

CHARLOTTE PLANNING COMMISSION

FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

**Hayes and Susan Sogoloff; Applicant
and Marjorie Mansfield, Randi McCuin, Lynn Mansfield,
Lisa Gere, James Mansfield, and Lance Mansfield; Property Owner
for a
Subdivision Amendment
Application # PC-04-14**

Background

The subject parcel is Lot 2 of the Mansfield Subdivision (PC-04-06) that was approved on April 15, 2004.

Application

The application consists of:

1. An application form and appropriate fee.
2. A sheet with signatures of the property owners, allowing the applicant to apply for permits.
3. A sketch plan showing the proposed structures and access.
4. A map entitled "Soil Test Pits—Location Map, Mansfield Property, Mount Philo Road, Charlotte, Vermont" by Krebs & Lansing, Consulting Engineers, Inc. dated February 16, 2001, no revisions. The map includes a hand-drawn sketch of the proposed structures and access.
5. A plan entitled "Monitor Well Plan, Hayes & Bonnie Sogoloff, Mansfield Property, Mount Philo Road, Charlotte, Vermont" by Krebs & Lansing, Consulting Engineers, Inc. dated February 4, 2004, no revisions.
6. Plan-view and elevation-view drawings of the proposed barn by Peoples Building for Cedar Spring Farm, Hayes and Bonnie Sogoloff, 80 Upper Main Street, Essex Junction VT 05452.
7. Plan-view and elevation-view drawings of the proposed single family dwelling by Paula Duke, Windy Meadow Design dated 4/5/04

Public Hearing

A public hearing was held for this application on June 17, 2004 and continued on July 1, 2004. A site visit was conducted on July 1, 2004. Hayes Sogoloff and Kevin Shortell were present representing the applicant on June 17th, and Hayes and Susan Sogoloff were present representing the applicant on July 1st. Adjoining property owners Henry and Berta Geller were present on June 17th, and Clark Hinsdale Jr. was present on June 17th and July 1st.

Regulations in Effect

Town Plan as amended March 2002

Zoning Bylaws as amended March 2002

Subdivision Bylaws as amended March 1995

Findings

1. The applicant is proposing to construct a barn to be used in conjunction with a horse-breeding and training operation, as well as a single family dwelling for the applicant, and a single family dwelling for the farm manager.
2. Condition #3 of the Findings of Fact and Decision for the Final Plat Application of the Mansfield Subdivision (PC-04-06) states “a Subdivision Amendment will be required at such time as development is proposed for either Lot 1 or Lot 2, including the designation of a building envelope, an access plan and a wastewater disposal plan.”
3. Section 5.19 of the Zoning Bylaws allows barns for working agricultural operations to be considered principal structures, and dwellings to be considered accessory structures as long as they provide housing for the farm owner, operator and/or full-time employees.
4. The applicant has proposed a building envelope for the barn and dwellings. At the public hearing on July 1st the applicant agreed to the following dimensions and location for the rectangular building envelope: 900 feet from north to south and 300 feet from east to west, with the northeast corner of the building envelope located 75 feet from the easterly property-line (with Lazar) and 350 feet from the northerly property line (with Lazar).
5. As described in Finding #4, the building envelope will be located near the easterly edge of the field, and approximately 300 feet from the wooded area on the parcel, which is indicated as *forest habitat* on Map 6 of the Charlotte Town Plan. Siting the proposed structures within this building envelope will minimize the impact of the project on the agricultural and wildlife resources on and in the vicinity of the subject parcel.
6. Agricultural clusters (ie: barns and associated farmhouses and outbuildings) have historically been sited relatively close to town roads. It is noted that the barn and outbuildings on Lot 1 fit this pattern.
7. In terms of the impact of the project on scenic resources, siting the buildings near Mount Philo Road or as proposed, ie: on the eastern side of the parcel (approximately 800 feet from Mount Philo Road) both have merit. A location close to Mount Philo Road would be more compatible with historic patterns, however the proposed location at the eastern side of the field will allow for a more distant view (from Mount Philo Road) of what will be an attractive but large structure, with a wood-line in the background and farm fields in the foreground. The Planning Commission finds the location of the proposed building envelope is acceptable in terms of the impact on scenic resources on and in the vicinity of the subject parcel.
8. The proposed access is off of McGuire Pent Road, 910 feet east of the intersection with Mount Philo Road and approximately 100 feet west of the intersection with Clark Road.
9. The Selectboard has issued an Access Permit for the proposed driveway.
10. McGuire Pent Road is a town-owned right-of-way that is classified as a Class 4 road or legal trail. The Town is not required to provide any maintenance of legal trails.
11. The Planning Commission does not normally encourage the use of legal trails for access

to private, non-recreational uses. However for the following reasons, the Planning Commission finds that the proposed access off of McGuire Pent Road is acceptable, with conditions as noted below:

- A. McGuire Pent Road currently serves as access to six existing residences and two additional permitted lots.
 - B. The use of McGuire Pent Road for access to the proposed use on the subject parcel will not detract from the use of McGuire Pent Road for recreational purposes, since the proposed use is consistent with the agricultural character of the area.
 - C. The proposed building envelope provides a fairly tight cluster of development and consequently a significant amount of undeveloped land.
 - D. The proposed development is in relatively close proximity to other development in the area, within the context of a rural neighborhood; it is not located in an area that is largely undeveloped.
12. Therefore the Planning Commission does not consider this application to be implementing or establishing a policy allowing or encouraging the use of town trails for access to residential or commercial uses. However a Class 4 Road/Town Trail Agreement will provide notice in the chain of title that the Town does not maintain the trail and that any improvement to the trail requires Town approval.
 13. The Planning Commission also finds that the use of McGuire Pent Road for access avoids an additional curb-cut on Mount Philo Road or Lime Kiln Road, which is an additional reason for allowing the proposed driveway on McGuire Pent Road.
 14. During the Mansfield subdivision hearings there was discussion, prompted by a letter from the Trails Committee, about the potential for providing a linkage with the town trail network in the vicinity of the subject parcel. The Planning Commission did not pursue a trail easement at that time, in part because the applicant was opposed to it and also because there was not agreement on an appropriate route, particularly out of concern for impact on wildlife habitat in the wooded area of the parcel. At the hearing on July 1st for the current application, the applicant stated that they would not be opposed to a “floating trail easement” that would allow a route to be determined in the future upon mutual agreement between of the applicant and the Town.
 15. The application does not include a wastewater disposal plan.
 16. Section 5.4.1.3 of the Charlotte Town Plan states the following: “the community understands the importance of agriculture to the Town and recognizes that agricultural practices may create conditions, including noise and odors, that can impact their desired lifestyle. Neighbors will try to resolve any problems among themselves; however, it is understood that reasonable agricultural practices, which are defined by State policy, are necessary for viable farming operations and contribute to a working landscape and community pride.”
 17. At the public hearing on June 17 Clark Hinsdale Jr. submitted a letter dated June 17, 2004 which requests review of particular issues with regard to the application. The Planning Commission believes that the application, with findings noted above and conditions noted below, complies with the Town’s land use regulations.

Decision

Based on these Findings, the Planning Commission approves the application for a Subdivision Amendment with the following conditions:

1. A site plan will be created (at a scale of 1" x 100') by a professional engineer or surveyor licensed in the State of Vermont. The site plan will depict a rectangular building envelope 900 feet from north to south and 300 feet from east to west, with the northeast corner of the building envelope located 75 feet from the easterly property-line (with Lazar) and 350 feet from the northerly property line (with Lazar). These dimensions will be indicated on the site plan. The site plan will also depict the approximate route of the proposed driveway.
2. A mylar (18" x 24") of the site plan required in Condition #1 above will be submitted to the Planning Commission for review within 60 days, and recorded in the Town Land Records within 90 days.
3. The barn, dwellings and all other accessory structures shall be located within the building envelope as described in Condition #1 above.
4. Within 90 days and prior to the submittal of a Zoning Permit application for a dwelling, the applicant will execute a Class 4 Road/Town Trail Agreement and submit same to the Selectboard for acceptance and recording.
5. Within 90 days and prior to the submittal of a Zoning Permit application for a dwelling, the applicant will execute an Irrevocable Offer of Dedication and a Trail Easement for a "floating trail easement" and submit same to the Selectboard for acceptance and recording.
6. Prior to the submission of a Zoning Permit application for a dwelling, the applicant will submit a Septic System Permit application. If the septic system is to be located off-site (ie: on a parcel other than Lot 2), the applicant will first apply to the Planning Commission for a Subdivision Amendment and provide information regarding capacity, a system design by a State certified designer, a surveyed line and system easement, a draft easement deed, and a letter from parties to the easement deed indicating they intend to execute the deed.

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 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 June 17: Jeff McDonald, Al Moraska, Gordon Troy, John Owen and Robin Pierce.

Members Present at the Public Hearing on July 1: Jeff McDonald, Al Moraska, Gordon Troy, John Owen, Jim Donovan, and Linda Radimer.

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:_____