

DEVELOPMENT REVIEW BOARD sketch plan hearing scheduled for May 22, 2024 @ 7:00 pm

General Information

Applicants:	Never a Cloud Living Trust/Johns and Giovanna Congdon Consultant: Stephen Diglio, KAS Environmental Science and Engineering
Application No.: DRB 24-059-SK	Parcel ID: 00021-0640
Status of Applicant:	Owner
Requested Action:	Sketch Plan for Subdivision
Purpose:	Classify Subdivision
Zoning:	Rural District
Location:	653 Bingham Brook Road
Size:	23.15 acres
Existing Land Use:	Single-family residential
Surrounding Land Uses:	Residential and agriculture (Powden and Hausman farms)
Permitting / Subdivision History:	August 28, 1984: Planning Commission approval of three-lot subdivision (Lot #3 contained 56.1 +/- acre (C. Hinsdale III)) WW-138-1308 (water and wastewater - three-bedroom single-family residence) 13-26-TM: Three-bedroom single-family residence with detached garage and workshop PC-21-06-SA: subdivision amendment established current size of Congdon lot (23.15 acres), dedicated 58.79 acres to conservation (which included lands of the subject parcel), and increased the size of a lot containing an existing residence and maple operation at 3768 Spear Street. July 2022: change of address from 640 to 653 Bingham Brook Road (mentioned here for clarification)
Applicable Regulations:	Land Use Regulations, as amended 2023 Recommended Standards for Developments & Homes, 1997

Background:

Johns and Giovanna (Joanne) Congdon propose to subdivide their 23.15-acre residential lot at 653 Bingham Brook Road into three lots. This lot was a 57.08-acre parcel under the ownership of Clark Hinsdale III from at least 1984 to 2013. The Congdons and Hinsdale jointly owned the 57.08-acre lot until 2021, when the Planning Commission approved an adjustment of the subject lot to 23.15 acres. The Congdons became sole owners of the developed lot, and Hinsdale became the owner of the parcel's remaining land. Hinsdale conserved that remaining land with Vermont Land Trust October 10, 2022. The new proposed lot configuration is as follows:

- Lot 1: 11.75 acres, with existing Congdon residence and outbuilding;
- Lot 2: 6.52 acres with access by 50'-wide easement;
- Lot 3: 5.01 acres with access by 50'-wide easement.

The applicants propose to extend the driveway serving the existing developed lot and grant access to

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Lots 2 and 3 by way of easement.

Section 2.3 Application of District Standards - Table 2.5 Rural District (RUR) –

(C) Single-family dwellings are a permitted use in the Rural District.

(E) Dimensional Standards –

Each proposed lot meets the minimum size requirement of five acres for residential development in the Rural District. The required road frontage in the Rural District is 300 feet. Proposed Lot 1 has 930 feet of frontage. Proposed Lots 2 and 3 do not have road frontage and are proposed to be served by an easement. The applicants propose to extend the existing driveway to the two new lots, which would result in a new private road.

An alternative configuration giving each lot the minimum 300 feet of frontage on Bingham Brook Road would arguably create deep “spaghetti” lots. The LURs repeatedly give preference to the use of shared driveways. The benefits of shared driveways include improved safety, less impervious surface, and less cost.

Section 3.2 Road, Driveway, and Pedestrian Access Requirements – The existing driveway would become a new private road and require conformance to the Town of Charlotte Road and Driveway Standards (1997). The proposed width of the driveway complies at 14 feet, and the proposed width of the right-of-way complies at 50 feet.

Section 3.2(D)(2)(c) states that “roads and driveways should be located to avoid fragmentation and/or adverse impacts to areas of high public value.” The applicants acknowledge the existence of delineated wetlands on the parcel and state that the Vermont Department of Environmental Conservation has determined that no state wetlands permit is required for the proposed driveway improvements. The Board may wish to request more documentation about this state determination.

Section 6.1 (C) – Classification of Subdivision

The Land Use Regulations differentiate minor and major subdivisions as follows:

Minor Subdivision: a subdivision, or resubdivision of land, that results in the creation of three (3) lots or fewer within any ten (10) year period, regardless of any change in ownership.

Major Subdivision: (A) a residential subdivision, or resubdivision, of land that results in the creation of four (4) or more lots within any ten (10) year period, regardless of any change of ownership.

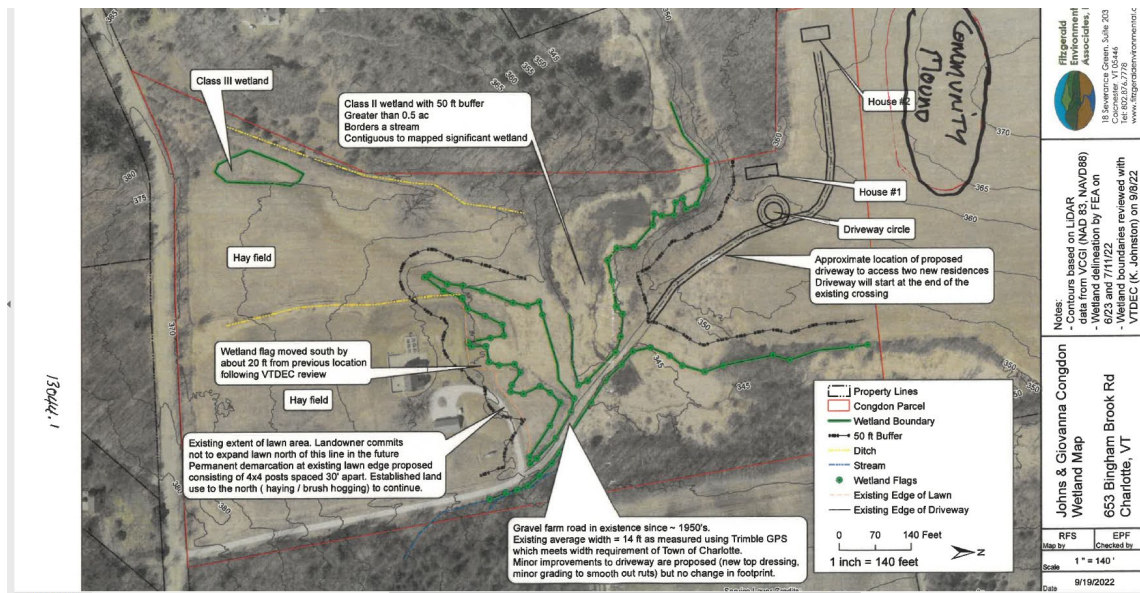
A 2021 subdivision amendment reconfigured three lots. In doing so, it (1) established the subject lot as a 23.15-acre parcel, (2) dedicated 58.79 acres to conservation (land seems to have been taken from multiple lots), and (3) adjusted the acreage at 3768 Spear Street to 51.25 acres. In 2023, Hinsdale III and Chris Snyder received approval for a subdivision amendment to adjust the boundary of that third lot in order to protect an old stone wall and better delineate maple sap collection at their lots (Hinsdale sold about an acre to Snyder).

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The parent lot in this application existed as an independent lot as far back as 1984, when the Planning Commission approved it as 56.1-acres. While this lot is adjacent to other lands of Hinsdale (Nancy and Clark III alike) that were modified over the years, it appears that this land was last truly subdivided in 1984. The 2021 subdivision amendment transferred acreage to an existing lot that is a conserved farm operation. Therefore, the appropriate classification is minor subdivision.

Section 7.2 General Standards - Areas of High Public Value (Table 7.1):

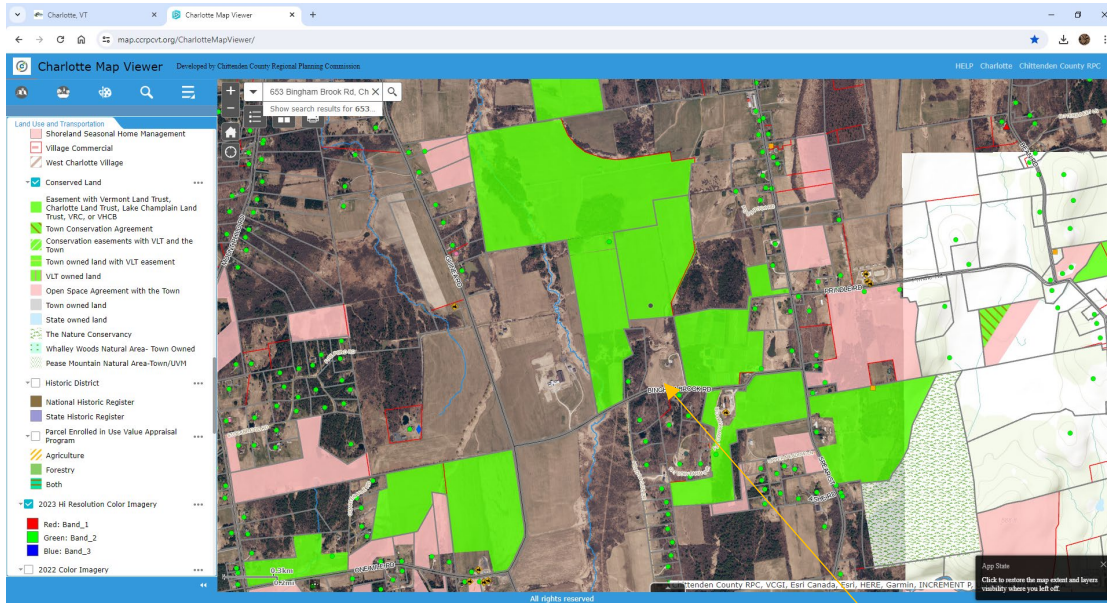
- a. Land in active agricultural use – the parcel is not known to have a working farm operation. Part of the original parcel was transferred to a conserved farm in 2021-22.
- b. Primary Agricultural Soils (Prime and Statewide) – Statewide agricultural soils comprise all but approximately 20% of the parcel (the northeastern-most portion), which is not classified.
- c. Steep slopes (>=15%) – the Charlotte Map Viewer and ANR Atlas do not show any steep slopes.
- e. Surface waters, wetlands and associated setback and buffer areas – The application incorporates a wetlands delineation completed by Fitzgerald Environmental Associates and confirmed by the Vermont Department of Environmental Conservation in 2022. The existing driveway extends slightly into the wetlands buffer. The proposed building envelopes avoid development in wetlands, and the applicants also state that they intend to continue not mowing in sensitive areas.



Results of the FEA wetlands delineation. See p. 17 of the application for a full-size rendering.

- h. Wildlife habitat – a very small section of forest habitat exists along the western boundary of the property, and aquatic habitat is associated with the delineated wetland.
- k. Scenic views and vistas: - Bingham Brook Road is considered a Scenic Road.
- l. Conserved land on adjacent parcels – conserved lands exist north, east, and west of the parent parcel. The following map shows conserved areas. Again, a 2021 subdivision amendment involving this lot led to the conservation of 58.79 acres directly north of the subject parcel.

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The subject lot is bordered by conserved land to the north and east.

Section 7.2(C) Lot Layout: Lot 1 is nearly rectangular, and Lots 2 and 3 are both L shaped. A wetland traverses the three parcels. Potential house sites are depicted in the western portions of Lots 2 and 3 in order to avoid development in sensitive areas. The site plan shows 1400-square-foot footprints for each house.

Section 7.2 (D) Density: Each proposed lot meets the density requirement of five acres per dwelling unit.

Section 7.2 (E): Building Envelope: Building envelopes have been proposed for each lot. Lot 1 has a previously approved building envelope of 4.1 acres. The wetlands delineation (p. 17 of the application) and proposed plat (p. 18) appear to show different building envelopes, with the plat showing a substantially larger size for each lot. Proposed Lot 2 has an irregularly shaped building envelope that follows site contours. Lot 3 has a rectangular building envelope. The building envelopes for Lots 2 and 3 comply with district setback requirements and limit development to 4.03% and 3.43% of the total lot (p. 17), which complies with lot and building coverage limits. The Board should clarify whether the areas marked in the wetlands delineation are indeed the proposed building envelopes. That document – not the proposed plat – spells out the size and coverage maximums of the building envelopes.

Section 7.3: District Standards for Rural, Shoreland & Conservation Districts: The proposal appears compatible with Rural District Standards.

Section 7.4: Compatibility with Agricultural Operations: This project does not appear to pose any adverse impacts to neighboring farms. Adam’s Berry Farm is the abutting neighbor to the east, and the conserved farm parcel to the north is part of a [major hay operation](#). The Board should take into consideration any comments received from abutting farms.

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Section 7.5: Facilities, Services and Utilities: Charlotte Volunteer Fire and Rescue is located 4.1 miles from this area of Bingham Brook Road. Green Mountain Power and Waitsfield Telecom have utility easements to provide service north of the parcel.

Sections 7.6, Water Supply / 7.7 Sewage Disposal: The Congdon residence is served by an existing 420-gallon-per-day water and septic system. The application depicts a future wastewater disposal area on David Nichols's property to the north, and states that the plat will be updated to include an approximate area for a shared mound and necessary easements.

Sec. 7.8, Stormwater Management & Erosion Control: the application does not contain a stormwater management and erosion control plan.

Sec. 7.9, Landscaping & Screening: No additional landscaping or screening is proposed.

Sec. 7.10, Roads, Driveways & Pedestrian Access: The applicants propose to extend the existing driveway to the two proposed lots, which would result in the creation of a new private road. The Board may require a draft roadway maintenance agreement.

Sec. 7.11, Common Land to be Conserved: no land is proposed for conservation in this application.

Sec. 8.4, Planned Residential Development: The Board will need to decide whether the proposed easement granting access to Lots 2 and 3 satisfies lot frontage requirements. If it does not satisfy the frontage requirement, the project should be reviewed as a Planned Residential Development. Planned Residential Development Standards require dedication of 50% of land to Open Space. It is not clear whether the land conserved in 2021, which was part of the original parcel, might be considered to satisfy any Open Space requirement.

Staff Observations / Recommendations: The Board should ask for clarification about the proposed building envelopes. Should the project be reviewed as a Planned Residential Development, the question of Open Space is an interesting one. The lot was recently modified, and that process led to over half the original acreage being part of a larger farm conservation project. As a result, much of the original parcel's Areas of High Public Value have already been permanently conserved.

Public Notice: None required for sketch.

Prepared by: Aaron Brown, Zoning Administrator, May 15, 2024