

CHARLOTTE PLANNING COMMISSION

FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

ANTHONY PERRY

**Subdivision Amendment
Application # PC-01-16**

Background

The application seeks to amend the previously approved subdivision as follows: 1) relocate the building envelope on Lot 14; 2) relocate the north access road (Crosswind Drive) across the Woolly Bear Parcel; and 3) relocate Lot 2 to the west and remove a condition that the house on Lot 2 be used exclusively for farm-related housing. Sketch Plan Review was held on August 3, 2000.

Application

The application consists of:

1. A Subdivision Application form and appropriate fee.
2. A survey map entitled "Final Plat, Major Subdivision, Property of Anthony Perry, Charlotte, Vermont" by Stuart Morrow dated May, 1998, last revised 1/20/01.
3. A letter from Michael W. Wool, Duly Authorized Agent for Woolly Bear, Inc., to Stuart J. Morrow, dated September 5, 2000.

Public Hearing

A Public Hearing was held for this application on April 5, 2001. Liam Murphy, Stuart Morrow, and Tom Anderson were present representing the applicant.

Regulations in Effect

Town Plan readopted March 2000
Zoning Bylaws as amended March 1997
Subdivision Bylaws as amended March 1995

Findings

1. The subject property is located within the "Agricultural and Scenic Corridor Management District" described on page 26 of the Town Plan. The District is characterized by "agricultural conditions coupled with scenic vistas of statewide significance." Specific conditions were attached to previous approvals related to this subdivision to minimize and mitigate the impact of new development on the viewsheds towards the subdivision from Route 7 and Greenbush Road, and to facilitate the continuance of agricultural use of the associated lands.
2. The *Notice of Conditions of Subdivision Approval* dated July 30, 1990 stated "No

dwelling shall be constructed on Lot 2 without the Applicant obtaining specific approval for the use of such dwelling from the Charlotte Planning Commission. It is the intent of this condition to assure that Lot 2 is used for farm housing and a plan for assuring such use shall be presented to the Commission at the time approval for a dwelling to be constructed on Lot 2 is sought. Lot 2 may be used for non farm housing purposes if the Applicant or his assigns can demonstrate that an economically viable agricultural operation cannot be maintained on the Perry Farm.”

3. The proposed relocation of the building envelope on Lot #14 will not adversely affect previous approvals or conditions placed on the subdivision, or viewsheds towards the subdivision from Route 7 or Greenbush Road.
4. The propose relocation of the north access road (Crosswind Drive) across the Wooly Bear Parcel will not adversely affect previous approvals or conditions placed on the subdivision, or viewsheds towards the subdivision from Route 7 or Greenbush Road.
5. The letter from Michael Wool to Stuart Morrow dated September 5, 2000 authorizes the relocation of the right-of-way for Crosswind Drive over the Wooly Bear parcel.
6. The proposed relocation of Lot #2 would result in new construction placed directly within the viewshed from Route 7 towards the Adirondack Mountains, and within a viewshed from Greenbush Road towards the ridgeline.
7. At the public hearing on April 5, Liam Murphy stated that the applicant has offered Lot 2 to farming organizations for the purposes of “demonstration farming operations,” but the organizations did not show interest.
8. At the public hearing on April 5, Liam Murphy requested that the “farm-related housing requirement” be transferred to one unit within the farmhouse building on Lot 1.
9. The farmhouse on Lot 1 is contiguous with land suitable for agricultural purposes as well as the original farm-stand building envelope. The use of the farmhouse for farm-related housing is appropriate and consistent with the purpose of the condition placed on Lot 2 noted in Finding #2 above.

Decision

Based on these Findings, the Planning Commission approves the amendment to relocate the building envelope on Lot #14, relocate the north access road across the Wooly Bear parcel, and relocate Lot #2 to the west and remove “farm housing” requirement, with the following conditions:

1. All conditions of the 1999 amendment shall remain except as expressly amended in this approval.
2. The current right-of-way of the Wooly Bear parcel over Lot #2 shall be eliminated in a document to be approved by the Town’s attorney.
3. The total above-grade “interior living space” on Lot #2 shall not exceed 4,000 square feet, including above grade interior living space in the house or in any accessory structures, barn or garage. Interior Living Space shall include any enclosed living areas such as enclosed porches or decks. Interior living space shall not include unoccupied garages, barns, sheds, open porches, open decks, open patios, etc. The house ridgeline or peak on Lot #2 shall not exceed 35 feet as measured from the lowest elevation of the building envelope.
4. The survey shall be corrected as follows: 1. a 60’ right-of-way shall be extended from Crosswind Drive to Lot #2, 2. the typographical error on Note #11 shall be corrected, 3. the right-of-way over Lot #2 shall be eliminated (pending resolution of #2 above), and 4.

a note shall be added with regard to Condition #3.

5. The "farm-housing" requirement for Lot #2 shall be transferred to one unit on Lot #1. The Town Attorney shall approve the form of this transfer.
6. A mylar of the amended Final Plat by Stuart Morrow, last revised 1/20/01, with revisions as noted in Condition #4 above, shall be submitted to the Planning Commission for review within 60 days, and recorded in the Town Land Records within 90 days.

Additional Conditions: All plats, plans, drawings, 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 as per requirements of 24 VSA Chapter 117, Sections 4471 and 4475. If you fail to appeal this decision during this period, your right to challenge this decision in the future may be lost; you and subsequent property-owners will be bound by this decision, pursuant to 24 VSA Section 4472(d) (exclusivity of remedy; finality).

Members Present at the Public Hearing: Jeff McDonald, Josie Leavitt, David Brown, Al Moraska, Jim Donovan, Ed Melby and Ed Stone.

Vote of Members Present:

AYES: 6

NAYS: 1

ABSTENTION:

Date Approved: April 5, 2001

Signed: _____ (Chair/Vice Chair)

Date Signed: _____