

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

In re: Eric and Liz Philip-Buttery / Clark Hinsdale request for a Minor Subdivision Amendment at 1711 Hinesburg Rd.
Permit Application No. PC-18-89-SA

Introduction and Procedural History

This proceeding involves the review of an application for a Minor Subdivision Amendment submitted by Eric and Liz Buttery for approval under the Town of Charlotte Land Use Regulations (hereafter referred to as “the Regulations”). The application was received on May 25, 2018. A notice of public hearing was published in The Citizen newspaper on May 31, 2018. A hardcopy of the notice was mailed to all adjoining landowners, and posted at the following three locations: the Town Office Building, the Brick Store, and Spear’s Corner Store on May 25, 2018.

A site visit to the property was undertaken during the previous subdivision proceeding in 2017-18 (**PC-17-181-SD**).

The final plan application was considered by the Planning Commission at a public hearing held on June 21, 2018 at approximately 7:30 PM. Present at the public hearing were the following members of the Planning Commission; Peter Joslin (Chair), Charlie Pughe (Vice Chair), Gerald Bouchard, Marty Illick, David Kenyon, Shawn Coyle, and Richard Eastman. The Town Planner and the applicant Eric Buttery participated in the hearing.

Exhibits

1. Application Exhibits for a Minor Subdivision, including;
 - A. PC-18-89-SA application form signed by Eric Buttery;
 - B. Letter of permission signed by Clark Hinsdale, III of *Nordic Holsteins, LLC*;
 - C. Warranty Deed – Conveyance from Nordic Holsteins, LLC to Eric Buttery and Liz Philip-Buttery (signed on May 22, 2018);
2. Planning Commission Decision: In Re: Eric & Liz Buttery request for a 3-Lot Minor Subdivision for 1711 Hinesburg Rd. – Permit Application No. PC-17-181-SD, Approved by the Planning Commission: March 1, 2018;
3. *Map Slide 195, Page 5*; Survey - “Final Plat – Minor Subdivision Property of Nordic Holsteins, LLC – Hinesburg Road, Charlotte Vermont” (dated Nov 2017 / signed by PC Chair: 1 Mar 2018) by Stuart J. Morrow, Consulting Land Surveyor, Shelburne, Vermont;
4. *Map Slide 175, Page 5*; Survey - “Conserved Land – Bean Farm – Property of Nordic Holsteins, LLC” (dated Dec 2010) by Stuart J. Morrow, Consulting Land Surveyor, Shelburne, Vermont;
5. Planning Commission Minutes from meetings held on *June 21, 2018*;

Regulations in Effect

Charlotte Town Plan, 2016

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

Findings

Background

1. Eric Buttery and Liz Philip-Buttery own three adjoining parcels property located at 1711 and 1824 Hinesburg Road along the southern side (further described within **PC-17-181-SD**) within the Rural Zoning district (RUR).
2. This application (based on the **PC-17-181-SD** Subdivision Review) proposes to shift the 50' wide access and utility right-of-way from **Lot #1** (described within **PC-17-181-SD**, and currently owned by Nordic Holsteins, LLC) to the adjacent parcel located at 1824 Hinesburg Road (also described within **PC-17-181-SD**, and owned by Eric Buttery and Liz Philip-Buttery) to the east.

3.2 Road, Driveway, and Pedestrian Access Requirements

(B) Highway Access Permit. The applicant will be required to submit a new Highway Access Permit with the Charlotte Selectboard.

(C) Access Management Standards. The following access management standards shall apply to all land uses and development within the town under the jurisdiction of these Charlotte Land Use Regulations.

1. No lot may be served by more than one (1) access (curb cut), except for:
 - (a) a lot for which it is determined, subject to subdivision, site plan, or conditional use review, that one or more additional accesses are necessary to ensure vehicular and pedestrian safety; or
 - (b) instances in which strict compliance with this standard, due to the presence of one or more physical constraints (e.g., streams, wetlands, steep slopes) would result in adverse environmental impacts or a less desirable site design and layout than would be otherwise possible.
2. The driveway to be constructed should be consistent with the 1997 *“Recommended Standards for Developments and Homes”*.

7.10 Roads, Driveways, & Pedestrian Access

1. Access to **Lot #3** and **Lot #2** (described in **PC-17-181-SD**) originate from a curb cut *“at the boundary of 1711 Hinesburg Road and 1824 Hinesburg Road”* (i.e. the boundary of **Lot #1** and the 1824 Hinesburg Road parcel), which exists on **Lot #1**. The curb cut was approved by the Charlotte Selectboard on January 22, 2018 as Highway Access Permit HAP-17-11.
1. The 3-Lot Minor Subdivision (PC-17-181-SD) approved within the plat (mylar) an access and utility right-of-way to the Buttery properties (Lot #3 and Lot #2) from a curb-cut on the adjoining Nordic Farms ‘conserved’ parcel (Lot #1) to the west. It is written in the Highway Access Permit (i.e. the Selectboard’s approval) that the trailer property (e.g. the 1824 Hinesburg Road parcel) will have the option to retain its already existing curb-cut for access to that property. However, if the Planning Commission approves the Subdivision Amendment as presented, two curb-cuts would hence exist upon the 1824 Hinesburg Road parcel; One for the

Mobile Home; the second for the access right-of-way to **Lots #3 and #2**.

Decision

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

1. The applicant shall remove the current town highway access curb-cut for the old trailer (which has since been removed from the property) on the 1824 Hinesburg Road parcel.
2. The applicant shall apply for a new Highway Access Permit with the Charlotte Selectboard for its proposed new location.
3. 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. Approved plats not filed and recorded within this 180 day period shall expire.
4. Prior to the submission of the mylar to the Planning Commission, the applicant shall ensure the survey plat has been updated with the following:
 - a. Any changes to the current property information.
 - b. The new location of the access right-of-way for **Lots #3 and #2**.
 - c. The removal of the previous access right-of-way for **Lots #3 and #2**.
 - d. The removal of the curb-cut for the 1824 Hinesburg Road parcel.
5. The future driveway to be constructed within the access right-of-way shall be consistent with the 1997 "*Recommended Standards for Developments and Homes*".
6. The future driveway shall be surfaced with non-white crushed stone.

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. **This approval shall expire if the mylar is not filed and recorded in the Charlotte land records within 180 days.**

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 June 21, 2018: Peter Joslin (Chair), Charlie Pughe (Vice Chair), Gerald Bouchard, Marty Illick, David Kenyon, Shawn Coyle, and Richard Eastman.

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

1. Signed: [Signature] For / Against Date Signed: 8/2/18
2. Signed: [Signature] For / Against Date Signed: 8.2.18
3. Signed: [Signature] For / Against Date Signed: 8/2/18
4. Signed: [Signature] For / Against Date Signed: 8/2/18
5. Signed: [Signature] For / Against Date Signed: 8/2/18
6. Signed: _____ For / Against Date Signed: _____