CHARLOTTE PLANNING COMMISSION
Town of Charlotte, Vermont
April 15, 2021

FINDINGS OF FACT AND DECISION:

Final Plan Application for a 3-lot Minor Subdivision Amendment & Boundary Adjustment for 640 Bingham Brook Rd. and 3768 Spear St., Charlotte
Application # PC-21-6-SA

Introduction and Procedural History:

This proceeding involves the review of a Final Plan application for a 3-lot Minor Subdivision Amendment & Boundary Adjustment submitted by Clark Hinsdale III and Johns Congdon (applicants & owners) for approval under the Town of Charlotte Land Use Regulations (hereafter referred to as "LURs") for their properties located at 640 Bingham Brook Rd. and 3768 Spear St., Charlotte. This application partially modifies two previously approved subdivisions: Bahrenburg 4-lot subdivision/PRD (PC-05-54) and the Nancy Hinsdale 2-lot subdivision (PC-12-20).

A public hearing for the Sketch Plan review of this application was held at the Planning Commission meeting of November 19, 2020. In attendance were Commissioners Peter Joslin (Chair), Charlie Pughe (Vice Chair), Gerald Bouchard, Marty IIlick, Bill Stuono, Kelly Devine and Ben Pualwan; the Town Planner; and the applicants. The site visit to the property took place on November 14, 2020 with the same Commissioners present, minus Bill Stuono and Kelly Devine, as well as the applicants, Town Planner, and Adam Hausman. At the Sketch Plan Review hearing, the Planning Commission classified the project as a 3-Lot Minor Subdivision Amendment & Boundary Adjustment.

For the Final Plat application, a notice of public hearing was published in *The Citizen* newspaper on February 18, 2020. Public hearing warnings were mailed on February 18 to all adjoining landowners, with additional info posted on March 1, 2020 to the Charlotte Front Porch Forum community email platform. The meeting agenda was posted on the Town's website calendar on February 25, 2021, and at the following locations: the Town Offices at 159 Ferry Road, the US Post office in West Charlotte Village, and Spear's Corner Store in the East Charlotte Village.

Exhibits received in support of this application:

1. Completed, signed Final Plan application forms, with list of adjoining property owners from Clark Hinsdale III, received January 8, 2021
2. Supplemental narrative and waiver request from Clark Hinsdale III, received January 8, 2021
3. Revised survey of 3 lots, prepared by Stuart Morrow, received February 10, 2021
4. Email from VT Land Trust re: intention to fund conservation of Lot 1, February 17, 2021
5. Email exchange from Hinsdale, Morrow & Jack Galt concerning apparent discrepancies between recorded maps for Galt property (Marsh survey, 1984) and Morrow's current survey in the vicinity of Congdon/Galt property line, received March 7-9, 2021

6. Natural Resource Map (*prepared by staff, using Charlotte Map Viewer*), November 18, 2020
7. Sketch Plan Review; Planning Commission Letter (PC-20-164-SA), dated December 18, 2020
8. Staff notes and analysis, prepared by Town Planner, dated November 16, 2020
9. Planning Commission Minutes from meetings held on *November 19, 2020* and *March 4, 2021*

Regulations in Effect:

Charlotte Town Plan, 2019
Charlotte Land Use Regulations, 2016
Recommended Standards for Developments and Homes, 1997

Findings: Subdivision Review Standards

Background

1. Clark Hinsdale III owns three adjoining properties located at 640 Bingham Brook Rd. and 3768 Spear St. The Bingham Brook lot is co-owned with Johns and Giovanna Congdon. All three lots are within the Rural Zoning district. Their combined size is 133.19 acres.

2. This application proposes to modify the current boundary lines between 3 parcels, creating:

- **Lot #1** (an undeveloped pasture, with a proposed right of way through Lot 2) as a ±58.79 acre conservation lot;
- **Lot #2** as a 23.15 acre residential lot (with approved water and wastewater system, and 763 ft. of frontage with a driveway access on Bingham Brook Rd.), and
- **Lot #3**, a 51.25 acre parcel that includes a well-established sugarbush, a sugar house and residence (with approved water and wastewater system, and 593 ft. of frontage with a driveway access on Spear St.).

3. No new development is proposed in connection with this application. It would reconfigure the boundaries from three existing lots to reflect current and future land uses. The project does not contradict any of the conditions from the two earlier-approved subdivisions.

7.2 General Standards - Areas of High Public Value

The following Areas of High Public Value (AHPV) have been identified on the property:

- Land in active agricultural use – Lot 2 was formerly in agricultural use; more recently, all but the upper few acres is in residential use. Lot 1 is mostly open land, hayed for livestock forage. Lot 3 is primarily used as an active sugarbush, with a sugarhouse and residence located on the Spear St. subparcel.
- Primary Agricultural Soils (Prime and Statewide) – There is a pocket of prime agricultural soils along the eastern side of parcel 3. The majority of the 133 combined acres contains statewide agricultural soils, with the exception of a band along the drainage dividing Lot 2 and Lot 3, and two forested areas within lot 3, which aren't classified as either prime or statewide soils.
- Steep slopes (>=15%) – There are a couple bands of slope above a 15% grade within the forested section of Lot 3. However, no development is proposed for these areas.

- Flood hazard areas & shoreland protection - n/a
- Surface waters, wetlands and associated setback and buffer areas – A shallow drainage ditch, which drains to a tributary of Mud Hollow Brook, follows the diagonal dividing line between Lot 1 and Lot 3. A small wetland is on either side of this ditch above the Congdon residence; there is also a small wetland located on the Spear St. sub-parcel. No new development is proposed within or nearby these waters or wetlands.
- Special Natural Areas - n/a
- Wildlife habitat – The eastern part of the Lot 3 sugarbush is considered forest habitat. Aquatic habitat exists along both sides of the drainage ditch. No rare or threatened species have been identified on any of these parcels.
- Water supply source protection areas (SPAs): n/a
- Historic Districts, Sites, and Structures – n/a
- Scenic views and vistas – Bingham Brook Road and Spear Street south of Prindle Rd. are indicated as 'Most Scenic Roads' on Map 9 of the Town Plan.
- Conserved Land on adjacent parcels – Lot 1 and Lot 3 are bounded to the west, north and south by lands conserved in partnership with various entities. The Webb property to the west of Lot 3 is conserved via an open space agreement with the town.

Project as proposed would not have any known or likely adverse impacts on these resources.

Findings and Conclusions of Law:

7.2 (B) Charlotte Town Plan & Regulations

- The project as proposed conforms with the purposes of the Rural District, including "… to protect important agricultural land and promote viable agriculture, wildlife habitat, productive woodland… that does not adversely affect the town's natural or scenic resources, or properties and uses in the vicinity, and is compatible with the rural character of the town, as expressed in the *Charlotte Town Plan*."

7.2 (C) Lot Layout; Permitted Uses

- Single family dwellings, accessory structures, and the sugarhouse on Lot 3 are permitted uses within this district.
- Proposed lots are generally rectangular, except for a diagonal boundary line that follows a drainage ditch between lots 1 and 3, and a couple of jogs that follow existing neighboring lot boundaries in Lot 2.

7.3 (E) District Standards – Rural, Shoreland & Conservation Districts

- Proposed density conforms to Rural District standard (2 residences over 133 acres).
- Lots 1 and 3 have frontage on Bingham Brook Rd. and Spear St. in excess of the 300 ft. required minimum. Lot 1 lacks road frontage, however: it would benefit from a proposed right of way to Bingham Brook Rd. through Lot 2. This waiver was requested by applicant.
- Each proposed lot is within the 30% *Maximum Lot Coverage* for Rural (RUR) zoning district, and existing buildings are outside all required 50 ft. setbacks.
- Existing buildings on Lots 2 and 3 minimize encroachment on the identified *Areas of High Public Value*, as detailed in **Finding 7.2**, above.

7.4 Compatibility with Agricultural Operations

- Ample buffers exist between active pastureland, the sugarbush, and the two existing homesteads. With no new development proposed, no conflicts between existing agricultural uses and residential uses will occur.

7.5 Facilities, Services and Utilities

- As no new development is proposed, these criteria do not apply to this project. Existing uses will continue.

7.6 Water Supply & 7.7 Sewage Disposal

- Lots 2 and 3 have permitted water supply and wastewater treatment systems in place. Existing uses will continue. No development is proposed for Lot 1, thus no septic and water supply is needed there.

7.8 Stormwater Management and Erosion Control

- As no new development is proposed, these criteria do not apply to this project. Existing practices and drainage patterns will continue.

7.9 Landscaping & Screening

- As no new development is proposed, these criteria do not apply to this project. Existing practices and drainage patterns will continue.

7.10 Roads, Driveways and Pedestrian Access

- As no new development is proposed, these criteria do not apply to this project.
- No pedestrian path or bicycle access to the property is proposed.

7.11 Common Facilities, Common Land & Land to be Conserved

- The entire parcel is currently enrolled as agricultural land in the state Current Use Valuation program. Applicants propose to preserve current agricultural uses on the majority of the 133 acres, and seek permanent conservation of Lot 1 in collaboration with the VT Land Trust.

Decision and Order:

Based on the foregoing Findings of Fact and Conclusions, the Planning Commission approves the application for a "3-Lot Minor Subdivision Amendment", subject to the following conditions:

1. If permanent protection of conservation Lot 1 is achieved prior to recording the final plat mylar, documentation of that transfer or easement shall be provided to the town for recording with the deed for Lot 1.
2. Prior to the submission of the mylar to the Planning Commission, the applicant shall:
   a. Submit a letter from the surveyor indicating that he has set the survey pins in the field as indicated on the survey.
   b. Revise the Final Plat survey to include:

i. A note indicating that the subdivision amendment is in accordance with Planning Commission decision **PC-21-6-SA**, as recorded in the Charlotte Land Records including its *Volume* and *Page* number.

ii. A note indicating this decision's Final Plat modifies the earlier subdivision approvals and lot configurations in decisions PC-05-54 and PC-12-20, as recorded in the Charlotte Land Records including their *Volume* and *Page* numbers, respectively.

iii. Location and acreage for the building envelope for Lot #2**.**

iv. The updated location of all designated wellheads, wastewater infrastructure (including the footprint of all mounds, septic tanks, and replacement areas), and any required easements for their access for both Lots 2 and Lot 3.

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 the 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 the permit and would be subject to enforcement action by the Town. In accordance with H.681 (*An act relating to government operations in response to the COVID-19 outbreak*), **this approval shall expire if the mylar for the survey is not filed and recorded in the Charlotte land records within 180 days, or 90 days after the date that the Governor's declared state of emergency ends**.

This decision may be appealed to the Environmental Division of the Vermont Superior Court by the applicant or an interested person who participated in the proceeding. Such appeal must be taken within 30 days of the latest date of 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 4, 2020: Charlie Pughe (Vice Chair), Gerald Bouchard, Marty Illick, and Bill Stuono.

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:	April 15, 2021
2.	Signed:		For / Against	Date Signed:	April 15, 2021
3.	Signed:		For / Against	Date Signed:	April 15, 2021
4.	Signed:		For / Against	Date Signed:	April 15, 2021
5.	Signed:		For / Against	Date Signed:	April 15, 2021
6.	Signed:		For / Against	Date Signed:	April 15, 2021
7.	Signed:		For / Against	Date Signed:	April 15, 2021