

CHARLOTTE PLANNING COMMISSION

FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

Greenwood America, LLP Subdivision Amendment Application # PC-03-30

Background

The applicant obtained final plat approval for Application #PC-01-50 (a four-lot PRD subdivision creating three building lots and one common lot off of Lake Road) in a decision dated February 21, 2002. The purpose of the current application is to amend conditions regarding the limitation on the amount of living space within the three dwellings in the development. Under Article 19 of the Protective Covenants, Greenwood America, LLP is the Board of Directors of the Homeowners Association, and as such has applied for this Subdivision Amendment.

Application

The application consists of:

1. An application form and appropriate fee.
2. A draft document entitled "Amendment to Protective Covenants".
3. A letter to Dean Bloch from Mel Hawley dated July 2, 2003

Public Hearing

A public hearing was held for this application on September 4, 2003. Mel Hawley, Joe Perrotto and William Lockwood were present representing the applicant.

Regulations in Effect

Town Plan as amended March 2002

Zoning Bylaws as amended March 2002

Subdivision Bylaws as amended March 1995

Findings

1. In the Preliminary Plat Application (# PC-01-26) for the subdivision, Greenwood America, LLP (the applicant) proposed a subdivision creating four building lots, one common lot and one retained lot.
2. Chapter VI Section 2.C. of the Charlotte Subdivision Bylaws indicates that the Planning Commission shall evaluate whether the proposed density, building sizes, pattern of development, and configuration of open space are compatible with the surrounding natural and/or built environment.
3. In the Preliminary Plat Decision, the Planning Commission found that the pattern of development in the vicinity of the proposed development is relatively compact, and that

the residential structures in the vicinity of the proposed development are of a moderate size.

4. The Planning Commission issued a Preliminary Plat Decision on October 4, 2001. Condition 2.C. of that decision states:

“A note (on the site plan map) shall indicate that the residential living area of the houses on the proposed building lots is limited to 2,000 square feet (not including basement areas, garages or porches), and residential structures shall be no taller than 25 feet (1 ½ stories). The applicant may choose (without prejudice) to create three building lots if larger houses are desired; in this case, the combined living area for all houses shall be no more than 8,000 square feet.”
5. In the Final Plat Application (#PC-01-50) the applicant proposed three building lots and a common lot, and the Planning Commission issued a Final Plat Decision dated February 21, 2002.
6. Condition 1.A. of the Final Plat Decision required the following addition (in part) to the proposed Protective Covenants:

“The combined above-grade *interior living space* on Lots 1-3 will not exceed 8,000 square feet, not including basements or unheated outbuildings. No individual lot may have more than 2,850 square feet of above-grade *interior living space*, not including a basement or unheated outbuildings. *Interior living space* includes any enclosed living and home office areas, enclosed porches and decks, and space in accessory structures such as barns or garages used for such purposes. *Interior living space* will not include unheated garages, barns, sheds, open porches, open decks, open patios, etc.”
7. Condition 12.B. of that decision required the recording of a mylar of the site plan map in the Charlotte Land Records. The site plan map included the note required by Condition 2.C. of the Preliminary Plat Application.
8. The combined limitation on interior living space for the three lots is difficult to administer, and does not ensure a significantly greater level of compatibility with the surrounding natural and/or built environment than individual-lot limits on living space.
9. With this application for a Subdivision Amendment the applicant proposed a limit of 2,850 square feet of above-grade interior living space for all three lots, and also requested that the combined limit of 8,000 square feet of above-grade individual living space be eliminated. At the hearing for this Subdivision Amendment, a compromise of allowing above-grade interior living space of 2,850 square feet for Lots 1 and 2 and 2,750 square feet for Lot 3 was discussed and agreed to by the applicant.
10. Considering the design elements of the subdivision, including the designation of open space and building envelopes and the installation of landscaping, above-grade interior living space limits for Lots 1 and 2 of 2,850 square feet and for Lot 3 of 2,750 square feet is compatible with the surrounding natural and/or built environment, provided that the design elements are maintained in good and functioning condition.
11. Although not requested as an amendment by the applicant, the Planning Commission finds that removing “enclosed porches and decks” from the definition of “interior living space,” as that definition is applied within the Charlotte Planning Commission’s Findings of Fact and Decisions affecting this subdivision, will not significantly reduce the level of compatibility between the dwellings in this subdivision and the surrounding natural and/or built environment.

Decision

Based on these Findings, the Planning Commission approves a Subdivision Amendment as follows with conditions listed below:

- X The combined interior living space limit for all three building lots is eliminated.
- X The limit of above-grade interior living space for each of Lots 1 and 2 is 2,850 square feet.
- X The limit of above-grade interior living space for each of Lot 3 is 2,750 square feet.
- X Interior living space does not include enclosed but unheated porches and decks.

Conditions

1. Lot 1 and Lot 2 shall have no more than 2,850 square feet of above-grade *interior living space*, and Lot 3 shall have no more than 2,750 square feet of above-grade *interior living space*. *Interior living space* includes any enclosed living and home office areas, and improved heated space in accessory structures such as barns or garages used for living or office purposes. *Interior living space* will not include unheated garages, barns, sheds, porches, decks, patios, etc.
2. Note #1 on the site plan map entitled “Country Home Products, Ferry Road, Charlotte, Vermont, Master Site Plan, SP2A” by Trudell Consulting Engineers, dated 2/06/01, last revised 1/18/02 will be revised to include Condition #1 herein.
3. A mylar (18” x 24”) of the site plan map, as amended in Condition #2 above, will be submitted to the Planning Commission Chair for review within 60 days, and recorded in the Charlotte Land Records within 90 days and prior to the conveyance of any parcel.
4. The Protective Covenants will be amended to reflect the above Decision and recorded in the Charlotte Land Records within 90 days and prior to the conveyance of any parcel.
5. All landscaping required by the Final Plat Decision (#PC-01-50) shall be will be replaced by the applicant, its successors or assigns if it becomes diseased or dies.
6. No alteration of the land shall occur within the Open Space Area, and no mowing or removal of vegetation shall occur within any Class II wetland or the 50’ buffer.
7. The Planning Commission understands that the owner of Lot #1 has applied for and received Zoning Permits authorizing construction of interior living space in excess of that allowed by the Final Plat Decision (PC-01-50) and by Condition #1 herein. Nothing in this decision shall be construed as approving or authorizing interior living space that is in excess of that allowed by Condition #1 herein.

Additional Conditions: All plats, plans, drawings, documents, evidence and testimony submitted with the application or at the hearing and used as the basis for the Decision to grant permit, as well as all conditions listed above 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 4th signature below approving this decision, as per requirements of 24 VSA Chapter 117, Sections 4471 and 4475.

Members Present at the Public Hearings on September 4, 2003: Jeff McDonald, Jim Donovan, Gordon Troy, Gene Diou, Linda Radimer, Robin Pierce

Vote of Members after Deliberations:

The following is the vote for or against the applications, 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: _____