

CHARLOTTE PLANNING COMMISSION

FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

**Christopher J. Boffa
Final Plat Application
For A
3-Lot Subdivision
Application # PC-03-03**

Background

The applicant received Sketch Plan Review on November 7, 2002.

Application

The application consists of:

1. An application form and appropriate fee.
2. A survey map entitled "Subdivision Plat Showing Proposed Subdivision of Lands of Christopher Boffa, 6307 Mount Philo Road, Charlotte, Vermont" by Land Lines dated December 2, 2002, no revisions.
3. Plans entitled "Subdivision Plat Showing Proposed Subdivision of Lands of Christopher Boffa, 6307 Mount Philo Road, Charlotte, Vermont, Drawing No: 1 of 1" by Land Lines dated December 2, 2002.
4. Wastewater plans entitled "Christopher Boffa, Proposed Wastewater Plans, Charlotte, Vermont, Drawing No: 2 of 2" by JH Stuart Associates dated 02/03, revised 3/24/03.
5. Soil test results from October 21, 1999, pump station specifications, and monitor well readings
6. An executed Right of Way Agreement between Rodney G. Stearns and Donna M. Stearns (the "Sellers") and Christopher Boffa (the "Buyer") signed by both parties on February 6, 2003.
7. An executed Notice of Option to acquire easements for three wastewater disposal systems between Rodney G. Stearns and Donna M. Stearns (the "Sellers") and Christopher Boffa (the "Buyer") signed by both parties on September 30, 2002.
8. An executed Easement Deed for the purpose of constructing, installing, repairing, maintaining, restoring, and/or replacing a wastewater disposal system with replacement area to serve up to a four bedroom single family residence.

Public Hearing

A public hearing was held for this application on April 3, 2003, and was continued to May 1, 2003. Christopher Boffa was present at both meetings. Anita Royer, an adjoining property owner, was present at the meeting on April 3rd.

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 of 15.87 acres is located in the Rural District. One dwelling is currently located on the parcel. The application is for a three-lot conventional subdivision, which is allowed by Section 5.15 of the Zoning Bylaws since the parcel is less than 25 acres in size.
2. The subject parcel is adjoined on the western side by land owned by the Alma T. Clark Revocable Trust.
3. The applicant has an easement to access the subject property over the Alma T. Clark Revocable Trust property, however said easement is not 60 feet in width. Access to proposed Lots 2 and 3 via Mount Philo Road would be problematic in that it would require a sixty foot right-of-way over the Clark property, and also would create a setback violation with the existing dwelling (on proposed Lot 1).
4. The subject property is adjacent to the recently approved subdivision by Rodney and Donna Stearns. The applicant has submitted a Right of Way Agreement with Rodney and Donna Stearns to provide access to proposed Lots 2 and 3 via Elcy Lane.
5. At the meeting on May 1, the applicant submitted a revised plat with a revision date of 4/21/03. This plat includes revised building envelopes for Lots 1-3.
6. At the meeting on May 1, the applicant submitted the following proposed conditions:
 - A. The building envelopes indicated on Lots 1, 2 and 3 provide a specific area to be used for all primary dwelling units and accessory structures.
 - B. The areas outside the building envelopes of lots 1, 2 and 3 shall be defined for agricultural use as follows: no primary dwelling unit can be constructed in these areas; these areas will have the right to construct agricultural structures, including accessory agricultural structures such as a horse run in and including an agricultural barn having a footprint no greater than 24' x 36'.
7. The proposed building envelopes and conditions would maintain the contiguous fields on the three proposed lots in an undeveloped condition, allowing for agricultural use of the fields and helping to maintain view corridors in the vicinity of the project.
8. The subject parcel is in close proximity to and visible from two important scenic views identified in the town plan, (indicated in Section 4.4.6 and Map 12 as V6 and V11, and also depicted in Map 13). The site is also very visible from the summit of Mount Philo State Park.
9. Chapter VI Section 2.A. of the Subdivision Bylaws states that the proposal shall give due regard to the preservation of existing significant natural features, including view sheds and hedgerows.
10. Dwellings in the vicinity of the subdivision are of moderate size. The average interior living space for seventeen residences in the vicinity of the subject property is 1825 square feet. (Based on information from the Charlotte Lister's Office). Roof ridgelines of dwellings in the Stearns subdivision are limited to twenty-five feet in height, and interior living space is limited to 2,500 square feet.
11. Chapter VI Section 2.C. of the Subdivision Bylaws states that the proposed density, building sizes, pattern of development, and configuration of open space are to be compatible with the surrounding natural and/or built environment.

12. The Planning Commission finds that restricting the height of dwellings on Lots 2 and 3 to thirty (30) feet will help the development fit into the pattern of development in the area, will reduce its overall impact, and will reduce its impact on the viewshed from V6, V11, and Mount Philo.
13. Improper lighting, above-ground utility lines, and bright road surfaces could mar the scenic viewsheds. The impact of the development on the surrounding area will be reduced by controlling exterior lighting, utility lines, and road surfaces.

Decision

Based on these Findings, the Planning Commission approves the Final Plat Application for a three-lot subdivision with the following conditions:

1. A mylar (18" x 24") of the survey (with revision date 4/21/03) will be submitted to the Planning Commission for review within 60 days, and recorded in the Town Land Records within 90 days.
2. The applicant will amend the submitted Right of Way Agreement and Easement Deed to include the following information from the recorded plat: "Stearns Meadow" in the title block; revision date on page one of 2/24/03; revision date on page two of 1/28/03; of record in Slide 133 of the Town of Charlotte Records. The Easement Deed, or additional Easement Deeds, will provide for a total of three wastewater disposal systems with replacement areas, each serving at least a three-bedroom single-family residence. The applicant will record the corrected Right of Way Agreement and Easement Deed(s) in the Charlotte Land Records within 90 days of this approval. Failure by the applicant to record the corrected documents within 90 days of this approval will render this subdivision approval null and void.
3. The applicant will obtain a wastewater permit from the State of Vermont for Lots 1-3 within 180 days. Failure by the applicant to obtain a wastewater permit for Lots 1-3 within 180 days will render this subdivision approval null and void.
4. No dwelling unit or accessory structure will be constructed outside the building envelopes depicted on the plat except as follows: animal barns having a footprint no greater than 24' x 36' may be constructed outside of the building envelopes. Fences are also allowed outside of the building envelopes.
5. Prior to the conveyance of Lots 2 and 3 survey pins will be set as indicated on the survey, and wooden stakes will be set at the corners of building envelopes.
6. Prior to the conveyance of Lots 2 and 3 the following items will be constructed: Elcy Lane; the shared driveway for Lots 2 and 3 from the end of Elcy Lane to the easterly boundary of Lot 3; wastewater force mains (up to the boundary line of each building lot); and utility conduits (up to the boundary line of each building lot).
7. The Declaration of Stearns Meadow for Rodney and Donna Stearns' subdivision (approved on 1/23/03) will be amended to include the following: allowing ingress and egress to and from Lots 2 and 3; allowing use of the fire pond for Lots 2 and 3; and requiring owners of Lots 2 and 3 to share the maintenance and repair costs for Elcy Lane and the fire pond. The amended Declaration will be recorded in the Charlotte Land Records within 90 days after the review and approval by the Town and prior to the conveyance of Lots 2 and 3.
8. The Roadway Agreement and Waiver for Rodney and Donna Stearns' subdivision (approved on 1/23/03) will be amended as follows: a reference to this approval will be added, including the title of the plat with original date, revision date and recording

information, and the date and recording information of this decision; and paragraph 3 will indicate that the roadway will not serve more than nine (9) lots without prior approval of the Planning Commission. The amended document will be recorded in the Charlotte Land Records within 90 days after the review and approval by the Town and prior to the conveyance of Lots 2 and 3.

9. A Sewage Service Agreement and Waiver will be executed and recorded in the Charlotte Land Records within 90 days after the review and approval by the Town and prior to the conveyance of Lots 2 and 3.
10. With the conveyance of Lots 2 and 3, each lot will be conveyed an easement allowing use of the development roadway (Elcy Lane and the spur running westerly from Elcy Lane to the easterly edge of Lot 3 for approximately 226.17 feet) for the purposes of ingress and egress. Lot 2 will also be conveyed an easement over Lot 3 for the purposes of ingress and egress within the right-of-way as designated on the plat.
11. Prior to any building permits being issued for Lots 1-3, a signed statement from the design engineer will be submitted to the Zoning Administrator stating that septic systems have been installed in conformance with the design.
12. Roof ridgelines of dwellings on Lots 2 and 3 will not exceed thirty feet in height, as measured from the average grade surrounding the dwelling.
13. 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.
14. All new utility lines will be underground.
15. Driveways shall be surfaced with non-white crushed stone.
16. Existing hedgerows will not be disturbed. The only exception is the access point along the eastern side of Lot 3. Sewer force mains shall be designed and installed to avoid disturbance of all hedgerows.

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 of the date of 4th signature below approving this decision, as per requirements of 24 VSA Chapter 117, Sections 4471 and 4475.

Members Present at the Public Hearing on April 3: Jeff McDonald, Al Moraska, Jim Donovan, Gordon Troy and Gene Diou.

Members Present at the Public Hearing on May 1: Jeff McDonald, Al Moraska, Gordon Troy, Linda Radimer and Robin Pierce.

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: _____