

CHARLOTTE TOWN CLERK'S OFFICE

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This 6<sup>th</sup> day of March A.D. 2017

at 11 o'clock & minutes 4 m and

recorded in vol. 227 on page 552-554

Attest *[Signature]* Town Clerk

**CHARLOTTE PLANNING COMMISSION  
SUBDIVISION REVIEW  
FINDINGS OF FACT AND DECISION**

**In re: Clark Hinsdale III and Kiona + Lincoln Heath request for a Boundary Adjustment  
Permit Application No. PC-17-174-BA**

**Introduction and Procedural History**

This proceeding involves review of an application for Boundary Adjustment submitted by Clark Hinsdale, III for approval under the Town of Charlotte Land Use Regulations. The application was received on December 1, 2016. A notice of public hearing was published in The Citizen on December 15, 2016 and was posted at the following three locations: town offices, The Brick Store and Spear's Corner Store. A copy of the notice was also mailed to all adjoining landowners on December 7, 2016.

The application was considered by the Planning Commission at a public hearing on January 19, 2017. There was a site visit to the adjoining properties during a Sketch Plan review (PC-16-135-SK Hinsdale), which took place on October 20, 2016. Present at the public hearing were the following members of the Planning Commission; Jeff McDonald, Peter Joslin, Gerald Bouchard, David Kenyon, Charlie Pughe, and Marty Illick. Property owner Clark Hinsdale, III participated in the hearing.

**Exhibits**

1. Application form for Boundary Adjustment.
2. Copy of a survey (dated October 2016) by Stuart J. Morrow depicting the current boundary in tandem with a proposed boundary adjustment between the "Clark W. Hinsdale Jr. Testamentary Trust." and "Kiona Baez and Lincoln Burns Heath" (Meadowside Road, Charlotte, Vermont).

**Regulations in Effect**

Town Plan, 2016  
Land Use Regulations, 2016

**Findings**

Background

1. Kiona and Lincoln Heath own a 6.8 acre lot at 231 Meadowside Drive (M10B01L03), hereafter referred to as the "Heath Parcel". Clark W. Hinsdale III owns an undeveloped 2.98 acre lot (Lot 1) abutting parcel to the south (M10B01L01-B), and a 254 acre agricultural parcel (Lot C) abutting to the west. Each of lots adjoin one another and are located along Meadowside Drive within the Rural zoning district.
2. "Lot 1" was created as part of the "Meadow's Edge" Subdivision that was approved by the Planning Commission on July 22, 1986. "Lot C" was created as part of the "Wagner Woodland" Subdivision on January 14, 1986.
3. The "Heath Parcel" was created some time before November 1985 (see "Wagner Woodland" Subdivision Survey by Geo. E. Bedard, November 26, 1985; *Map Slide 48, Book 6, Page 58*).
4. The purpose of the current application is to allow the conveyance of 0.61 acres of land from two parcels owned by the Hinsdale (e.g. 0.28 acres of land from "Lot 1" and 0.33 acres of land from

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"Lot C") to the "Heath Parcel", and to convey 0.61 acres of land from the southeastern corner of the "Heath Parcel" to "Lot 1" of the Hinsdale Trust.

5. This boundary adjustment would resolve the issue of a misplaced well belonging to the abutting parcel to the south of "Lot 1" (i.e. "Lot 2") that was installed too close to the site of a previously approved primary and replacement septic system for "Lot 1". Rather than having the owner of "Lot 2" (Karen White) undertake a more costly move of the well to its originally approved location, the septic system for "Lot 1" will be removed to the newly conveyed land from the "Heath Parcel".
6. A Sketch Plan Review was undertaken by the Planning Commission on October 20, 2016. The project was classified as a Boundary Adjustment in accordance with Section 6.1(C)(3) of the Charlotte Land Use Regulations.

#### 7.2 General Standards

1. With respect to lot layout, the proposed boundary adjustment rectifies the irregular portion of "Lot C" that crosses over Meadowside Drive by moving the property line of the "Heath Parcel" up to the physical location of road right-of-way.
2. The boundary adjustment would improve the conformity of the side lot line of "Lot 1" to generally form a right angle to the road.
3. Both the approved and proposed septic system locations are within Identified Significant Forest Habitat (an Area of High Public Value).
4. A survey undertaken by Stuart J. Morrow of Shelburne, VT was submitted by the applicant. It depicts the delineation of the proposed boundary adjustment.

#### **Conclusions**

Based on the foregoing Findings of Fact, it is the conclusion of the Commission that the project described in the application and supporting materials, if completed and maintained in conformance with all of the terms and conditions of that application and as required below, will meet the development standards of the Charlotte Land Use Regulations.

#### **Decision**

Based on the foregoing Findings of Fact and Conclusions, the Planning Commission approves the application for a Boundary Adjustment subject to the following conditions:

1. Two paper copies (one full size and one 11"x 17"), an electronic copy, and a mylar (measuring 18" x 24", with a margin of 2" outside of the border line for binding on the left edge of the sheet with a 1" border on all remaining edges) of the plat, 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, after being signed by the Chair or Vice-chair of the Planning Commission.
2. Prior to the submission of the mylar to the Planning Commission, the applicant shall submit a letter from the surveyor indicating that he or she has set the survey pins in the field as indicated on the survey.

**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

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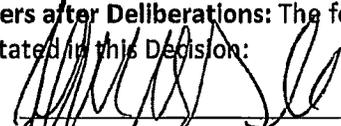
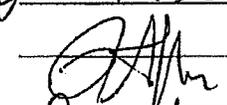
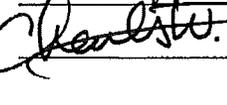
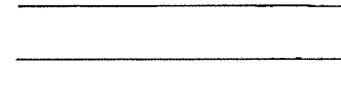
binding on the applicant, and his/her/its successors, heirs and assigns. Projects shall be completed in accordance with such approved plans and conditions. Any deviation from the approved plans shall constitute a violation of permit and be subject to enforcement action by the Town. Approved plats not filed and recorded within the aforementioned 180 day period shall expire.

3. The property associated with the Boundary Adjustment will be conveyed between the Clark W. Hinsdale III and Kiona and Lincoln Heath within 365 days.
4. The warranty deed for the conveyance between the Clark W. Hinsdale III and Kiona and Lincoln Heath will include appropriate references any easements of record (e.g. Charlotte Land Records Vol. 213, Page 395-96, Vol. 153, Page 505-06). The shed easement that encroaches on the existing boundary (articulated in Vol. 153, Page 510) will be rescinded.
5. The Act 250 permit will be amended for both "Lot 1" and "Lot C" boundaries that would have been originally submitted for the "Meadow's Edge" Site Plan (revised 20 Jan 1987) in addition to the misplaced well location.
6. Once the lands have been conveyed between the Clark W. Hinsdale III and Kiona and Lincoln Heath, they will merge within the respective parcels and cannot be conveyed separately unless a new application for a subdivision amendment is submitted and approved by the Planning Commission.

**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 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 January 19, 2017:** Jeff McDonald, Peter Joslin, Gerald Bouchard, David Kenyon, Charlie Pughe, and Marty Illick.

**Vote of Members after Deliberations:** The following is the vote for or against the application, with conditions as stated in this Decision:

1. Signed:		<input checked="" type="radio"/> For / <input type="radio"/> Against	Date Signed:	<u>3/2/17</u>
2. Signed:	<u>Gerald A. Bouchard</u>	<input checked="" type="radio"/> For / <input type="radio"/> Against	Date Signed:	<u>3/2/17</u>
3. Signed:		<input type="radio"/> For / <input type="radio"/> Against	Date Signed:	_____
4. Signed:		<input checked="" type="radio"/> For / <input type="radio"/> Against	Date Signed:	<u>3/2/17</u>
5. Signed:		<input checked="" type="radio"/> For / <input type="radio"/> Against	Date Signed:	<u>3/6/17</u>
6. Signed:	_____	<input type="radio"/> For / <input type="radio"/> Against	Date Signed:	_____
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