

# CHARLOTTE PLANNING COMMISSION

## FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

**Clark Hinsdale, III and Suzanne Hinsdale**

**Final Plan Application  
For A  
Subdivision Amendment  
Application # PC-09-21**

### **Background**

The Final Plan Application (PC-06-36) for a Planned Residential Development Subdivision was approved on March 1, 2007. The current application proposes to amend this subdivision in order to allow development on Parcel B. Sketch Plan Review for the current project was waived.

### **Application**

Materials submitted with the applications are listed in Appendix A.

### **Public Hearing**

A public hearing for this application was held on October 1, 2009. Clark Hinsdale, III and David Miskell were present representing the applicant. Peter Demick and Eliza Bedell, adjoining and nearby property owners, respectively, were present and participated in the hearing. Michael Bedell, Jason Hackenman, Chris Patton, Steven Colangel and Robert Smith, all nearby property owners, were present but did not participate in the hearing. No other interested parties were present or made written submissions.

### **Regulations in Effect**

Town Plan, amended March, 2008

Land Use Regulations adopted March, 2009.

Recommended Standards for Developments and Homes adopted September, 1997

### **Findings**

1. The application proposes to amend PC-06-36 in order to allow Parcel B to be developed.
2. Condition 10 of the Findings of Fact and Decision for PC-06-36 states “prior to any development of Parcel B a Subdivision Amendment will be required for which, at a minimum, access, wastewater disposal, a fire pond/dry hydrant and appropriate waiver agreements (road, sewer and fire pond/dry hydrant) will be reviewed.”
3. The current application indicates that Parcel B will be accessed via the existing private right-of-way on the parcel that also serves as access to Lots 1H, 2H, 3H, 4H and 5H, known as “Big Oak Lane.”
4. Highway Access Permit HAP-06-06 was approved to serve six residential lots.
5. The applicant stated at the hearing that the roadway (Big Oak Lane) has been constructed in accordance with the design that was approved under PC-06-36.

6. A Potable Water Supply and Wastewater Disposal Permit (WW-4-2250-1) was issued for Lots 1H, 2H, 3H, 4H and 5H.
7. The current application indicates that Parcel B is to use the same community wastewater disposal system serving Lots 1H, 2H, 3H, 4H and 5H.
8. The proposed plat identifies an area on Parcel B which is labeled "Proposed Fire Pond Easement."
9. The applicant has requested that construction of the fire pond be waived until after five lots have been sold and developed. One reason provided by the applicant for delaying construction of the fire pond is that Parcel B and Lots 1H, 2H, 3H, 4H and 5H were separate projects that were brought together as a result of the appeal of the preliminary decision to Environmental Court.
10. The Planning Commission views Parcel B and Lots 1H, 2H, 3H, 4H and 5H as one "project," albeit one that initially involved two parcels, and which has had a phased review process. All of the lots will share an access road, a wastewater disposal system, and a fire pond.
11. The Planning Commission has consistently required infrastructure for major subdivisions to be installed either prior to the submission of an application for the first zoning permit or prior to the submission of an application for the first Certificate of Occupancy in the project.
12. A Certificate of Occupancy has been issued for a dwelling on Lot 5H.
13. The Vermont Land Trust holds a conservation easement on all of Parcel B outside of the building envelope. The proposed fire pond is located in an area of the parcel that is under the conservation easement.
14. The conservation easement held by the Vermont Land Trust states in part (in paragraph III. 11) "prior to commencing construction on the driveway or utility corridor, Grantors shall obtain the prior written approval of Grantee."
15. Documents associated with the previous subdivision have been recorded in the Charlotte Land Records as follows:
  - A. License Agreement (for sewer line under East Thompson's Point Road): book 169 page 544
  - B. Sewage Service Agreement, Waiver and Easement: book 169 page 548
  - C. Shared Septic System Easement, Construction, Maintenance and Operation Declaration of Covenants and Agreement: book 169 page 551
  - D. Roadway Agreement and Waiver: book 169 page 560
  - E. Big Oak Lane Shared Roadway Maintenance Agreement: book 169 page 562
  - F. Notice of Intent (for stormwater discharge): book 170 page 250

## **Decision**

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

1. A mylar (18" x 24") of the plat, 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.
2. Prior to the submission of the mylar in accordance with Condition #1 above, the applicant shall complete the following steps:

- A. Obtain a Potable Water Supply and Wastewater Disposal Permit for Parcel B.
  - B. Obtain an amended Notice of Intent for stormwater discharge.
  - C. Obtain approval for (as needed), execute and record the following documents:
    - i. A Fire Pond Agreement, Waiver and Easement.
    - ii. An amended License Agreement for the right to use the force main under East Thompson’s Point Road.
    - iii. An amended Sewage Service Agreement, Waiver and Easement.
    - iv. An amended Shared Septic System Easement, Construction, Maintenance and Operation Declaration of Covenants and Agreement.
    - v. An amended Roadway Agreement and Waiver
    - vi. An amended Big Oak Lane Shared Roadway Maintenance Agreement
  - D. Submit a letter from the Vermont Land Trust indicating that the proposed Fire Pond Easement is in an acceptable location, and the driveway and utility corridor have been approved.
3. Prior to the submission of a Zoning Permit application for Parcel B, wooden stakes will be set at the corners of the building envelope on that lot.
  4. The Certificate of Occupancy application for the next dwelling accessed by Big Oak Lane shall include a letter from an appropriately certified engineer stating that the fire pond and dry hydrant have been constructed in conformance with the design, and a letter from the Charlotte Fire Department certifying that the fire pond/dry hydrant system is operational.
  5. All new driveways shall be surfaced with non-white crushed stone.
  6. All new utility lines will be underground.
  7. No pole-mounted light fixture will be taller than 8’ off the ground, and no building-mounted light fixture will be taller than 15’ off the ground. Fixtures will be shielded to direct light downward, and will not direct light onto adjacent properties or roads, and will not result in excessive lighting levels that are uncharacteristic of the neighborhood.

**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 on October 1, 2009:** Jeff McDonald, Jim Donovan, Peter Joslin, Paul Landler, Ellie 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 survey by Stuart Morrow entitled “Final Plat Subdivision Amendment, Property of Clark W. III and Suzanne G. Hinsdale, Charlotte, Vermont” dated July, 2005, last revised 8/26/09.
- 3. A document entitled “Subdivision Application Requirements and Waiver Requests” dated August 26, 2009.
- 4. A drafted document entitled “Big Oak Shared Fire Pond Agreement”
- 5. A copy of a Quitclaim Deed recorded in volume 171 page 89 of the Charlotte Land Records.
- 6. A copy of a Grant of Development Rights and Conservation Restrictions recorded in volume 171 page 90 of the Charlotte Land Records.
- 7. A copy of Highway Access Permit HAP-06-06.