

CHARLOTTE PLANNING COMMISSION

FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

Clark Hinsdale, Jr.,

**Final Plan Hearing
For A
Subdivision Amendment
Of Sheehan Green East
Application # PC-06-28**

Background

Sketch Plan Review for this project was conducted on July 6, 2006.

Application

Materials submitted with the application are listed in Appendix A.

Public Hearing

A public hearing for this application was held on September 21, 2006. Clark Hinsdale, III, and David Miskell represented the applicant at the hearing. The following interested parties were present and participated in the hearing: Robert Silverstein, Liam Murphy (for Steve Denton), David Quickel.

Regulations in Effect

Town Plan as amended March 2002

Land Use Regulations adopted March, 2006.

Sewage Ordinance as amended December, 2004.

Recommended Standards for Developments and Homes adopted September, 1997

Findings

1. The subject parcel includes the following *areas of high public value*:
 - A. Prime and statewide agricultural soils (primarily Lot 22 and the Barn Lot)
 - B. Steep slope (Lot 21)
 - C. Wetland (Barn Lot, Lot 21 and Lot 22)
 - D. Unnamed stream (Lot 22)
 - E. Wildlife corridor, value area, and forest habitat (Lot 22) and support habitat (Barn Lot)
 - F. Conserved land (portion of Lot 22 and on the west side of Spear Street)
 - G. Most scenic road (Spear Street).
2. There are three components to this application:
 - A. Combining Lots 22-25 into one lot, labeled Lot 22, which will have a conservation easement on the entire lot with the exception of the "farmstead

- complex area;”
- B. Finalizing the septic disposal plan and building envelope for Lot 21; and
 - C. Adding a septic easement on Lot 21 and on lands owned by the applicant on the west side of Spear Street to serve the “Barn Lot;”
3. The Town’s wastewater consultant reviewed the proposed wastewater disposal systems and indicated that they generally acceptable, as stated in his memo dated 8/31/06.
 4. A portion of the parcel is under an Open Space Agreement held by the Town of Charlotte, as provided in the agreement recorded in Volume 106 at Page 303 in the Charlotte Land Records.
 5. On May 9, 2005, the Charlotte Selectboard agreed to allow the Open Space Agreement to be replaced with a Grant of Development Rights to be administered by the Vermont Land Trust. The proposed Grant of Development Rights will conserve the remainder of Lots 22-25 with the exception of a “Farmstead Envelope.”
 6. The proposed location of the access for Lot 22 is acceptable. If the access were to be farther to the east, the sight distance would be reduced to less than 500 feet. If the access were to be farther west, it would impact more wetland or wetland buffer.
 7. The Selectboard issued Highway Access Permit HAP-05-03 on May 23, 2005 to provide a curb-cut for Lot 22. (The map submitted with this HAP application labeled the lot to be served by the curb-cut as Lot 25, although it has been labeled Lot 22 in the Subdivision Amendment application.)
 8. In the letter from Cathy O’Brien to Clark Hinsdale III dated May 16, 2006, Ms. O’Brien indicates that the proposed driveway will need a Conditional Use Determination (state wetland permit). The letter further states that Ms. O’Brien met with staff from the Vermont Wetlands Office and the Corps of Engineers, who indicated because the proposed access creates the least possible disturbance of the wetland (actually impacting only the wetland buffer) a CUD would likely be issued, provided the impact to the wetland is minimized.
 9. The applicant originally requested (at Sketch Plan Review) to access Lot 21 via a shared driveway with the Barn Lot off of Spear Street—one reason being to avoid impact to the agricultural soils on Lot 22. The applicant obtained HAP-05-04 for that design.
 10. The applicant has since re-designed the access to Lot 21 to be from Valley View Drive. There are two reasons for the redesign: 1) the right-of-way to Lot 21 is shared with Silverstein & Froeliger, so it is conceivable that they may construct a driveway in this location anyway (which does not require any further Planning/Zoning review); and 2) the route from Spear Street would likely impact wetlands and steep slopes.
 11. The current proposed location of the access to Lot 21 (from Valley View Drive) is acceptable. The only concern is that the driveway be sited to provide sufficient distance to the replacement wastewater disposal area for Lot 21.
 12. The proposed wastewater system for the Barn Lot includes a new primary disposal area located on Lot 21, and a replacement disposal area located on the west side of Spear Street, on other land owned by the applicant.
 13. In the letter from Cathy O’Brien to Clark Hinsdale III dated January 31, 2006, Ms. O’Brien indicates there is Class Two wetland on the south eastern corner of the Barn Lot and the western edge of Lot 21. The letter was written when the applicant planned to access Lot 21 via Spear Street (which is no longer the case), however the proposed crossing of the wetland with the septic force main serving the Barn Lot appears to require a Conditional Use Determination (state wetland permit).

14. The applicant will need approval from the Selectboard allowing the force main to the replacement septic area serving the Barn Lot to cross Spear Street.
15. An Act 250 permit was previously issued for the subject property; therefore an amendment to the Act 250 permit is likely to be required.
16. Access for construction of the wastewater system on Lot 21 for the Barn Lot would be best from the top of Lot 21 (i.e. Valley View Drive), rather than through the Barn Lot, which would necessitate vehicles to cross wetlands and drive up steep slopes. Therefore an access easement is needed over Lot 22.
17. The proposed well for Lot 21 (as indicated on the water and wastewater system plans by Lincoln Applied Geology) requires an isolation area which is partially located on property not owned by the applicant. Section 7.6(4) of the Charlotte Land Use Regulations requires an easement for such isolation areas that will impact adjoining properties.
18. In consideration of the conditions listed below, the project will have minimum impacts on areas of high public value; and with the elimination of three building lots, the project will actually reduce prospective impacts from what is currently approved.

Decision

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

1. The subdivision plat by Stuart Morrow will be amended as follows:
 - A. Dimensions will be indicated on the building envelopes for Lot 21, Lot 22 and the Barn Lot.
 - B. The force main for the replacement wastewater system serving the Barn Lot will be depicted as approved by the Selectboard.
2. The Overall Site Plan by Lincoln Applied Geology, Inc. will be amended as follows:
 - A. The force main for the replacement wastewater system serving the Barn Lot will be depicted as approved by the Selectboard (if different than indicated).
 - B. The wetland located on the Barn Lot and Lot 21 will be labeled "Class 2 wetland" in accordance with the delineation by Cathy O'Brien.
3. 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.
4. Two paper copies (one full size and one 11" x 17") and a mylar (18" x 24") of the Overall Site Plan by Lincoln Applied Geology, Inc. as amended in accordance with Condition #2 above, will be submitted to the Planning Commission for review within 160 days, and record the mylar of the Overall Site Plan in the Charlotte Land Records within 180 days
5. Prior to the submission of the mylars in accordance with Conditions #3 and #4 above, the following will occur:
 - A. The applicant shall provide an executed and recorded easement (to Silverstein & Froeliger) for the proposed well isolation zone on Lot 21, or the applicant shall provide a revised wastewater disposal plan that shows the well re-located so that no easement is needed;
 - B. The applicant will obtain the appropriate wastewater disposal permit(s) from the

State;

- C. The applicant will obtain approval from the Selectboard for a License Agreement to put a force main serving the replacement septic field (if needed) for the Barn Lot under Spear Street, and execute and record the License Agreement in the Charlotte Land Records;
 - D. The applicant shall submit a letter from the surveyor indicating that he has set the survey pins in the field as indicated on the survey;
 - E. The Grant of Development Rights, Conservation Restrictions, Notice of Option to Purchase and Contingent Right of the United States of America shall be executed and recorded in the Charlotte Land Records;
 - F. A Conditional Use Determination (state wetland permit) for the driveway for Lot 22 will be obtained and recorded in the Charlotte Land Records;
 - G. A Conditional Use Determination (if needed) for the force main for the Barn Lot will be obtained and recorded in the Charlotte Land Records;
 - H. An Act 250 Amended Permit will be obtained (if needed) and recorded in the Charlotte Land Records.
6. Prior to the submission of a Zoning Permit application for Lot 21, Lot 22, and the Barn Lot, wooden stakes will be set at the corners of the building envelope on the affected lot.
 7. The Hinsdale Barn Lot Sewage Disposal Easement will be executed and recorded in the Charlotte Land Records essentially as submitted, except that the easement will also reference this decision and the License Agreement with the Selectboard allowing the force main to cross Spear Street, and it will provide a construction easement over Lot 22;
 8. No dwelling unit or accessory structure except those exempt from zoning permits will be constructed outside of the building envelope for Lot 21, Lot 22 and the Barn Lot as depicted on the plat.
 9. The driveway for Lot 21 shall be off of Valley View Drive, and shall provide the requisite setback from the replacement mound system serving Lot 21 and the Silverstein parcel.
 10. An access easement for Lot 21 will be conveyed with the deed to that lot.
 11. 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.
 12. All new utility lines will be underground.
 13. All new driveways shall be surfaced with non-white crushed stone.

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 September 21: Jeff McDonald, Linda Radimer, John Owen, Peter Joslin and Andrew Thurber.

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

- 1. An application form and appropriate fee.
- 2. A document entitled “Subdivision Application Requirements and Waiver Requests, Date—August 13, 2006, Applicant(s)—Clark Hinsdale Jr., Project –Sheehan East.”
- 3. A letter dated June 6, 2006 from Clark W. Hinsdale Jr. authorizing David Miskell and Clark Hinsdale, III to represent him.
- 4. A letter dated January 31, 2006 from Cathy O’Brien to Clark Hinsdale III regarding “Sheen Green East Property, Charlotte/Hinesburg Road, Charlotte.”
- 5. A letter dated May 16, 2006 from Cathy O’Brien to Clark Hinsdale III regarding “Sheehan/Quickel Property, Charlotte/Hinesburg Road, Charlotte.”
- 6. A letter dated September 20, 2006 from Steve Denton to the Town of Charlotte.
- 7. A survey by Stuart J. Morrow entitled “Final Plat, Subdivision Modification, Sheehan East, Property of Clark W. Hinsdale Jr., Charlotte, Vermont” dated May, 2006, no revisions.
- 8. A plan by Lincoln Applied Geology, Inc. entitled “Sheehan East Property, Barn Lot and Lot 21, Charlotte, Vermont, Overall Site Plan w/ Proposed Barn Lot, Water & Wastewater Systems, Sheet 1 of 5” dated 8/04/2006, no revisions.
- 9. A plan by Lincoln Applied Geology, Inc. entitled “Sheehan East Property, Hinesburg Road, Charlotte, Vermont, Lot 21 Site Plan with Proposed Water & Wastewater Systems, Sheet 2 of 5” dated 8/04/2006, no revisions.
- 10. A detail sheet by Lincoln Applied Geology, Inc. entitled “Clark Hinsdale Jr. Property, Sheehan- East Barn Lot, Charlotte, Vermont, Proposed Primary Wastewater Disposal Area, Details Sheet, Sheet 3 of 5” dated 8/04/2006, no revisions.
- 11. A plan and detail sheet by Lincoln Applied Geology, Inc. entitled “Clark Hinsdale Jr. Property, Sheehan- East Barn Lot, Charlotte, Vermont, Barn Lot Site Plan w/ Proposed

- Replacement Wastewater Disposal Area, Sheet 4 of 5” dated 8/04/2006, no revisions.
12. A detail sheet by Lincoln Applied Geology, Inc. entitled “Clark Hinsdale Jr. Property, Sheehan- East Barn Lot/Lot 21, Charlotte, Vermont, Proposed Barn Lot, Water System Details, Sheet 5 of 5” dated 8/04/2006, no revisions.
 13. A plan by Lincoln Applied Geology entitled “Sheehan East Property, Hinesburg Road, Charlotte, Vermont, Lot 22 Site Plan with Proposed Wastewater System, Sheet 1 of 3” dated 8/04/2006, no revisions.
 14. A detail sheet by Lincoln Applied Geology entitled “Sheehan East Property, Hinesburg Road, Charlotte, Vermont, Lot 22 Proposed Wastewater System, Details Sheet, Sheet 2 of 3” dated 8/04/2006, no revisions.
 15. A detail sheet by Lincoln Applied Geology, Inc. entitled Clark Hinsdale Jr. Property, Sheehan-East Lot 22, Charlotte, Vermont, Proposed Lot 22 Water System Details, Sheet 3 of 3” dated 8/04/2006, no revisions.
 16. A document and Attachment A by Lincoln Applied Geology entitled “Clark W. Hinsdale, Jr., Sheehan East Project, Barn Lot, Lot 21, and Lot 22, Development Plans and Evaluation Summary, August 8, 2006.
 17. A map by the Vermont Land Trust entitled “Orthophoto Map, Property: Quickel, Location: Charlotte, Vermont”, no date.
 18. An e-mail from Allen Karnatz of the Vermont Land Trust dated July 5, 2006, to Dean Bloch, subject: “Quickel Project”.
 19. A draft document entitled “Hinsdale Barn Lot Sewage Disposal Easement.”
 20. A draft document entitled “Exhibit B, Grant of Development Rights, Conservation Restrictions, Notice of Option to Purchase and Contingent Right of the United States of America, with draft date of 2/27/2006 which describes a conservation easement granted by Clark W. Hinsdale, Jr. to the Vermont Agency of Agriculture, Food and Markets, and the Vermont Housing and Conservation Board over 32 acres.