

CHARLOTTE PLANNING COMMISSION

FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

Clark and Suzanne Hinsdale III Subdivision Modification Application # PC-03-28

Background

Lot 2 was created by a subdivision approved on June 8, 1993. Lot 3 was created by an exclusion from the conveyance of the farm (Lot 1) from Rozendaal to Darling in 1983. Sketch Plan Review for the current application was held on May 29, 2003

Application

The application consists of:

1. An application form and appropriate fee.
2. A survey map entitled "Plat of Boundary Adjustment for Clark & Suzanne Hinsdale, Town of Charlotte, Vermont" by Harold Marsh dated September 4, 1999, revised 2/28/01.
3. A survey entitled "Subdivision Modification, Clark & Suzanne Hinsdale III, Mt. Philo Road, Charlotte VT" by Green Mountain Engineering dated 10/19/92, last revised 7/14/03.
4. A wastewater plan entitled "Clark Hinsdale III, Old Town Trail, Charlotte, Vermont" (two sheets) by Ridge Consulting Engineers dated 5/14/03, last revised 7/25/03.
5. A letter from Cathy O'Brien (Wetland Consulting) to Clark Hinsdale III dated September 3, 2003.

Public Hearing

A public hearing for the application was held on October 2, 2003. Clark Hinsdale III was present at the hearing representing the applicants. Adjoining property owners Wanda and Bob Partnoy and Henry Elitzer were also present.

Regulations in Effect

Town Plan as amended March 2002
Zoning Bylaws as amended March 2002
Subdivision Bylaws as amended March 1995

Findings

1. The items this application requests to be modified are:
 - A. Change the lot-line between Lot 1 and Lot 3.
 - B. Change of the wastewater disposal site for Lot 2 (from off-lot to on-lot).

- C. Change the building envelope on Lot 2 to account for the fact that much of the existing envelope would be used by the new wastewater system. The proposed envelope is to the north of the existing envelope.
 - D. Modify the location of the driveway to Lot 2 to allow for flexibility to avoid cutting of larger trees.
2. Standards for reviewing boundary adjustments are listed in Chapter III Section 4 of the Charlotte Subdivision Bylaws. These standards are also appropriate for reviewing Subdivision Modifications, and provide that the proposed modification:
 - A. does not create any new lots;
 - B. will not impact access to any parcel;
 - C. will not adversely impact any significant natural resource; and
 - D. will not create a non-conforming (or non-complying) lot.
 3. The proposed modification will not create any new lots, and will not create a non-complying lot.
 4. The proposed modification includes moving the driveway for Lot 2 outside the existing right-of-way, which will require an easement (over Lot 3).
 5. The driveway for Lot 2 avoids significant impact to the wetland on Lot 2 (as depicted on the Green Mountain Engineering survey) provided it is constructed as depicted, and is located outside of the 50' wetland buffer on the eastern edge of the wetland.
 6. The proposed modification allows for greater flexibility in siting the driveway for Lot 2, which will reduce the cutting of desired, mature trees. Lot 2 is in close proximity to Route 7 and includes forested critical wildlife habitat, therefore maintenance of forest cover on Lot 2 is important.

Decision

Based on these Findings, the Planning Commission approves the Subdivision Modification with the following conditions:

1. The Marsh survey will be amended as follows:
 - A. The survey will be labeled "Page 1 of 2".
 - B. Markers will be indicated for new lot corners. (Marker type as appropriate).
 - C. A note will be added stating that the purpose of this survey is only to depict the new boundary between Lot 1 and Lot 3.
 - D. A note will be added referring to the Green Mountain Engineering plan (to be recorded) for the location of the new septic area for Lot 2, the building envelope on Lot 2, the driveway location for Lot 2, the Vermont Land Trust grant of development rights and the Town of Charlotte trail easement.
 - E. All notes and labels will be legible.
2. The Green Mountain Engineering survey will be amended as follows:
 - A. The survey will be labeled "Page 2 of 2".
 - B. The driveway easement for Lot 2 over Lot 3 will be labeled.
 - C. The adjusted acreage of Lot 3 will be corrected.
 - D. The septic line easement for Lot 1 over Lot 3 will be labeled.
 - E. A tie-in measurement for the septic field easement for Lot 1 over Lot 3 will be added.
 - F. Deed references will be corrected where in error, and deed references for applicant's acquisition of the parcels, the grant of development rights to the

Vermont Land Trust (on Lot 1) and the trail easement in favor of Town of Charlotte (on Lot 1) will be added.

G. A note will be added referring to the Marsh survey (to be recorded) for the distance and bearings of the adjusted boundary between Lot 1 and Lot 3.

H. All notes and labels will be legible.

3. A mylar (18" x 24") of both surveys (as revised by Conditions 1 and 2 herein) will be submitted to the Planning Commission for review within sixty days, and recorded in the Town Land Records within ninety days.
4. Survey markers will be installed in the field as depicted on the Marsh survey (as revised by Condition 1 herein) within ninety days and prior to the sale of either Lot 1 or Lot 3.
5. The conveyance deed for Lot 2 will include an access easement which references the Green Mountain Engineering survey.
6. The portion of the driveway for Lot 2 along the northern edge of the wetland will be constructed as depicted on the Green Mountain Engineering survey. The eastern portion of the driveway will not encroach on the 50' wetland buffer (along the eastern edge of the wetland, as depicted on the Green Mountain Engineering survey).
7. A haybale dam will be installed along the eastern edge of the wetland buffer prior to submission of a Zoning Permit application for Lot 2.
8. On Lot 2 there will be no cutting of trees larger than six inches in diameter outside of the building envelope and driveway location, unless the trees are diseased or dead.
9. The emergency vehicle turn-around at the end of Lower Old Town Trail will be constructed prior the submission of an application for a Certificate of Occupancy for a dwelling on Lot 2.
10. All conditions of the original subdivision with the exception of those modified herein remain in full force and effect.

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 the 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 October 2nd: Jeff McDonald, Al Moraska, Gordon Troy, Gene Diou, 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: _____