

# **CHARLOTTE PLANNING COMMISSION**

## **FINDINGS OF FACT AND DECISION IN RE APPLICATION OF**

**Clark W. Hinsdale, III, and Suzanne Hinsdale  
Peter Schneider and Jessica Donovan**

### **Final Plat Hearing For A Two-Lot Subdivision As a Planned Residential Development Application # PC-05-50**

#### **Background**

The subject parcel was previously subdivided in 1983 by Jennie Livermore and Ruth Williams. Sketch Plan Review for the current project was held on October 6, 2005.

#### **Application**

Materials submitted in association with the application are listed in Appendix A.

#### **Public Hearing**

A public hearing for this application was held on December 15, 2005. Clark Hinsdale, III, Peter Schneider, Jessica Donovan and David Miskell were present representing the applicant. The following persons were also present and participated in the hearing: David Hill, Cyrus Moore, Robert Hyams and Al Moraska.

#### **Regulations in Effect**

Town Plan as amended March 2002  
Zoning Bylaws as amended March 2002  
Subdivision Bylaws as amended March 1995

#### **Findings**

1. The subject parcel is 60.7 acres and is located on the south side of Hinesburg Road. A small parcel (with barns) on the north side of Hinesburg Road, which was historically been linked to the subject property, is considered “naturally subdivided” by Hinesburg Road.
2. The subject parcel has an existing dwelling which is proposed to be on Lot 1 (1.7 acres); the remainder of the parcel is proposed to be Lot 2 (59 acres).
3. The subject property is larger than 25 acres, and therefore is subject to the Planned Residential Development (PRD) provisions in Section 5.15 of the Zoning Bylaws and Chapter VI Section 2.M of the Charlotte Subdivision Bylaws, which allows modifications of area and dimensional requirements in order to preserve the natural, scenic and historic qualities of the town.
4. Lot 1 is proposed to be 3.3 acres less than the minimum lot size (of five acres) for the Rural District. Therefore 3.3 acres must be removed from the “density acreage” of Lot 2, so Lot 2 will have 55.7 acres for density purposes; this should be depicted on the plat.
5. The town’s wetland data (Map 7 in the Charlotte Town Plan) shows significant wetlands on the northern portion of the property. The applicant has indicated that the wetlands have been field

- delineated by a qualified professional.
6. The town plan, subdivision bylaws and zoning bylaws indicate that wetlands should be protected when possible, and that impacts should be minimized. The Planning Commission finds that a reduction of the size of Lot 1 is appropriate in order to allow the wetlands to be located primarily on Lot 2, which will allow for consistent treatment of the wetlands and reduce the likelihood of disturbance.
  7. Map 6 of the Charlotte Town Plan indicates a large pocket of forest habitat on the southern portion of the parcel and on several adjoining parcels, including the Pease Mountain Natural Area owned by the University of Vermont.
  8. The “build-out master plan” submitted at the public hearing (see item #14 in Appendix A) indicates that relatively extensive development may be proposed on Lot 2.
  9. The applicant has not undertaken an extensive analysis of the wildlife resources on the parcel, and has not proposed an open space agreement with the current application. Since there is currently no overall resource plan for the property, it is unclear whether the wetland or the forest habitat would be conserved in association with the prospective future development.
  10. The Town’s wastewater consultant has reviewed the wastewater disposal design and issued memos dated 11/21/05, 12/5/05 and 12/10/05. The 12/10 memo raises three issues: 1) the force main easement to the replacement disposal area (located on Lot 2, serving Lot 1) should be depicted on the survey; 2) the proposed route of the force main is problematic, since it crosses a wetland, and 3) the isolation distance for the existing drilled well on Lot 1 may be insufficient.
  11. The applicant has addressed issue #1 by showing the force main easement on the plat; the applicant has addressed issue #2 within the memo of December 12, 2005; the applicant has addressed issue #3 by re-measuring the isolation distance for the existing well on Lot 1, and has indicated that it meets the Vermont Environmental Rules.
  12. No wastewater disposal is currently proposed for Lot 2. The Planning Commission finds that Lot 2 meets the requirements of Chapter VII Section 13.2 of the Subdivision Bylaws, however the plat should indicate Lot 2 has not been approved for sewage disposal.
  13. An existing trail from the Charlotte Central School to the UVM parcel crosses the subject parcel, although an easement has not been recorded in the land records. The applicant is talking with UVM and the Charlotte Trails Committee about providing a permanent easement in a revised location in conjunction with a future development proposal.

## Decision

Based on these Findings, the Planning Commission approves Final Plat Application PC-05-50 for a two-lot PRD subdivision with the following conditions:

1. The subdivision plat (as submitted at the hearing) will be amended as follows:
  - A. The plat will show field-delineated wetland on Lot 2.
  - B. The plat will indicate the “density acreage” of Lot 2 is 55.7 acres.
  - C. The plat will indicate that Lot 2 has not been approved for sewage disposal, in accordance with Chapter VII Section 13.2 of the Charlotte Subdivision Bylaws.
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 160 days; the applicant will record the mylar of the plat in the Charlotte Land Records within 180 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.
4. Prior to the submission of the mylar in accordance with Condition #2 above, the applicant shall submit a letter from the surveyor indicating that s/he has set the survey pins in the field as

indicated on the survey. If the survey pins cannot be set at this time because of frozen ground, the applicant shall submit a letter from the surveyor indicating that s/he will set the pins when the ground thaws and has been paid to do so.

5. Prior to any development of Lot 2, a Subdivision Amendment will be required for which, at a minimum, access, wastewater disposal, and a building envelope will be reviewed.
6. The conveyance deed for Lot 1 will include a wastewater force main easement and disposal area easement over Lot 2, essentially as submitted.
7. There will be no disturbance or cutting of the wetland or wetland buffer on Lot 2 until the applicants have submitted a resource management plan to the Planning Commission either as a subdivision amendment (to this approval) or with a subdivision application for Lot 2, and the Planning Commission approves that plan.
8. No pole-mounted light fixture will be taller than 8' off the ground, and no building-mounted light fixture will be taller than 20' off the ground. Fixtures will be shielded to direct light downward.
9. All new utility lines will be underground.
10. The Planning Commission will not require open space to be designated at this time, however any future subdivision of Lot 2 will require the designation of open space. The total current acreage will be considered when calculating the percentage of open space as provided for in Chapter V. Section 5.15 of the Charlotte Zoning Bylaws (or succeeding town regulations in effect).

**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.

**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:** Jeff McDonald, Jim Donovan, Linda Radimer, John Owen, Peter Joslin, 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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7. Signed:\_\_\_\_\_ For / Against Date Signed:\_\_\_\_\_

**APPENDIX A**

1. An application form and appropriate fee.
2. A memo from Peter Schneider and Jessica Donovan dated November 16, 2005 authorizing Clark Hinsdale, III and/or David Miskell to represent them regarding the proposed subdivision.
3. A sheet entitled “Draft Language to be included in the Warranty Deed for a Replacement Septic System Easement—Lot 1—Williams Farm.”
4. A memo to the Charlotte Planning Commission from the applicants regarding “Development Plans—Balance of Williams/Livermore parcel” dated November 16, 2005.
5. A survey by Stuart J. Morrow entitled “Final Plat, Minor Subdivision, Property of Clark W. III and Suzanne Hinsdale, Peter Schneider and Jessie Donovan, Charlotte, Vermont” dated September, 2005, no revisions.
6. A memo from Stephen Revell of Lincoln Applied Geology regarding “Proposed Minor Subdivision, 190 Hinesburg Road, Charlotte, Vermont, Lot 1 Replacement Disposal System Summary” dated December 9, 2005.
7. A sheet entitled “Draft easement for Replacement Mound Disposal Area, Lot 1, Hinsdale, Donovan and Schneider Property, 190 Hinesburg Road, Charlotte, Vermont, To be included in the deed to Lot 1.”
8. A plan by Lincoln Applied Geology entitled “Hinsdale, Donovan, & Schneider Property, 190 Charlotte-Hinesburg Road, Charlotte, Vermont, Partial Site Plan with Replacement Mound Disposal Area” dated 12/09/05, no revisions.
9. A sheet by Lincoln Applied Geology entitled “Hinsdale, Donovan, & Schneider Property, 190 Charlotte-Hinesburg Road, Charlotte, Vermont, Replacement Wastewater System Details and Specifications” dated 12/09/05, no revisions.
10. A memo was submitted at the hearing on December 15<sup>th</sup> to the Charlotte Planning Commission from Clark, Suzanne, Jessie and Peter, dated December 14, 2005, regarding “Planners Notes for December 15, 2005”.
11. A memo was submitted at the hearing on December 15<sup>th</sup> to Spencer Harris, Ernie Christianson, Dean Bloch, Jeff McDonald, Tom Mansfield, Steve Revel, and Steve Vock from Clark Hinsdale, III, dated December 12, 2005, regarding : “Wetlands—Replacement septic area at Williams”.
12. A memo was submitted at the hearing on December 15<sup>th</sup> from Rick Paradis of the Environmental Program and UVM Natural Areas Manager dated December 13, 2005.
13. A revised survey by Stuart Morrow (no revision date) was submitted at the hearing on December 15<sup>th</sup> with a proposed 20 foot wide sewer line easement from Lot 1 to the proposed wastewater disposal area replacement easement for Lot 1.
14. A hand-colored plan showing potential building areas, septic areas, and open space area on lot 2, overlaid on the survey by Stuart Morrow, was submitted at the hearing on December 15<sup>th</sup>.