a lot around the solar array.

Mr. Walker said he thought this was an agreement between the developer and land owner to develop the land. Mr. Hinsdale replied that the first document with the solar firm was a lease and much later switched to change ownership. He was here to change a boundary line and not own the land, stated Mr. Hinsdale.

Mr. Nola urged the Planning Commission to deny the application.

Ms. Illick suggested that language regarding easements should be included in the application. Mr. Hinsdale replied that Jim Ouiette's document was available and could be submitted. Town was correct in asking to see the language for easements and permits, which have been done, said Mr. Hinsdale.

Mr. Bloch said that a suggestion to move the right-of-way doesn't preclude completing the project.

**MOTION by Mr. Landler, seconded by Ms. Illick to close the hearing regarding the Clark Hinsdale, Jr Testamentary Trust Final Plat for a Minor Subdivision Amendment in the form of a Boundary Adjustment, south side of Hinesburg Road west of Spear Street.  
VOTE: 6 ayes, 1 absent (Mr. Joslin); motion carried.**

**THOMAS HERGENROTHER; FINAL PLAT HEARING; 3 LOT MINOR SUBDIVISION; 478 GUINEA ROAD**

Nathan Howells, Trudell Consulting Engineer, appeared on behalf of the application.

**STAFF NOTES**

Mr. McDonald reviewed staff notes.

**APPLICANT COMMENTS**

Mr. Howells reviewed a site map plat, dated 04/16/2013 and draft language in the deed regarding easements, dated 11/07/2013, and responses to a Planning Commission sketch plan letter as follows:

- PRD – complied with spirit of a PRD via siting homes close to the front of the property.

- Large open space at the rear of the property and wetlands in back of the property would be protected. The two new homeowners could use the protected area for passive recreation.
- Community waste water system was explored for three bedroom homes. The state regulations won't allow for combined flows of 700 gpd. The expected flows would exceed the 700 gpd.
- The waste water permit was amended to address well shield concerns.
- Building envelopes were delineated on the site map. The central lot was 0.5 acres, the south lot was 0.9 acres, and the third lot was 0.3 acres. Builder/owners may not want to be close to the mound systems.
- The Lot 3 building envelope has been shifted to the north.
- A shared curb cut was done for lots 2 and 3. The access entrance may be 18' wide with a 15" culvert.
- Wells and well shields were relocated.
- A waste water permit was secured from Spencer Harris.
- Right-of-way/easement language for the deeds needs to be polished. It was in draft form. There was a 25' access easement on the south for Lot 3. The access was at the back of the lot.
- A screening plan to create wildlife corridor was developed by a landscaping architect, see sheet C2-01.

Mr. McDonald suggested adding an access entrance at 18' width in the written decision.

#### PLANNING COMMISSION QUESTION/COMMENTS

Ms. Radimer asked if the wildlife corridor buffer was more than 25' wide. Mr. Howells replied yes.

Ms. Illick asked if the natural resource area was in an open space agreement. Mr. Howells replied that it was not for public use, but in draft language for the homeowner's deed. There would be passive recreation, such as for walking, cross country skiing, and no structures, said Mr. Howells.

Ms. Radimer asked if it was possible in the deed language to include a replacement plan for apple trees to maintain the buffer. Mr. Howells said it would be considered. Ms. Cummings, Conservation Commission member, suggested high bush cranberry versus apple trees.

Mr. Bloch asked if there was timeline for putting in landscaping for Lot 3. Mr. Howells replied no. It could be done prior to construction of the home on Lot 3, said Mr. Howells.

Mr. Bloch said that the common access at 25' wide should be noted on the site map.

Ms. Stearns asked if there was a sewer buffer. Mr. Howells explained that Act 145 and the waste water permit included processes for notification.

**MOTION by Ms. Radimer, seconded by Mr. Landler, to close the hearing regarding the Thomas Hergenrother Final Plat Hearing for a 3 lot Minor Subdivision located at 478 Guinea Road.**

**VOTE: 6 ayes, 1 absent (Mr. Joslin); motion carried.**

**GEORGE BURRILL & LOLA VAN WAGENEN; CONTINUED SKETCH PLAN REVIEW; 7 LOT SUBDIVISION; 283 HIGBEE ROAD**

Liam Murphy, agent, appeared on behalf of the application.

Mr. Bouchard and Ms. Illick recused themselves and left the hearing.

#### STAFF NOTES

Mr. McDonald reviewed staff notes.

#### APPLICANT COMMENTS

Mr. Murphy handed out a revised site map of a 36 acre parcel. The bulk of the property would be conserved. There was a question of what could be developed on the parcel, said Mr. Murphy.

Mr. Murphy reviewed a previous sketch plan proposal to site homes at the edge of the woods. The new plan has pulled the homes out of the woods and at the edges of meadows. The property has three values: riparian, open fields and woods, noted Mr. Murphy.

#### Site Visit Report:

Ms. Radimer suggested that it was best to preserve the resources by placing the houses more into the meadow closer to the road and to cluster the homes as much as possible. Mr. Murphy explained that along Higbee Road there was a big pond and down the middle of the property it was riparian. It was not possible to put homes close to the road, said Mr. Murphy.

Mr. Landler said that he found the land as a nice natural area. The larger area has no high density. This has high density, said Mr. Landler. Mr. Murphy reviewed that up hill on Lucy's Lane housing was on 5 acre lots versus this proposal for clustering and keeping the bulk of the land open.

Mr. Landler noted that as the access road went in there was a gully by a little pond. Would the grade change, and would that change dam up the stream, asked Mr. Landler. Mr. Murphy replied no. The grade would be built up on both sides of the stream. There were culverts there currently, explained Mr. Murphy. Mr. Landler suggested a wide culvert to handle spring flows.

Mr. McDonald asked if a lower density was done as an alternative to preserve areas of high public value, would that impact the project. Mr. Murphy replied yes. The applicant would like to receive Planning Commission comments in a sketch plan letter, said Mr. Murphy.

Ms. Cummings, Conservation Commission member, said in an assessment done on the north part of the property states this was the 'best of what was left'. Was there any way to delineate the wetlands, asked Ms. Cummings. Mr. McDonald explained the process for a major subdivision.

**MOTION by Mr. Landler, seconded by Ms. Stearns, to classify the George Burrill and Lola Van Wagenen 7 lot subdivision located at 283 Higbee Road as a Major PRD Plan.**

**VOTE: 4 ayes, 2 recused (Mr. Bouchard, Ms. Illick), 1 absent (Mr. Joslin); motion carried.**

Mr. Bouchard and Ms. Illick rejoined the Planning Commission.

#### **CHRISTOPHER & REBECCA FORTIN; SKETCH PLAN REVIEW; SITE PLAN FOR CONTRACTOR'S YARD; 2737 LAKE ROAD**

Christopher Fortin and Rebecca Fortin, owners, appeared on behalf of the application.

#### STAFF NOTES

Mr. McDonald reviewed staff notes.

## APPLICANT COMMENTS

Mr. Fortin explained that they operated a home based contractor's yard operation. The proposal would add a wood processor to the yard, said Mr. Fortin.

Mr. Mansfield said that the Fortin's have a successful landscaping home occupation. The numbers of major equipment and materials have escalated and regulations require that the equipment has to be enclosed in a structure. The Fortin's built a structure 5-6 years ago. However, the wood cutting, splitting and hauling activity has enlarged. A question was the structure large enough to shelter the equipment, said Mr. Mansfield. Mr. Fortin said that the structure built was never large enough.

Mr. Mansfield said that the Fortin's operate a contractor's yard and need a Level 3 category home occupation. The property was in the Rural District. They need a Sketch Plan review/site plan approval from the Planning Commission and a Conditional Use approval from the Zoning Board of Adjustment. There should be a joint Planning Commission/Zoning Board of Adjustment meeting, said Mr. Mansfield.

Mr. McDonald said a site visit was needed, and explained the sketch plan and formal application processes.

## PUBLIC COMMENT

Tim Hotaling, neighbor to the south of the subject property, stated that his house would be 300' from a new larger building. The Fortin's have equipment scattered around the property. With the existing level of business with dump trucks, excavators, etc, he could hear everything in his house. He has to use earplugs. A wood processor was beyond what he could tolerate regarding noise, and diesel fumes. This was not a wise precedent to set for a business in the rural district, said Mr. Hotaling.

Mr. McDonald explained that the Planning Commission and Zoning Board of Adjustment would hold a joint hearing to take testimony.

Mr. Fortin said that a wood processor was hydraulic equipment that cut and split fire wood. It was not like a chain saw, said Mr. Fortin.

Cathy O'Brien, Charlotte resident and realtor, explained that when a property was listed for sale the seller had to sign a disclosure document. Items disclosed would affect the value and salability of a property. For example, near the solar farm at Sheehan Green a house has been on the market and has not sold for over a year. Lake Road was an upscale area. The applicant could lease land further south cheaper and run his business off site, suggested Ms. O'Brien.

**MOTION by Ms. Radimer, seconded by Mr. Landler, to continue the Christopher and Rebecca Fortin Sketch Plan review for a site plan for a contractor's yard located at 2737 Lake Road to December 5, 2013, and to schedule a site visit for Saturday, November 9, 2013 at 9:00 a.m.**

**VOTE: 6 ayes, 1 absent (Mr. Joslin); motion carried.**

**DRAFT PLANNING COMMISSION FY2014-2015 BUDGET - discussion**

Mr. Bloch noted that a new position for a combined Town Planner/Zoning Administrator decreased hours to 40 hours per week. The offer of employment has not been accepted yet. The position has a start date of December 2, 2013, said Mr. Bloch.

There was review of reductions that included legal expenses, insurance costs and a possible increase in computer costs. Changes to the draft budget included \$5,000 for a planning consultant, \$5,000 for Town Plan/land Use review, and Village planning re-titled as Open Space Planning.

There was discussion regarding electronic record keeping. Mr. Mansfield said that permitting software has been modified. A question was what to scan in. The Town should wait to see what the new Town Planner/Zoning Administrator wants to do, suggested Mr. Mansfield.

Ms. Illick asked if they had the ability to track the number of units built in the Rural District. This would let the Planning Commission know if they were achieving goals, said Ms. Illick. Mr. Bloch said permits do give the acreage, zoning district, number of bedrooms, etc.

**DELIBERATIONS**

The Planning Commission entered Deliberative Session at 9:16 p.m.

**ADJOURNMENT**

The Planning Commission meeting was adjourned at p.m.

Respectfully submitted, Kathlyn L. Furr, Recording Secretary