

CHARLOTTE PLANNING COMMISSION
Charlotte Town Office
PO Box 119
Charlotte, VT 05445
Phone: 802.425.3533

May 29, 2018

David & Christie Garrett
1277 Thompson's Point Road
Charlotte, VT 05445

Re: Sketch Plan Review – Application Number PC-18-30-SK

Dear Mr. and Mrs. Garrett,

The purpose of this letter is to summarize the Sketch Plan Review for a proposed multiple *Boundary Adjustment* between your two abutting parcels located at 1277 Thompson's Point Road, and the neighboring properties located at 1163 and 1321 Thompson's Point Road. The development is proposed to occur within the Shoreland District (SHR) within the Town of Charlotte. A previous Sketch Plan Review (**PC-17-61-SK Garrett-Weathers**) was undertaken for this property during 2017, but had expired on February 17, 2018.

As it is understood by the Planning Commission, this Sketch Plan Review proposes three concurrent boundary adjustments between the following properties (*view map for details here: <https://is.gd/uuVIT2>*):

1. The two adjoining parcels located at 1277 Thompson's Point Road owned by the applicant: **Lot #1** – the developed parcel (including a house and barn) to be adjusted from 8.9-acres to a 7.91-acres, and **Lot #2** – the undeveloped parcel to be adjusted from 5.2-acres to 7.34-acres, with a newly proposed 1.07-acre building envelope to be located at the edge of the boundary of the State's 250 foot (mean high water level) shoreland protection buffer (as per 10 VSA § 1442). All of the existing shoreline of **Lot #1** would be conveyed to **Lot #2**.
Lot #2 is proposed to have a 50' wide access and utility easement originating from Thompson's Point Road, which traverses southward along the easternmost property boundary, across **Lot #1**. This would widen and lengthen the existing 20' wide easement.
2. The two adjoining properties: 1277 Thompson's Point Road (0.71 acre adjusted from Eastman to Garrett) and 1163 Thompson's Point Road (0.77-acre adjusted from Garrett to Eastman).
3. A sliver area (approximately 2' wide) that splits the existing Crockenberg garage (primarily located within the 1321 Thompson's Point Road parcel) that encroaches on to the 1277 Thompson's Point Road (Garrett) property. This will partially resolve the encroachment

issue by conveying the sliver area to Crockenberg. However, the garage will unavoidably remain within the 50' setback of the Crockenberg property as a pre-existing non-conforming structure.

A public meeting for the project was held at the Planning Commission meeting on April 19, 2018. In attendance were Commissioners Peter Joslin (Chair), Gerald Bouchard, Charlie Pughe (Vice Chair), Marty Illick, Shawn Coyle, and Dick Eastman (who had recused himself from the proceedings); Town Planner Daryl Benoit; Co-applicant Christie Garrett; and Wade Weathers (a representative for Garrett). The site visit to the property took place prior to the public meeting of the previous Sketch Plan Review hearing held on July 6, 2017, which was attended by the applicants David and Christie Garrett, Wade Weathers, Daryl Benoit, and Commissioners Peter Joslin, Marty Illick, Charlie Pughe, and Dick Eastman (who had recused himself from the subsequent proceedings).

Although it is not required by 24 VSA Chapter 117 or the Charlotte Land Use Regulations (hereafter referred to as "the Regulations"), notice of the public meeting was published in "The Citizen" newspaper on March 29, 2018 and mailed out to all of the adjoining property owners on April 4, 2018. Hardcopy notices were also posted at the Town offices, the Old Brick Store, and the Spear Street Store on March 26, 2018. Electronic notice was posted on the *Meeting Calendar* of Town of Charlotte website.

The Planning Commission has classified your project as a "Boundary Adjustment" in accordance with Section 6.1(C)(3) of the Regulations. To complete the project you will need to submit a Final Plan Application, including any waiver requests within six months of the date of this letter, and participate in one subsequent public hearing, in accordance with Section 6.5 of the Regulations. Upon receipt of your Final Plan Application, a Final Hearing will be scheduled.

The Planning Commission is providing the following observations and recommendations for the subsequent Final Plan Review of your anticipated subdivision application that should be addressed, in addition to the standard submission requirements outlined within the Regulations;

1. The following Areas of High Public Value (AHPV) were identified on the property:
 - a. Primary Agricultural Soils (Primary and Statewide - PAS): The property is composed entirely of Statewide agricultural soils, according to the *USDA Natural Resources Conservation Service (NRCS)* GIS database.
 - b. Flood hazard areas: Most of the property north of the shoreline is classified on the FEMA Hazard Area Only map as "Area of Minimal Flood Hazard", which is identified within the *FEMA National Flood Hazard Layer (NFHL)*. The area of land along the lake shore is classified as Zone AE coastal floodplain.
 - c. Surface waters, wetlands and associated setback and buffer areas: The Lake Champlain shoreline traverses the southern property boundary. Possible Class II wetlands have been identified within the open field that comprise the southern portion of **Lot #1** and the entirety of **Lot #2** (including the area proposed to host the 50' access and utility ROW), according to the Vermont Department of Environmental Conservation's *Vermont Significant Wetlands Inventory (VSWI)* "*Wetlands Class Inventory Layer*".

- d. Shoreland setback and buffer areas: Existing **Lot #1** and **Lot #2** are each partially within the 150 ft. setback area for the Shoreland district.
 - e. Special Natural Areas (SNA): Thompson's Point site (R5), a "rare plant community" is identified as a SNA on page 2-17 of the 2018 Town Plan.
 - f. Wildlife Habitat: *Significant Forest Habitat* exists along the property boundary to the east and parcels to the north. *Significant Aquatic Habitat* exists along the property boundary to the east, on parcels to the north, and within the 150 ft. buffer of the lakeshore. *Significant Linkage Habitat* exists on the entire property and on all of the abutting properties.
 - g. Historic Districts, Sites, and Structures: The property is entirely within the "*Bucklin Estate Historic District*", which was listed on the State Register of Historic Places by the Vermont Division for Historic Preservation on April 9, 1980 (Survey #: 0403-61).
 - h. Scenic views and vistas: The property abuts Thompsons Point Road, identified within the Town Plan as a "*Most Scenic Public Road*".
 - i. Conserved land on adjacent parcels: The ~25 acre "*Black Willow*" parcel to the east is in an Open Space Agreement (OSA) with the Town. The 81.1 acre "*Black Willow/Foster*" parcel to the northeast is in a conservation easement with the Town and the Vermont Land Trust.
2. As there are potential Class II wetlands mapped on the property and the adjoining properties to the east and west (Eastman), their verification and delineation will be required as part of the Final Plan application submission. The results of the delineation could compromise the proposed location of the building envelope.
 3. The application proposes that a non-conforming structure (i.e. the cold-storage barn) would be created with the conveyance of the area labeled "*+/- 0.71 acres to be conveyed to lands of David W. & Christie C. Garrett*" indicated within the proposed "Boundary Line Adjustment & Subdivision Plat of Lands Owned by David W. & Christie C. Garrett" (dated Oct 2017) that was submitted as part of the Sketch Plan Review application.

Charlotte Planning and Zoning staff contacted the Town Attorney for guidance to support the Planning Commission's consideration of the creation of the non-conforming structure (discussed at their April 19, 2018 public meeting), asking if the Commission could create the non-conforming structure either by granting a waiver (under Section 6.2), reviewing the application as a PRD (possibly under Section 6.1(C)(3)), or by other means cited within the Regulations.

The Town attorney stated that doing so was inconsistent with the general principles of municipal land use regulations in Vermont, where the municipal regulatory authority does not create non-conformance, it eliminates it. The attorney further referenced Section 3.6(B)(1) of the Regulations, which states:

(B) Dimensional Standards. The following requirements apply to lots within all zoning districts, with the exception of existing nonconforming lots in accordance with Section 3.7 (i.e. Nonconforming Lots (Existing Small Lots)).

(1) No lot shall be so reduced in area that it cannot meet area, yard, setback, frontage, coverage and other dimensional requirements for the district in which it is located, except as approved by the Planning Commission for a planned residential or planned unit development under Chapter VIII.

The attorney recommended three possible options, where the applicants may either:

- A. Move the building,
 - B. Remove the building,
 - C. Review the application as a PRD, which would mean that the Lot with the non-conforming structure (i.e. the Eastman property) would be required to conserve 50% of its area, or
 - D. Redraw the proposed boundary line 50 feet away from the cold-storage barn.
4. Prior to construction of a dwelling on your undeveloped parcel, a Wastewater System and Potable Water Supply permit application will need to be approved.
 5. Other issues may be considered during the review of your forthcoming Final Plan application. In accordance with Section 6.3(D) of the Charlotte Land Use Regulations, this Sketch Plan Review is valid for six months, but may be extended up to one year with permission from the Planning Commission.

The application and proposed maps for the Sketch Plan may be found on the Town's website under the Planning and Zoning page, or at the following link: <https://is.gd/uuVIT2>

Please let me know if I can answer any further questions.

Sincerely,



Peter Joslin, Chair
Charlotte Planning Commission

Dated at Charlotte, Vermont this 30 day of May 2018.