

CHARLOTTE PLANNING COMMISSION

FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

Peter Schneider and Jessica Donovan

**Final Plan Application
For A
Subdivision Amendment
Application # PC-08-35**

Background

The applicants received subdivision approval in 2008 (PC-07-08; Docket No.167-8-07 Vtec). Sketch Plan Review for the current proposal was held on October 2, 2008.

Application

Materials submitted with the applications are listed in Appendix A.

Public Hearing

A public hearing for this application was held on January 15, 2009. Peter Schneider was present representing the applicant. There were no other interested parties present.

Regulations in Effect

Town Plan, amended March, 2008

Land Use Regulations adopted March, 2006.

Recommended Standards for Developments and Homes adopted September, 1997

Findings

1. The applicant has four components:
 - A. Switching the location and size of Lots 1 and 3 as depicted on the submitted plan;
 - B. Eliminating the replacement wastewater area for the development;
 - C. Moving the replacement wastewater area for 190 Hinesburg Road (Bech-Conger and Citarella) to the vacated replacement wastewater area for the development;
and
 - D. Constructing the shared driveway prior to constructing the stormwater pond.
2. Changing Lot 1 and Lot 3 will have no effect on the impacts of the development, as analyzed and addressed by PC-07-08.
3. The permit for the elimination of the replacement wastewater area for the development and for moving the replacement wastewater area for 190 Hinesburg Road (Bech-Conger and Citarella) has been issued (WW-138-0822; WW-4-2548-2).
4. Because the new lot-lines (for Lot 3) are more than 500 feet from any existing structure, no amendment to the wastewater permit is needed for this aspect of the amendment (i.e. changing the lot configuration).
5. The e-mail from Kevin Burke of VT DEC (Stormwater Program) dated September 26,

2008 states “Proceeding with Phase IIIA will be acceptable under the current authorization, provided all areas in Phase IIIB have been stabilized. Please also be advised that areas without 70% vegetated cover before October 15 will require stabilization at the winter stabilization rate, which is double that of the standard construction season; 2 tons mulch/acres and anchored appropriately, and/or require rolled erosion control product (slopes > 3:1). Be sure all previous disturbed areas on site will meet this requirement for winter shutdown.”

6. At the hearing on January 15, 2009, David Miskell, the On-site Plan Coordinator (as indicated in a notification to VT DEC) stated that the measures indicated in Finding 4 were taken.
7. The e-mail from Kevin Burke of VT DEC (Stormwater Program) dated October 20, 2008 states “This email shall serve as receipt of your notice for winter construction.”

Decision

Based on these Findings, the Planning Commission approves the Final Plan Application for the proposed Subdivision Amendment with the following conditions:

1. A survey plat will be created with the same lot configuration as the plan by Stuart Morrow entitled “Sketch Plan, Subdivision Modification, Property of Jessica Donovan and Peter Schneider, Charlotte, Vermont” dated September, 2008, no revisions, with the following revisions:
 - A. All notes on the original plat will be added, and Note 9 will be amended as appropriate for Lots 1 and 3.
 - B. The line type that is used to delineate the open space areas will be added to the legend.
 - C. A volume and page reference will be made on the plat for all of the documents that were recorded as required by PC-07-08, except for those documents that need to be revised and recorded because of the new lot configuration as indicated in Condition 3.B. below.
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 Conditions #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 shall submit the following:
 - A. A letter from the surveyor indicating that 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 he will set the pins when the ground thaws and has been paid to do so.
 - B. Execute and record the following documents that will be revised to address the new lot configuration.
 - i. Shared Septic Easement, Maintenance and Operation Agreement
 - ii. Shared Roadway Maintenance Agreement
 - C. Draft language for access easements for Lots 2 and 8 over Lot 3, and for Lot 1 over Lots 4 and 7. These easements may be incorporated into the Declaration of Covenants, or into a separate document, or into the deeds for each of the affected

lots.

- 4. Conditions 7 and 9 through 30 of PC-07-08 are in full force and 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 4th 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 January 15: Jeff McDonald, Jim Donovan, Linda Radimer, John Owen, Peter Joslin and Eleanor Russell

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: _____

APPENDIX A

The following items were submitted in association with the application:

- 1. An application form for a Subdivision Amendment and appropriate fee.
- 2. A plan by Stuart Morrow entitled “Sketch Plan, Subdivision Modification, Property of Jessica Donovan and Peter Schneider, Charlotte, Vermont” dated September, 2008, no revisions.
- 3. A plan by Phelps Engineering, Inc. entitled “Donovan/Schneider Subdivision, Winter EPSC Plan” dated 10/07/08, no revisions.
- 4. A memo submitted January 15, 2009 from David Miskell to Dean Bloch and Charlotte

Planning Commission.

5. A copy of an e-mail from Kevin Burke to Peter Schneider dated September 26, 2008 regarding “Schneider/Donavan Subdivision.”
6. A copy of an e-mail from Kevin Burke to Peter Schneider dated October 20, 2008.