

# CHARLOTTE PLANNING COMMISSION

## FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

### **Robert and Barbara McDonald Subdivision Modification Application # PC-05-34**

#### **Background**

The applicant owns Lots 2 and 3 of the James and Barbara Goetsch subdivision, recorded in slide 82 of the Charlotte land records. The purpose of the current application is to seek approval to add 2.18 acres from Lot 1 to Lot 3.

#### **Application**

The application consists of:

1. An application form and appropriate fee.
2. A plat entitled "Plat of Survey Prepared for Charles Dooley, Original Plat Prepared for Barbara and James Goetsch, in the Town of Charlotte, VT" by John A. Marsh/Harold N. Marsh dated 7/18/90, last revised 6/13/05.
3. A letter dated June 17, 2005 to Joy Middlebrook Karnes, Esquire from Ernest Christianson, Regional Engineer, Department of Environmental Conservation.
4. A copy of Land Use Permit (Administrative Amendment) 4C0899-1.
5. A copy of the Corrective Warranty Deed recorded in volume 157 page 21.

#### **Public Hearing**

A public hearing was held for this application on August 18, 2005. Robert and Barbara McDonald were present and participated in the hearing. 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 reason for the application to allow the conveyance 2.18 acres to the applicant, who own Lots 2 and 3.
2. 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."
3. 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 Subdivision Modifications since the result is the same.

4. The application will not impact access to any parcel.
5. The application will not adversely impact any significant natural resources
6. The proposed lot lines meet the setback requirements of Chapter IV Section 4.2.D. of the Charlotte Zoning Bylaws.
7. As depicted on the submitted plat, the application will create a new lot, "Lot 3A"; this would be a Subdivision, rather than a Subdivision Modification.
8. As depicted on the submitted plat, Lot 3A is less than the minimum lot-size, so it would be a non-conforming lot.
9. The plat indicates the "proposed 20' wide sewer line easement" in a location that differs from the original plat recorded in map slide 82, and also differs from the design by Navigator Environmental Services entitled "Amendment (sic) of State of Vermont Subdivision Permit #EC-4-1515 Combining Lots #2 & 3 Off Black Dog Road, Charlotte, Vermont, Site Plan" dated 6/30/2004, no revisions, on which Septic Permit 04-38-S is based, which is associated with Zoning Permit 04-77-TM for a single family dwelling on Lot 2.

## Decision

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

1. A paper copy of a survey will be amended as follows and submitted for administrative review within 60 days:
  - A. The survey will be entitled "Robert and Barbara McDonald, Subdivision Modification of Lots 1 and 3 of the James and Barbara Goetsch Subdivision".
  - B. All references to Lot 3A will be deleted, including within the 2.18 acres being merged with Lot 3 and within the leach field easement.
  - C. The previously approved parcel line between Lots 1 and 3 will be labeled "previously approved lot boundary", and the new boundary of Lot 3 will be labeled "new lot boundary".
  - D. The current acreage, the change of acreage, and the resulting acreage for Lot 1 and Lot 3 will be indicated.
2. A mylar of the survey as amended by Condition #1 above will be submitted to the Planning Commission for review within 70 days and following administrative review of the paper copy submitted pursuant to Condition #1 above, 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 an application for a Certificate of Occupancy for the dwelling on Lot 2, the applicant shall provide the as-built septic design to the Zoning Administrator.
5. The land (2.18 acres) that is the subject of this application will merge with Lot 3 and cannot be developed or conveyed separately unless allowed by an action of the Planning Commission.

**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 4<sup>th</sup> 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 August 18<sup>th</sup>:** Jeff McDonald, Jim Donovan, Linda Radimer, Robin Pierce, 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: \_\_\_\_\_
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- 6. Signed: \_\_\_\_\_ For / Against Date Signed: \_\_\_\_\_
- 7. Signed: \_\_\_\_\_ For / Against Date Signed: \_\_\_\_\_