TOWN OF CHARLOTTE
ZONING BOARD OF ADJUSTMENT
TOWN HALL
DECEMBER 16, 2015

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MEMBERS PRESENT: Frank Tenney, Chair; Stuart Bennett, Matt Zucker. ABSENT: Jonathan Fisher, Andrew Swayze.
ADMINISTRATION: Britney Tenney, Zoning Clerk.
OTHERS PRESENT: Alexander LaRosa, Fritz Tegatz, Jenny Cole, Gregor Masefield, Martha Hunt, Tim Hunt, Karl Washburn, Jeannine McCrumb, Sam Ruggiano, Kevin Brown, Jeff Hill, Dorothy Hill, Kevin Brown, Tom Cosinoke, Robert Mack, Janet Morrison, Lane Morrison, and others.

Minutes subject to correction by the Charlotte Zoning Board of Adjustment. Changes, if any, will be recorded in the minutes at the next meeting of the Board.

AGENDA:
7:00 PM: CONTINUATION: ZBA-15-06: Edgewater Center, LLC - Conditional Use Review for a proposed event barn under the adaptive reuse provision. The property is located at 1046 Ethan Allen Highway, and is owned by Edgewater Center, LLC.

CALL TO ORDER
Mr. Tenney, Chair, called the meeting to order at 7:02 p.m.

CONTINUATION - ZBA-15-06: CONDITIONAL USE REVIEW TO TURN AN EXISTING BARN INTO AN EVENT FACILITY UNDER SECTION 4.3 ADAPTIVE REUSE OF AN EXISTING HISTORIC STRUCTURE. THE PROPERTY IS LOCATED AT 1046 ETHAN ALLEN HIGHWAY, IS OWNED BY EDGEWATER CENTER, LLC, AND IS LOCATED IN THE ROUTE 7 SCENIC OVERLAY DISTRICT.
Tim Hunt and Martha Hunt, Edgewater Center, LLC, Kevin Brown, attorney, Sam Ruggiano, architect, and Gregor Masefield, landscape architect, appeared on behalf of the application.

STAFF NOTES
Mr. Tenney reviewed staff notes, and said that testimony was limited to information related to the RSG traffic study, sound study, landscaping plans, easements updates, and potential Selectboard actions.

Mr. LaRosa, Murphy, Sullivan and Kronk attorney representing Evan Metropoulos, stated that a letter, dated 12/09/2015, was sent to the ZBA for the record. The issues addressed in the letter included parking at the Vermont Teddy Bear Factory, the RSG traffic study and car accident data presented, concerns regarding ‘drop-off’ and ‘turn around’ traffic at the event barn, and the sound study, said Mr. LaRosa.

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EXHIBIT Q: the ZBA reviewed and accepted the letter from Murphy, Sullivan and Kronk, dated 12/09/2015, and marked the letter as Exhibit Q.

APPLICANT COMMENTS
Mr. Brown explained that the applicant was agreeable to posting event and vehicular turning traffic signage and providing lighting as per the Town's traffic experts, Lamerioux and Dickinson during evening events.

EXHIBIT R: the ZBA reviewed and accepted the Traffic Study report memo from Lamerioux and Dickinson, dated 12/14/2015, and marked the memo as Exhibit R.

Mr. Brown said that the applicant would accept a condition for approval based on the Lamerioux and Dickinson memo. There were 45 parking slots available for guests on site. The guests would be required to sign up for an on-site parking permit in advance by e-mail or electronic app. Permits would be available on a first-come first-served basis. All other guests would park at the Teddy Bear shuttle bus lot, said Mr. Brown.

ZBA QUESTIONS/COMMENTS
Mr. Tenney pointed out that Mr. Brown has suggested security officers to handle the parking. Mr. Brown replied that if a uniformed officer was needed to control access then they would hire an officer.

Mr. Hunt handed out copies of a memo regarding vehicular crash data. As per traffic engineer most of the traffic comes from the north. Cars traveling from the south would have an insignificant delay, said Mr. Hunt.

Mr. Tenney said that if traffic comes from the north and someone departs the event barn to go north they would have to cross two lanes of traffic coming from the south. That is a concern. It was a left turn if they were leaving and turning to the south, said Mr. Tenney. Mr. Brown said that coming from the south and turning into the event barn was a concern as well. The applicant could install a light at the mouth of the driveway and post signage. We were fine with hiring a traffic officer to control the access, said Mr. Brown.

Mr. Brown reviewed off site parking at the Vermont Teddy Bear Factory. No condition would be required since there would be a contract with the Teddy Bear Factory. An ACT 250 permit was not required since the Vermont Teddy Bear Factory has already gone through that process. A plan to have permitted on-site parking and shuttle off-site parking should be sufficient. One or more shuttle buses would be arranged for an event and that is all the applicant would need to do, said Mr. Brown.

PUBLIC COMMENTS
Mr. LaRosa said the applicant would need to designate parking with specificity. People shouldn't be able to just park anywhere. They might end up in someone's driveway, or at some other public unapproved parking facility. There shouldn't be that that openness. A traffic analysis would be needed if 50-75 cars were going any place other than the event

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lot or the Teddy Bear lot, such as at the Charlotte rail road station. All the places someone could park at should be identified, said Mr. LaRosa.

Mr. Brown reiterated that all parking was either on site or at the Vermont Teddy Bear lot. Saying we need a traffic study at the Teddy Bear lot and an ACT 250 permit - we don't need to do. We aren't saying to park anywhere, or suggesting using public parking elsewhere. It is a determined place for the event(s). There won't be 50-75 cars or a maximum of 150 cars. If there were 150 guests at a wedding that isn't 150 cars. One half of the guests would park at the event property and the rest at the off site lot, which is well within the traffic capacity of the site. It is a private lot, stated Mr. Brown.

Mr. Ruggiano said day event parking at Vermont Teddy Bear would occur at off peak hours and wouldn't interfere with the end of shift traffic out of the lot.

Mr. Brown said that the event parking was a drop in the bucket versus the Vermont Teddy Bear shift traffic. At events older folks leave first and the younger folks stay later. There wouldn't be a big dump of people all at once. At wedding receptions people leave over the course of time. If there were concentrated departures there would be shuttle buses and uniformed officers to control traffic. A condition, if needed, could say that the applicant needed the permission of the lot owner and transportation company, suggested Mr. Brown.

Mr. Tenney said that Sheet C-3, site plan showed 56 parking spaces. Where would the employees, caterers, and other service vehicles park, asked Mr. Tenney. Mr. Hunt replied they would park on-site.

Mr. Brown explained that the number of guests would be known ahead of time. The applicant was proposing to provide a fixed number of parking permits for guests on site. A customer would take a number of permits at the time of booking, said Mr. Brown.

Ms. Hill asked if the Town allowed parking lots within setbacks. There was a 50' setback on the south and 100' setbacks from Route 7 and the east side. That would remove all but 12 parking spaces in front, said Ms. Hill. Mr. Ruggiano explained that parking was an allowable use within setbacks as per Section 3.11 of the zoning regulations. Mr. Tenney clarified that a parking lot was not considered a 'structure'. Mr. Brown pointed out that as per Chapter X, Definitions, a parking area was excluded from a 'structure' definition.

Ms. Cole asked for the status of the Town's access to the Charlotte Park and Wildlife Refuge, and various uses that were proposed. For example, a small parking area for the Park access, said Ms. Cole. Mr. Tenney said that the parking lot was to be a shared use. Mr. Brown said quoted a Town Planner memo that mentioned alternative sites sometime in the future.

EXHIBIT S: the ZBA reviewed and accepted the Town Planner memo, dated 12/15/2015, regarding a Town parking area and marked the memo as Exhibit S.

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EXHIBIT O: the ZBA reviewed and accepted a Charlotte Park and Wildlife Refuge letter, dated 12/15/2014, regarding a proposed use of the Varney Farm event venue and marked the memo as Exhibit O.

EXHIBIT P: the ZBA reviewed and accepted a letter from Tim Hunt to the ZBA, dated 11/11/2015, regarding an identified parking area and easement and marked the memo as Exhibit P.

Mr. Hunt pointed to a grass parking area north of the barn on the site map, and said that the site was closer to Route 7, or there was a possible area northwest of the barn. A path location was proposed as entering the Park in the south west corner of the Varney Farm lot. A gravel path would to from the north to the ridge and would enter the Park, suggested Mr. Hunt.

Mr. Hunt noted a wetland area on the site map. He has suggested to Dean Bloch, Town Administrator, to let the terrain dictate where a path would do on the slopes. A path shouldn't be located on the steepest part of the ridge, said Mr. Hunt.

Mr. Zucker asked if a path or parking area wasn't identified then when could people park. Mr. Hunt noted that there was an existing parking area on Greenbush Road.

EXHIBIT T: the ZBA reviewed and accepted a letter from Shelburne Police Chief James Warden, dated 12/15/2015, regarding the proposed event barn and marked the memo as Exhibit T.

EXHIBIT U: the ZBA reviewed and accepted a letter from Tim Hunt to the ZBA, dated 12/15/2015, regarding a history of dairy barns, the agricultural landscape, Town Plan, adaptive reuse of historic structures, and Park access and marked the memo as Exhibit U.

EXHIBIT V: the ZBA reviewed and accepted a memo from Mark Smith, P.E. to Tim Hunt, dated 11/18/2015, regarding crash data and marked the memo as Exhibit V.

Ms. Cole said that regarding Park access and uses, an agricultural access may still be important for the farmer to get to the Park's northern fields. The Park Oversight committee want to keep options open. The Vermont Land Trust had a default location. The Land Trust had concerns regarding a path location and impacts on the farm use, said Ms. Cole.

Mr. Zucker said that the ZBA needed to clearly understand the Park resolution. This application sounds like this it is not a benefit for the Park, said Mr. Zucker. Ms. Cole said it sounds like everything has been taken away - shared parking space, a gate controlled by the Town. A shared parking space wouldn't be heavily used year round. Regarding parking the decision was still under discussion, said Ms. Cole.

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Mr. Tenney asked where an agricultural access crossed the Varney property now. Ms. Cole replied on the south edge of the Varney Farm property. Originally it was to be a combined access that went by a small farm structure that was there. The Thorp Barn is another access to the Park. Some of the Park agricultural fields are accessed via a private driveway, said Ms Cole. Ms. Hill stated that the Town easement to the Park was on the Varney Farm. It exists, but was not drawn on the applicant's site maps, said Ms. Hill.

Mr. Hunt said that the agricultural access on the south didn't go to the Park's northern fields. The farmer can't drive along the southern side and around the barn to the north. Snowdrift Lane was used by the farmer all year, which is a Class 4 Town road. It was safer from a traffic standpoint, said Mr. Hunt.

Ms. Hill said that Snowdrift Lane is a private driveway to her house. The farmer uses it with her permission. It was not a Class 4 road. Mr. Hunt has an easement over the Varney property to the Park fields, stated Ms. Hill.

Mr. Mack said that the easiest access to the Park was through the Thorp Barn property. There was more visibility and it was safer than the Hunt access, said Mr. Mack.

Ms. McCrumb said that the Town wants to keep the rights to the easement and what was granted to the Town. Regarding parking, there was a shared lot proposal. We would need to know the number of spaces allotted to the Town. Dedicated parking slots need to be kept open. That would take away some spaces from the event parking. The agriculture access location and trail uses can be worked on, said Ms. McCrumb.

Mr. Brown pointed out that the Town had approved a relocation of the house, the easement agreement and agreed to alternate parking to accommodate the Park uses. The Town Planner memo mentioned nailing down an access on the north side and the applicant is fine with that, said Mr. Brown.

Mr. Tenney asked for clarification regarding a location for the Town parking spaces. Mr. Brown replied that if there was an alternative parking site agreed to then we wouldn't have to reserve parking in the front lot, which would be reserved for events. The Town could use the overflow parking lot. It was an inefficient use of the land to keep parking spaces open in the front. There were limited Town uses. The applicant would be happy to nail down the details with stakeholders, said Mr. Brown.

Mr. Tenney asked for clarification regarding the back deck, and glass doors in front which was a new entrance with a ramp. As per Sheet A-201, east elevation, does it exist now, asked Mr. Tenney. Mr. Masefield explained that it did not exist yet. The plans show a bump out gable for the front-on view that was discussed with the Historic Preservation Trust. The deck in back has been made to look like a drive-through. It has a sliding door in line with the front entry glass doors. You can see through to the back, said Mr. Masefield.

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Mr. Tenney reviewed that the second floor of the barn was for event space, and the basement was the agricultural portion. The plans show a set of stairs to a loft, said Mr. Tenney. Mr. Masefield explained that the stairs went to a loft/mezzanine with a railing. The rest of the second floor space was open, said Mr. Masefield.

Mr. Tenney asked for clarification regarding Sheet A-101, that showed a basement bathroom. Mr. Masefield said it was an ADA bathroom for future installation. Current it was all plumbed out, said Mr. Masefield. Mr. Tenney asked if there was internal access from the second floor to the basement. Mr. Masefield replied no, and pointed to proposed bathrooms upstairs, and to an ADA lift area.

Mr. Bennett asked how the event barn would take advantage of the agricultural produce in the winter. Mr. Brown replied that root crops could be kept. Most of the produce wouldn't go beyond the Vermont growing season. The event portion would integrate the agricultural use fully when or if it was available. The applicant was not building any greenhouses. The idea was to keep the land open, said Mr. Brown.

Mr. Bennett reviewed Sheet C-2, and asked where the agricultural use was. Mr. Hunt pointed out an area on the site map and explained the location of north-south rows for flowers and vegetables and an area where larger mass plantings, such as pumpkins, would occur.

Mr. Bennett asked if the crops would fit within the mound system area. Mr. Brown replied that you can plow up to 25' away and adjacent to a mound system.

Mr. Bennett asked if the proposed 2-3 seasonal hires would work at other jobs as well. Mr. Hunt explained that they would be expected to do basic agricultural and maintenance work if there was extra time. Mr. Brown clarified that the work hours would ebb and flow as the farm work ebbed and flowed.

Mr. Bennett asked for clarification regarding agricultural issues as noted on November 18th, paragraph 5. What was 'keeping farm land in agricultural use' related to agricultural functions, asked Mr. Bennett. Mr. Hunt replied that the Town referenced the state definition for an agricultural business; that a minimum of $1,000-2,000 per year of farm crop sales. Flowers would quickly out strip agricultural functions, said Mr. Hunt. Mr. Brown clarified that the Town definition is broader, for example, maple sugaring. Growing flowers is also in the definition. The sales of the farm products would pass the economic threshold, said Mr. Brown. Ms. Tenney said the agricultural use was in Chapter X, Definitions. The farmer would need to file a Schedule F with the IRS, said Ms. Tenney.

Mr. Brown noted page 115 of the zoning regulations regarding the 'sale of $1,000, or more of agricultural products per year.'

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Ms. Hill said that you can't farm within a mound system isolation zone. Mr. Ruggiano explained that you can farm up to 25'of a mound system, but you can't disturb the soil within that 25'. You can't put a water well in an isolation zone, said Mr. Ruggiano.

Ms. Hill asked how much of the 5 acres of prime agricultural land would be crops, and have those prime agricultural soils been identified. Mr. Hunt replied that there were 5 acre±, which are not staked off.

Mr. Bennett asked if 'agricultural use' was anything, such as ornamental plants or Christmas trees. The agricultural use seems to be ancillary to the event barn, said Mr. Bennett. Mr. Brown said that could we have an event barn and not agricultural – yes. Look at big picture; there is 11 acres. The Town Plan and bylaws allow for protection of historic structures. This is an adaptive reuse of a historic barn. The bylaws are forward thinking to keep things viable. The applicant is maximizing an agricultural use and marrying that use to an event barn. There are only 11 acres and Mr. Hunt would farm as much as he can – to grow crops to be used on site. The Monitor Barn in Richmond has events and it is busy. They were not growing crops on site. This plan works on all fronts, said Mr. Brown.

Mr. Brown explained a plan to grow a variety of agricultural products seasonally. The customer would be charged $1,000 for those products that their caterers would use. The products would be available over the course of a year. The thing about the local food movement is that it is attractive, said Mr. Brown.

Mr. Hill said that the applicant's assumption was that the only way to fix the barn was as an event venue. The barn could be fixed up a number of ways. The Town doesn't need to accept this application. Having an event barn to support the agricultural use should be the other way around, said Mr. Hill.

Ms. Hunt said to step back and look at the original intent. When she looked at the parcel, they did consider Christmas trees or pumpkins to support the home and barn. The projections of repairing the barn went up significantly from what was first quoted. They shifted the focus to a need for an event barn to pay for the renovations. It is important to acknowledge the way public was viewing the project regarding noise, traffic, etc. As the owner protecting the land and barn is what she bought into and was excited, said Ms. Hunt.

Ms. Cole said that it does cost a lot to restore a barn. It was worrisome regarding the number of events per year that are needed to get a return on the investment. There is also an investment by the Town in the surrounding properties – the preservation of views, park access, protecting the area surrounding this property. The event barn is a larger amount of activity that if uncomfortable for surrounding property owners who have done things to protect their properties and views, noted Ms. Cole.

Ms. Hill said that it was suggested at an earlier hearing to hold a sound test. She would like clarification regarding events at the barn and music inside with the doors closed. The

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proposal says that the barn doors would be closed at 9:00 p.m. That means the doors would be open before that, said Ms. Hill.

Mr. Cosinoke said he was concerned regarding sound. His property line abutted the Varney property line, pointed out Mr. Cosinoke.

Mr. Washburn, RSG representative, said that as per an 11/08/2015 addendum regarding open doors, tests were done on the west side with one open door and with the deck doors open. The sound levels went up, but still well below the Vermont allowable 70 dBs at property lines. Average traffic noise measured at 41dB and it was predicted that at the Cosinoke house it would be less than that. A large truck passing by on Route 7would be more then 47 dB at the Cosinoke house. With no doors open the levels drop to 33 dBs, said Mr. Washburn.

Mr. Cosinoke asked if he would hear 50 dBs at the property line. Mr. Washburn explained one door open the level was 37 dBs, with 2 doors open it was 39 dBs, average traffic noise from Route 7 is 41 dBs, and 47 dBs for large trucks. The survey looked at levels with the doors open while music played, said Mr. Washburn.

Mr. Zucker asked if the dBs level of sound being generated at the property lines were normal music played during a wedding. Mr. Washburn explained that a range of the sound spectrum for rock music was change to a high dB; for example, a circular saw at the maximum, and ran a model with windows and doors closed. The levels were 33 dBs at the building, the model was recalculated with windows open. It was well known that amplified music can get loud. A rock concert level sound was used at a 16-38 hertz band width. In general, music doesn't go below 40 hertz. The lowest E note on a bass is 41 hertz, explained Mr. Washburn.

Mr. Zucker asked if the barn walls would resonate at a low frequency. Mr. Washburn replied that solid walls don't block low frequencies well.

Mr. LaRosa said he thought the sound study was good study, but to make it accurate 105 dB level music should be used. Music went louder after the older folk left the venue. The predicted dBs should be set at a 105 dB limit with enforcement to hold the applicant to the study, suggested Mr. LaRosa. Mr. Cosinoke said that regarding a sound test, as a show of good faith he would pay for it.

Mr. Brown said that a sound test was suggested at last meeting. The physical changes to the barn have not been done yet. A big part of the sound performance components have to put in. You can't test it if doesn't exist, said Mr. Brown.

Mr. Brown suggested that the Town set 105 dBs as a limit with enforcement. Sound performance standards allowed 70 dBs at a property line. At 106 dB it did not tip the threshold. The Town could make it at 110 dBs, but a compliance enforcement was not what zoning bylaws call for, said Mr. Brown.

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Mr. LaRosa said that 57 dBs were measured at the Park boundary. Mr. Washburn replied that it was below the 70 dB. Mr. Bennett cited Section 3.12, Performance Standards, related to noise at 70 dBs at property lines.

Mr. Washburn said he could create a demonstration and set the levels at the property line. Mr. Cosinoke reiterated he was willing to pay for the demonstration. He had no choice regarding traffic sounds. He didn't want live with 'conversations' from the events, said Mr. Cosinoke.

Mr. Tenney said that the issues were music levels, noise and conversation noise from the barn. Ms. Hill said that the Character of the neighborhood is the point.

Mr. Washburn explained that when you mix two different sounds and one is at 10 dBs less then the other it does it increase the total sound as the sounds get closer and closer. For example, 40 dBs and 40dBs goes to 43 dBs. That prediction is lower than the average traffic noise. You would not hear it over the traffic. It doesn't mean you wouldn't hear it or pick it out. It is what the human ears do, said Mr. Washburn.

Mr. Hill said that the RSG sound study identified his house as the most impacted. The survey said that with normal operations and the doors closed he would hear the same sound of a car door closing from Route 7. Mr. Washburn noted that the report identified 50 different addresses. 210 Snowdrift Lane was the most impacted, 1297 Ethan Allen Highway was next, and then it falls off due to distance. Sound levels were measured at 34 dBs outside the event barn, 51 dBs from a truck passing on Route 7, and 43dBs with the barn doors open. It means that when a truck passes by you wouldn't hear the music, said Mr. Washburn.

MOTION by Mr. Bennett, seconded by Mr. Zucker, to close the hearing regarding ZBA-15-06, Edgewater Center, LLC, for a Conditional Use review for a proposed event barn under the adaptive reuse provision, property located at 1046 Ethan Allen Highway owned by Edgewater Center, LLC., and to take consideration of the application in Deliberative Session.
VOTE: 3 ayes, 2 absent (Mr. Swayze, Mr. Fisher.); motion carried

DELIBERATIVE SESSION
The ZBA entered Deliberative Session at 8:50 p.m.

ADJOURNMENT
The ZBA adjourned the meeting at 9:45 p.m.

Minutes respectfully submitted, Kathlyn L. Furr, Recording Secretary.

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