

CHARLOTTE PLANNING COMMISSION

FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

**Henrietta Fridholm
And
St. Clair Group, Inc.**

**Final Plan Hearing
For A
Planned Residential Development
Application # PC-08-05**

Background

Sketch Plan Review was held on September 20, 2007. The project was classified as a Planned Residential Development. The Final Plan Application was submitted on January 22, 2008; no Town Plan was in effect on this date.

Application

Materials submitted with the application are listed in Appendix A.

Public Hearing

A public hearing for this application was held on March 20, 2008. Peter Smiar was present representing the applicant. Walter Gates, an adjoining property owner, was present and participated in the hearing.

Regulations in Effect

Land Use Regulations adopted March, 2006.

Sewage Ordinance as amended December, 2004.

Recommended Standards for Developments and Homes adopted September, 1997

Findings

1. The project consists of constructing a wastewater disposal system on 2245 Ferry Road, which is owned by the St. Clair Group, Inc., for the purpose of serving 2278 Ferry Road, which is owned by Henrietta Fridholm.
2. The application has been submitted for the purpose of determining whether the project meets the Planned Residential Development ("PRD") standards in Chapter VIII of the Charlotte Land Use Regulations ("Regulations"). Compliance with these standards is required by Section 3.16(C) of the Regulations in order for the Selectboard to allow extensions of the sewer line across the Ferry Road right-of-way.
3. In addition to the wastewater disposal arrangement, the applicant has also proposed an Open Space Agreement for a portion of the property at 2245 Ferry Road.
4. The parcel at 2245 Ferry Road was created by a subdivision by Fischer in 1971 and

consisted of two lots. The parcel at 2278 Ferry Road was also created by a subdivision by White in 1971 and also consisted of two lots. However, under the provisions of previous Town zoning bylaws, the two lots at 2245 Ferry Road merged, and the two lots at 2278 Ferry Road merged.

5. The parcel at 2245 Ferry Road is currently developed with a Single Family Dwelling.
6. As one lot, 2278 Ferry Road is an existing non-conforming lot as described in Section 3.7 of the Land Use Regulations—and, in accordance with this section, 2278 Ferry Road can be developed for purposes permitted in the district. Single family dwellings are a permitted use within the Rural District.
7. The parcels designated as 2245 Ferry Road and 2278 Ferry Road are on opposite sides of Ferry Road, and are diagonally across from each other, so are not contiguous parcels.
8. Findings 9 through 18 will address standards for PRDs in general, PRDs in the Rural District, and PRDs involving two or more parcels—these standards are found in Section 8.4(B), (C) and (F) of the Charlotte Land Use Regulations.
9. Section 8.4(B)(1) and (2)—the project will result in one single family dwelling located on a two-acre lot (at 2278 Ferry Road). There are several single family dwellings in the vicinity. The parcel is not located in a particularly sensitive location, and is outside of the Shoreland District, which has particular concerns with regard to erosion, water quality, and aesthetics. The appropriate percentage (50%) of involved property will be conserved by an Open Space Agreement as a result of this application.
10. Section 8.4(B)(3) and (4)—no subdivision is being proposed. 2278 Ferry Road can currently be developed as a pre-existing non-conforming lot; and, as a result of this application the lot will be developed. Therefore, the density is not changing from what is currently allowed, nor is it moving from one parcel to another parcel.
11. Section 8.4(B)(5)—there is no need to impose further restrictions on the building area.
12. Section 8.4(B)(6)(a)— 2245 Ferry Road has extensive “statewide” agricultural soils (as indicated in Map 4 in the Town Plan) and is adjacent to a large tract of such soils on neighboring parcels. 2278 Ferry Road has supporting wildlife habitat (as indicated on Map 6 in the Town Plan), but the lot is located right on Ferry Road, it is only two acres, and it is close to other development, so the wildlife habitat does not have significant public value. Therefore, the project is not impacting any areas of high public value, but will result in the conservation of a portion of the parcel with agricultural soils in a location that may help to spur conservation of neighboring parcels.
13. Section 8.4(B)(6)(b)—discussed above.
14. Section 8.4(C)(1)—50% of the involved acreage will be conserved under an Open Space Agreement with the Town.
15. Section 8.4(F)(1)—since each lot is allowed to be developed with single family dwellings, no aggregation or movement of density is necessary for or will result from this project.
16. Section 8.4(F)(2)—as described above, the application will result in a settlement pattern characteristic of the area, and also will result in conservation of primary agricultural soils, which is a resource listed in Table 7.1 of the Regulations.
17. Section 8.4(F)(3)—the area to be developed is appropriate for the proposed density.
18. Section 8.4(F)(4) through (7)—as discussed above, no aggregation or movement of density is necessary for or will result from this project.
19. The Town’s wastewater consultant, Spencer Harris of Vermont Contours, Inc., has

reviewed the wastewater disposal plans and has stated in a memo dated 3/19/08 that the proposed system complies with the wastewater regulations.

20. A letter was submitted on March 24th from Steve Vock of Civil Engineering Associates, Inc. to Dean Bloch dated March 24, 2008 regarding “Soils Investigation 2278 Ferry Rd.- St. Clair Group/Fridholm PRD.” This letter describes the soil investigations at 2278 Ferry Road, which showed a lack of acceptable soils on that parcel.
21. The Town’s wastewater consultant, Spencer Harris of Vermont Contours, Inc., reviewed the letter from Steve Vock, and in a memo dated 3/31/08 indicated that he concurs with findings and conclusions drawn by Mr. Vock during the soil investigations at 2278 Ferry Road.

Decision

Based on these Findings, the Planning Commission approves the Final Plan Application for the proposed Planned Residential Development with the following conditions:

1. The survey plat by Civil Engineering Associates, Inc. entitled “St. Clair Group/Fridholm PRD, 2245 & 2278 Ferry Road, Charlotte, Vermont” dated January 21, 2008 will be revised to depict 2245 Ferry Road as one parcel and 2278 Ferry Road as one parcel.
2. 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 herein 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.
3. The Open Space Agreement will be revised as follow:
 - A. A signature line for the landowner and the Selectboard Chair will be added.
 - B. Exhibit A will be added, which will include a description of the area to be conserved under the Open Space Agreement. The description will, at a minimum, reference the survey plat.
4. Prior to the submission of the mylar in accordance with Condition #2 above, the applicant will complete the following steps:
 - A. Submit a letter from the surveyor indicating he has set the survey pins in the field as indicated on the survey.
 - B. Obtain a Highway Access Permit from the Selectboard for the proposed driveway for 2278 Ferry Road.
 - C. Execute the following documents, then submit the documents to the Selectboard for approval and execution:
 1. License Agreement
 2. Open Space Agreement as amended in accordance with Condition #3 herein.
 - D. Execute an easement for the wastewater force main and disposal system located on 2245 Ferry Road to serve 2278 Ferry Road.
5. The applicant will simultaneously record in the Charlotte Land Records the mylar identified in Condition 2 above and the documents identified in Condition #4.C. and 4.D. above after adding the appropriate Map Slide number into the documents.
6. The warranty deed for both 2245 Ferry Road and 2278 Ferry Road will include references to this Findings of Fact and Decision, to the survey plat and the easement for the wastewater force main and disposal system. The warranty deed for 2245 Ferry Road will include a reference to the Open Space Agreement. The warranty deed for 2278 Ferry

Road will include a reference to the License Agreement.

- 7. Prior to the submission of a Zoning Permit application for 2278 Ferry Road, wooden stakes will be set at the corners of the building envelope on that lot.
- 8. Prior to any use of the wastewater disposal system that serves the northern lot, including the force main and the sleeve surrounding the force main, for development on any parcel other than 2278 Ferry Road, such use must first be approved by the Planning Commission as a Subdivision Amendment or, if a new lot is being proposed, as a Subdivision.
- 9. 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, and will not direct light onto adjacent properties or roads, and will not result in excessive lighting levels that are uncharacteristic of the neighborhood.
- 10. All new utility lines will be underground.
- 11. 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 March 20: Peter Joslin, Linda Radimer, Ellie Russell, Jim Donovan 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:_____

APPENDIX A

The following items were submitted with the application:

1. An application form and appropriate fee.
2. A memo from Peter Smiar of Civil Engineering Associates, Inc. to Tom Mansfield date January 22, 2008 regarding “Final Plan Application and Supporting Materials, St. Clair Group/Fridholm PRD.”
3. A survey by Civil Engineering Associates, Inc. entitled “St. Clair Group/Fridholm PRD, 2245 & 2278 Ferry Road, Charlotte, Vermont” dated January 21, 2008, no revisions.
4. A packet by Civil Engineering Associates, Inc. entitled “St. Clair Group/Fridholm PRD, 2245 & 2278 Ferry Road, Charlotte, Vermont Site Plan” composed of the following sheets:
 - A. Sheet C1.0—Proposed Site Plan dated August, 2007, last revised 2/23/07
 - B. Sheet C1.1—Overall Wastewater Treatment Plan dated August, 2007, last revised 2/23/07
 - C. Sheet C1.2—Wastewater Disposal Area Plan dated January, 2008, no revisions
 - D. Sheet C2.0—Wastewater Details dated November, 2006, no revisions
 - E. Sheet C2.1—Wastewater Details dated November, 2006, no revisions
5. A photograph labeled “Figure 1: Proposed Force Main Alignment Across Ferry Road, Looking South from Northerly 2-Acre Lot.”
6. A draft License Agreement for the installation of the sewer/wastewater pipeline under Ferry Road.
7. A draft Open Space Agreement for the conservation of a portion of the subject property.