

**CHARLOTTE PLANNING COMMISSION
FINDINGS OF FACT AND DECISION
IN RE APPLICATION OF

ANTHONY PERRY
FINAL PLAT REVIEW
For a
RESUBDIVISION CREATING 17-LOTS
including
12 BUILDING LOTS, 2 EXISTING RESIDENCES, AND
3 OPEN-SPACE LOTS**

Background:

The applicant owns 107.1 acres on Ethan Allen Highway (U.S. Route 7). The applicant received Final Plat Approval for a twelve-lot subdivision on March 27, 1990, as recorded in Book 10 Map 6. This subdivision included eleven building lots and one open-space lot which included agricultural structures including residences for agricultural workers.

The applicant received Preliminary Plat Approval (Findings of Fact and Notice of Decision) for a resubdivision on November 19, 1998. The applicant requested reconsideration of the Preliminary Plat Approval, and this request was approved with the Notice of Decision dated April 22, 1999.

Application

The application consists of:

1. A subdivision application form submitted on October 22, 1999 (the fee was paid with the Preliminary Plat application);
2. A map entitled "Final Plat, Major Subdivision, Property of Anthony Perry" by Stuart Morrow, dated May 1998, most recently revised 10/20/99;
3. A map entitled "Site Plan, Major Subdivision, Property of Anthony Perry" (sheet 1 of 2) by Stuart Morrow, dated May 1998, most recently revised 10/20/99;
4. A map entitled "Site Plan, Major Subdivision, Driveway Plan and Profile, Property of Anthony Perry" (sheet 2 of 2) by Stuart Morrow, dated May 1998, most recently revised 10/20/99;
5. A map entitled "Proposed/Existing Planting Plan, Major Subdivision, Property of Anthony Perry" by Stuart Morrow, dated May 1998, most recently revised 8/12/99; this map incorporates the landscaping plan by the Office of H. Keith Wagner;
6. Wastewater Plans (Sheets 1-6) by Pinkham Engineering Associates dated 11/20/98; Sheets 4, 5, and 6 most recently revised 4/2/99;
7. A hand-drawn map showing proposed trail easement on Parcel C;
8. A document entitled "Revised Agricultural and Open Space Lands Agreement;"
9. A document entitled "Exhibit A to Agricultural and Open Space Lands Agreement;"
10. A document entitled "Revised Roadway Agreement and Waiver;"
11. A document entitled "Revised Sewage Service Agreement, Waiver and Easement;"
12. A document entitled "Excerpts from Perry Farm Declaration of Covenants, Conditions and Restrictions Design and Use Standards;"

13. A document entitled "Irrevocable Offer of Dedication" and attached "Easement Deed" for proposed trail easement;
14. A letter from Donald Allen, Vermont Agency of Transportation dated May 18, 1998;
15. A letter from Trent W. Coletta, Vermont Agency of Transportation dated December 1, 1998;
16. A letter from Louis A. Fonte, Green Mountain Power Corporation, dated May 26, 1998;
17. A letter from Anthony Perry dated October 29, 1999 labeled "Re: Easement Across Adjoining Property for Recreational Path;"
18. A State of Vermont Subdivision Permit (EC-4-1556-1) dated July 13, 1999;
19. A State of Vermont Deferral of Permit (DE-4-2415) for Lot #16 dated July 14, 1999;
20. A State of Vermont Land Use (Act 250) Permit (4C1046) dated October 29, 1999.

Public Hearing

A Public Hearing was held for this application on December 2, 1999. Anthony and Teri Perry were present, as well as the applicant's attorney, Liam Murphy, and surveyor, Stuart Morrow. Also present were the following adjoining landowners and interested persons: Michael Yantachka, Mary Charlebois, Ronald Charlebois, Ralph Thomas, Linda Radimer of the Conservation Commission, and Marty Illick of the Selectboard.

Regulations in Effect

Town Plan readopted March 1995
 Zoning Bylaws as amended March 1997
 Subdivision Bylaws as amended March 1995

Findings

1. Conditions #1, 3, 6, 7, 8, 9, 12 (in part), 15, 16, 18, and 19 stated in the Notice of Decision of the Reconsidered Preliminary Plat Review, dated April 22, 1999, have been addressed by the Final Plat application.
2. At the Public Hearing on December 2, 1999 the applicant indicated he is in agreement with Condition #2 of the Notice of Decision of the Reconsidered Preliminary Plat Review.
3. The applicant has submitted the documents indicated in Condition #3, 5, 14, and 20, however these have not been reviewed by the town's attorney.
4. At the Public Hearing on December 2, 1999 the general layout of the trail easement, as was shown on the submitted hand-drawn map, was discussed. The applicant indicated that he is willing to record a mylar showing the proposed trail easement on "Parcel C."

Decision

Based on these Findings, the Planning Commission approves the application for a resubdivision of creating 17 lots with the following conditions:

1. The applicant shall submit to the Planning Department within 30 days and record with the Town Clerk within 90 days the following maps on mylar:

- A. A map entitled “Final Plat, Major Subdivision, Property of Anthony Perry” by Stuart Morrow, dated May 1998, most recently revised 10/20/99, except as provided in Condition #6 below, and with a reference to maps B. and C.
 - B. A map entitled “Site Plan, Major Subdivision, Property of Anthony Perry” (sheet 1 of 2) by Stuart Morrow, dated May 1998, most recently revised 10/20/99, except with a reference to maps A. and C.
 - C. A map entitled “Proposed/Existing Planting Plan, Major Subdivision, Property of Anthony Perry” by Stuart Morrow, dated May 1998, most recently revised 8/12/99; this map incorporates the landscaping plan by the Office of H. Keith Wagner, except with a reference to maps A. and B.
2. A site plan or map on mylar shall be submitted to the Planning Department within 30 days, and recorded with the Town Clerk within 90 days, showing the approximate location of the proposed trail easement on Parcel C. This map shall have a note which states: “The shown location is approximate. The actual location is to be determined and is subject to the agreement of the Town of Charlotte and the landowner. If no agreement is reached within two years of this approval, the Town shall have the right to determine the location of the easement. This deadline can be extended by mutual agreement.”
 3. There shall be no additional development on this 107.1 acre tract. All development will be as submitted on the maps noted in condition #1.
 4. The conditions in the letter from Fire Chief Chris Davis dated February 6, 1999 and approved by the Planning Commission on February 16, 1999, shall be followed. The fire ponds and dry hydrants shall be constructed and tested by the Charlotte Fire Department before they are deemed operational. No building permits for the South Phase (Lots #1, 3, 4, 5 or 13) may be issued before the hydrant on the south fire pond (on Lot #1 just north of the barns) is deemed to be operational. No building permits for the North Phase (Lots #2 and 6-12) may be issued before the hydrant on the north fire pond (on Lot #1 at the northeast corner) is deemed operational. A fire pond will not be required to be built on Lot #9 if the alternate conditions proposed by Fire Chief Chris Davis in his letter of February 6, 1999 are met. These alternate conditions are: A) provide an operational extension of a dry hydrant or drafting basin from the existing north pond that would place it within 1,500 linear road feet of all residences in the north phase; or B) execute a contractual agreement between the applicant and the Town that includes a performance bond that would insure residential sprinkler systems and central station fire/smoke alarm systems meeting the NFPA code will be installed and tested prior to issuing any Certificate of Occupancies for homes constructed beyond 1,500 linear feet from the dry hydrant or drafting basin.
 5. The plantings specified on the “Proposed/Existing Planting Plan, Major Subdivision, Property of Anthony Perry” by Stuart Morrow dated May 1998, most recently revised 8/12/99, which incorporates the landscaping plan by the Office of H. Keith Wagner, shall be installed before any building permits can be approved for Lots #3, 4, and 13.
 6. For Lots #3 and 4, the ridgeline or peaks on the houses on these lots shall not be higher than 30 feet from the lowest elevation of the building envelope and/or not above the proposed plantings as depicted on the planting plan referenced in Condition 1.C. above. For Lots #10, 11, and 12, house ridgelines or peaks shall not exceed 30 feet as measured from the lowest elevation of the building envelope. A note shall be added to the Final Plat indicating this

condition.

7. Crushed stone and gravel on the common drives and individual driveway shall not be white limestone; this condition shall be addressed in the Perry Farm Covenants.
8. All utilities shall be placed underground, except any necessary above-ground equipment.
9. Each lot shall have water from a drilled well.
10. Within sixty (60) days of approval, the applicant shall record the following documents with the Town Clerk after they have been reviewed and approved by the town's attorney:
 - A. "Revised Agricultural and Open Space Lands Agreement;"
 - B. "Exhibit A to Agricultural and Open Space Lands Agreement;"
 - C. "Revised Roadway Agreement and Waiver;"
 - D. "Revised Sewage Service Agreement, Waiver and Easement;"
 - E. The portion of "Perry Farm Declaration of Covenants, Conditions and Restrictions Design and Use Standards" with the heading "Specific Covenants Required by the Town of Charlotte;"
 - F. "Irrevocable Offer of Dedication" and attached "Easement Deed" for proposed trail easement;
11. Within sixty (60) days of approval, the applicant shall submit to the town's attorney for review and approval sample deeds for the lots, including language regarding sewage rights and responsibilities and roadway rights and responsibilities; once approved, and before any building permits can be issued, a sample deed shall be recorded with the Town Clerk.
12. The applicant shall use the road names approved by the Selectboard in accordance with the town's E-911 policy.
13. There shall be no building on Lot #2 unless approved by the Planning Commission. Such approval shall be considered a Subdivision Amendment, which requires one warned public hearing.
14. Houses will be designed to blend in with surroundings and have compatible colors.

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 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 as per requirements of 24 VSA Chapter 117, Sections 4471 and 4475.

Members Present at the Public Hearing: Al Moraska, Ed Melby, Dave Brown, David Woolf, Jeff McDonald, Josie Leavitt

Vote of Members Present:

AYES: Unanimous

NAYS:

ABSTENTION:

Date Approved: December 16, 1999

Signed: _____ (Chair/Vice Chair)

Date Signed: _____