

CHARLOTTE PLANNING COMMISSION

FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

**Peter Trono
800 Bingham Brook Road**

**Final Plan Application
For A
Subdivision Amendment
Application # PC-11-05**

Background

The applicant owns a portion of land that was previously subdivided by Nancy Hinsdale in 1989 and amended by the Clark W. Hinsdale Jr. Trust in 2010 (PC-10-30). Sketch Plan Review for the current proposal was held on November 4, 2010 and January 6, 2011, at which time the Planning Commission classified the project as a Minor Subdivision Amendment.

Application

Materials submitted with the applications are listed in Appendix A.

Public Hearing

A public hearing for this application was held on April 7, 2011. Peter Trono and David Miskell were present representing the applicant. No other interested parties were present or submitted written comments in advance of the hearing.

Regulations in Effect

Town Plan, amended March, 2008

Land Use Regulations adopted November, 2010.

Recommended Standards for Developments and Homes adopted September, 1997

Findings

1. The applicant's property is 53 acres and is located in the Rural District. (It is noted that the survey and the application form submitted with the application do not agree with regard to the size of the parcel—this Findings of Fact and Decision is based on the acreage indicated on the survey). Currently the parcel has a barn and bunker silo situated on it, and it also has several farm roads.
2. The application proposes to reconfigure three lots of the previously approved and amended subdivision as follows: Lot 1 is proposed to be 49 acres, and Lots 2 and 3 are both proposed to be two acres each.

Applicable standards in Chapter VII of the Charlotte Land Use Regulations are reviewed below in Findings 3-23.

General Standards & District Standards—Sections 7.2 and 7.3

3. The following areas of high public value (as listed in Table 7.1 of the Charlotte Land Use Regulation) are located on or in close proximity to the parcel:

- A. Agricultural soils: Prime soils are located near Bingham Brook Road, however, this is where the feed bunker is located. Statewide agricultural soils are on about 60% of the rest of the parcel (from NRCS data).
 - B. Agricultural use: The parcel is used for grazing and hay production, and adjoining property owned by the applicant and others is also in agricultural use (from the applicant and site visits).
 - C. Surface water: there is a small wetland on the southern portion of the parcel, as indicated by Map 7 of the Town Plan.
 - D. Wildlife habitat: There are two patches of forested wildlife habitat along the western portion and south-eastern portion of the parcel (from Map 6 in the Town Plan). Map 6 also indicates a wildlife corridor between the forest patches and a corridor running to the north from the easterly forest patch.
 - E. Scenic view: Bingham Brook Road is depicted as a most scenic road on Map 13 of the Town Plan.
 - F. Conserved land: 27.4 acres of the parcel have been conserved via a Grant of Development Rights and Conservation Restrictions to the Vermont Land Trust. The Burleigh farm to the east has also been conserved.
4. Considering the resources on the parcel, the Planning Commission finds that the following are the most important areas of high public value associated with the parcel: land in active agricultural use, the agricultural soils, the forested wildlife habitat and the conserved status of a portion of the parcel. These are the resources that most strongly characterize the property and its vicinity, and are the features that the Planning Commission feels are most important to protect as it considers the proposed re-subdivision.
 5. The proposed layout uses the planned residential development provisions of Chapter VIII of the Charlotte Land Use Regulations (“Regulations”). In using these provisions, Lots 2 and 3 have been reduced to two acres each, which reduces their impacts on areas of high public value.
 6. Lot 1, which is 49 acres, has a building envelope of one acre, which minimizes the prospective impact of this lot on areas of high public value.
 7. The density associated with each lot is accounted for as follows: Lot 2 and Lot 3, which are two acres each, will be allocated five acres of density. The density of Lot 1 will be reduced by six acres to account for the reduced acreage of Lots 2 and 3, and Lot 1’s density has also reduced by 24.7 acres, which have been conserved by the grant of development rights to the Vermont Land Trust, resulting in 18.3 acres of density associated with Lot 1.
 8. The application indicates that the private road serving the three proposed lots and the driveway serving Lot 1 are located on existing farm roads.

Compatibility with Agricultural Operations—Section 7.4

9. The proposed building envelopes of Lots 2 and 3 are closer than 200 feet to the agricultural fields on the parcel.
10. The building envelopes are situated in wooded areas at slightly higher elevations than the agricultural fields, so will be somewhat buffered from impacts from the agricultural operation.
11. Although the lots are currently proposed to be owned by the applicant’s family members, notice of the agricultural operation should be included in conveyance deeds for Lots 2 and 3 (as indicated in Conditions below).

Facilities, Services and Utilities—Section 7.5

12. The project does not meet the threshold of requiring a fire pond and dry hydrant because it creates less than six lots.
13. The Chief of Charlotte Volunteer Fire Department, Christopher Davis, indicated in an e-mail to Peter Trono dated April 6, 2011 that “intersections between the main access driveway and other driveways to the proposed lots, the farm complex and the existing roads on the property shall be widened per the 1997 Charlotte Fire Department Standards for Development to serve as turn-arounds or pull-off for emergency vehicles.”
14. The survey and Overall Property Site Plan depict three pull-offs/turnarounds along the access road and driveways. The Planning Commission finds that these sufficiently meet the Charlotte Volunteer Fire and Rescue Services, Recommended Standards for Developments and Homes.

Water Supply—Section 7.6

15. The applicant has obtained a Wastewater System and Potable Water Supply Permit (WW-138-1104).

Sewage Disposal—Section 7.7

16. The applicant has obtained a Wastewater System and Potable Water Supply Permit (WW-138-1104).
17. A draft Sewage Service Agreement, Waiver and Easement was submitted with the application.

Stormwater Management and Erosion Control—Section 7.8

18. The project’s relatively low density, dispersed layout and low lot coverage will allow for sheet flow and infiltration of stormwater run-off. No stormwater facilities are proposed and none will be required.
19. Maintaining the roads and driveways in an unpaved condition will also help to facilitate on-site absorption of storm-water run-off.

Landscaping and Screening—Section 7.9

20. This criterion does not require consideration due to the low density of the project and the siting of the dwellings in the interior of the parcel.

Roads, Driveways & Pedestrian Access—Section 7.10

21. The proposed private road and the driveway to Lot 1 will use existing farm roads.
22. Changing the use of the road from agricultural to residential will require a Highway Access Permit.
23. At the hearing, the applicant testified that the access road is currently 14 feet in width, and that the proposed driveways will be 8% grade or less and will meet the requirements of the Charlotte Volunteer Fire and Rescue Recommended Road Standards.
24. The Overall Property Site Plan depicts three Emergency Vehicle Turn-Arounds.
25. The applicant has obtained approval from the Selectboard for a road name.
26. A draft Roadway Agreement and Waiver was submitted with the application.

Common Facilities and Legal Requirements—Sections 7.11 & 7.12

27. The draft document entitled “TRONO Subdivision, 800 Bingham Brook Road, Charlotte, Vermont, Shared Well, Septic and Roads Agreement” assigns responsibilities for maintaining the shared water supply, wastewater disposal system and roadway system, but it does not provide easements to Lots 2 and 3 for the use of these facilities, all of which are located on Lot 1.

Applicable standards in Chapter VIII of the Charlotte Land Use Regulations are reviewed below in Findings 24-28.

General Standards

28. The application proposes Lots 2 and 3 to be two acres each. Lot 1 has a building envelope of one acre, thereby minimizing impact on the remaining 48 acres (some of which are already developed with agricultural infrastructure). The applicant has also conserved 24.7 acres.
29. The Planning Commission recognizes that there are multiple areas of high public value on the parcel, and that by avoiding impacting one resource, another resource may be impacted.
30. The application has avoided impacting agricultural resources on the parcel, resulting in some impact to the forested wildlife habitat from the siting of the three dwellings. Nevertheless, of the 53 acres comprising the parcel, only five acres will be subject to new development, and of the 24.7 acres conserved through the Vermont Land Trust, 4.5 acres of clay-plain forest is further restricted as a Special Treatment Area.
31. Considering the extensive open space retained on the parcel, and the strong protection of the agricultural resources and some of the forested wildlife habitat, the Planning Commission finds that the project has minimized adverse effects on the prioritized areas of high public value.

Rural District Standards

32. The combined effect of the Grant of Development Rights and the building envelope on Lot 1 has resulted in more than 50% of the parcel designated as open space.

Decision

Based on these Findings, the Planning Commission approves the Final Plan Application for the proposed Subdivision Amendment with the following conditions:

1. The survey will be revised so that the label "Proposed Lot 2, +/- 2 acres" is either located on the lot, or an arrow will be added which points from the label to the lot.
2. One paper copy (11"x 17") and a mylar (18" x 24") of the survey plat as revised by Condition #1 [and a mylar of the Overall Property Site Plan by Lincoln Applied Geology] will be submitted to the Planning Commission for review and signature within 160 days. The applicant will record the signed mylars in the Town of Charlotte Land Records within 180 days.
3. Prior to the submission of the mylar(s) in accordance with Condition #2 above, the applicant will:
 - A. Submit a letter from the surveyor indicating he has set the survey markers in the field as indicated on the plat. If the survey pins cannot be set at this time because of frozen ground, the applicant shall submit a letter from the surveyor indicating that he will set the pins when the ground thaws and has been paid to do so.
 - B. Obtain a Highway Access Permit from the Selectboard.
 - C. Obtain approval (as needed) for, execute and submit the following documents, to be recorded with the mylar in the Town of Charlotte Land Records:
 1. Sewage Service Agreement, Waiver and Easement
 2. Roadway Agreement and Waiver
 3. Shared Well, Septic and Roads Agreement
 - D. Submit a revised Sheet 3 (one full size and one 11" x 17") entitled "Proposed Lot 2 & 3 Site Plan with Proposed Water & Wastewater Systems"; the label on the

driveway for Lot 3 will be revised to state “Proposed Drive Not To Exceed 8%”.

4. Easements for access, water supply, and use of the wastewater disposal system shall be granted to Lots 2 and 3, either within a declaration of covenants, easement deeds or within the deeds conveying those lots to future owners.
5. No new pole-mounted light fixture will be taller than 8’ off the ground, and no new building-mounted light fixture will be taller than 15’ 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.
6. All new utility lines will be underground.
7. The roadway and driveways will meet the requirements of the Charlotte Volunteer Fire and Rescue Recommended Road Standards and will be surfaced with non-white crushed stone.
8. Conveyance deeds for Lot 2 and Lot 3 will include the following: “Notice is given of the existence of an active farm and agricultural operation in the vicinity of the property being conveyed herewith.”

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 April 7: Jeff McDonald, Jim Donovan, Peter Joslin, Eleanor Russell, Linda Radimer, Paul Landler and Gerald Bouchard

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 in association with the application:

1. An application form for a Subdivision Amendment and appropriate fee.
2. A document entitled “Subdivision Application Requirements and Waiver Requests, Final Application, Date—February 14, 2011, Applicant—Peter Trono”
3. A survey by David Ring of Shiretown Engineering Land Planning & Surveying entitled “Final Plat of Subdivision Modification, PRD, Property of Peter Trono, 800 Bingham Brook Road” dated 2/12/2011, no revisions.
4. A wastewater disposal plan by Lincoln Applied Geology that includes seven sheets entitled “Trono Property, 800 Bingham Brook Road, Charlotte, Vermont” all dated February 10, 2011, except sheet 1, which is dated February 11, 2011, labeled:
 - A. Sheet 1 “Overall Property Site Plan”
 - B. Sheet 2 “Trono Lot 1 Site Plan with Proposed Water & Wastewater System Layout”
 - C. Sheet 3 “Proposed Lot 2 & 3 Site Plan with Proposed Water & Wastewater Systems”
 - D. Sheet 4 “Trono Lot 1 Wastewater System Design Details”
 - E. Sheet 5 “Trono Lot 2 & 3 Wastewater System Design Details”
 - F. Sheet 6 “Trono Lot 1 Water System Details”
 - G. Sheet 7 “Trono Lot 2 & 3 Water System Details”
5. A draft document entitled “Sewage Service Agreement, Waiver and Easement”
6. A draft document entitled “Roadway Agreement and Waiver”
7. A draft document entitled “TRONO Subdivision, 800 Bingham Brook Road, Charlotte, Vermont, Shared Well, Septic and Roads Agreement”
8. An e-mail from Christopher W. Davis to Peter Trono and David Miskell dated April 6, 2011 @ 2:04 PM regarding “Fire Department letter for 800 Bingham Brook Road subdivision”