

Mr. Rick Potts
Chairperson, Planning Board
Town of Charlton
758 Charlton Road
Charlton, NY 12019

01/18/2024

Dear Mr. Potts,

I am writing to provide additional written comment on the application for subdivision of the lands currently owned by Garry R. Heflin, 2158 Cook Road, Charlton, NY 12019.

It is with a heavy heart and great frustration that the residents of Cook Road find themselves having to fight once again to preserve Charlton's heritage, protect critical wetland habitats, and conserve our drinking water quality and quantity. During the most recent Planning Board meeting on January 15th, 2024, I heard the Planning Board state several times that the application for subdivision before them was for "four lots." However, this viewpoint fails to recognize the total impact of Mr. Heflin's complete set of subdivision applications on Cook Road, which has now been split into two different applications after failing to secure the total of eight lots in their original 2021 application. As Chairperson of the Planning Board, I urge you to review the previous comments provided by the residents of Cook Road regarding this subdivision, all correspondence between Mr. Wilkinson (former Chairperson) and the applicant, and all applicable decisions of the Planning Board. My sincerest hope is that such a review will provide you with a complete picture of the circumstances surrounding this subdivision application and its potential ramifications.

The following are the main subject of my comments:

1. **Hydrogeologic Investigation:** The Planning Board should not make any determination on the subdivision application until a thorough Hydrogeologic Investigation is completed. That investigation should include the elements described herein and be conducted by a third party.
2. **Traffic Study:** The Planning Board should not make any determination on the subdivision application until a thorough Traffic Safety Study is completed. That study should include the elements described herein and be conducted by a third party.
3. **The Subdivision will unnecessarily change the rural character of Cook Road and runs counter to Charlton's Comprehensive Plan:** The Planning Board should describe, in writing, how it plans to reconcile the approval of the proposed subdivision with the vision statements of the Town's Comprehensive Plan.
4. **The Planning Board should classify the subdivision as a "Type I" action under the State Environmental Quality Review Act (SEQR):** The Planning Board should make a determination of significance under SEQR and classify the subdivision as a Type I action, thereby requiring the applicant to complete a full Environmental Impact Statement (EIS), not just the Environmental Assessment Forms (EAF) already submitted which only assists the "Lead Agency" (the Planning Board) in making a determination.
5. **The Planning Board must require the applicant to resubmit their Environmental Assessment Forms due to incomplete and inaccurate answers:** The applicant has provided an incomplete and inaccurate submission of the required short and long Environmental Assessment Forms as part of their subdivision application. In order for the full environmental impact of the project to be known, the public to have an accurate understanding of the impact, and the Planning Board

to make an informed and accurate SEQR determination, the applicant must be required to resubmit.

The following details expand upon the summaries provided above. They are respectfully submitted to the Planning Board so that the full impact and concerns can be considered:

1. **Hydrogeologic Investigation:** The Planning Board should not make any determination on the subdivision application until a thorough Hydrogeologic Investigation is completed.

We commend the Planning Board for requiring the applicant to complete a hydrogeologic study to determine the potential impacts of the subdivision on groundwater quality and quantity. Such a study was required by the Planning Board for approval of this subdivision during the previous application but was never completed. The request was documented in correspondence between Mr. Wilkinson and Santo Associates on March 20, 2021 (Figure 1). Since that study was never completed, even though it was requested, we request the requirement still stand before any decision by the Planning Board be made.

I urge the Planning Board to require an independent third party to complete the study so that Cook Road residents can feel confident in the results. As a 24 year professional in the field of water resources I suggest the following elements be included as part of a complete and comprehensive study:

- a. **Aquifer Characteristics:** To understand the geological formations and properties of the aquifer, such as permeability and porosity, to gauge water storage and flow capabilities.
- b. **Groundwater Levels:** To monitor existing groundwater levels to assess variations and potential impacts on neighboring wells.
- c. **Water Quality Analysis:** Test water samples for various parameters like contaminants, minerals, and pollutants to evaluate potential changes in water quality. Given the proximity to orchards and old farming fields I suggest legacy contaminants such as herbicides and pesticides. More recent data also suggest emerging contaminants such as PFOA and PFOS should also be included in such studies.
- d. **Pumping Tests:** Conduct tests to simulate well pumping conditions and observe effects on nearby wells, helping understand potential interference.
- e. **Flow Modeling:** Use hydrogeological models to simulate groundwater flow patterns, helping predict the movement of water and potential impacts.
- f. **Well Interference Assessment:** Evaluate the potential for interference between new and existing wells, considering factors like proximity and pumping rates.
- g. **Water Demand Projections:** To estimate the water demand from the new construction to assess its impact on the aquifer and existing wells.
- h. **Regulatory Compliance:** To ensure compliance with local regulations and water use policies during the construction process.

Collaboration with hydrogeologists and regulatory agencies can provide a comprehensive understanding of the project's impact on water quantity and quality. I recommend the Planning Board consider inquiring with the United State Geological Survey, New York Water Science Center in Troy, NY or the New York State Department of Environmental Conservation's Bureau of Water Resource Management in their Division of Water in Albany, NY for assistance.

2. **Traffic Study:** The Planning Board should not make any determination on the subdivision application until a thorough Traffic Safety Study is completed.

Again we commend the Planning Board for requiring the applicant to complete a traffic study to determine the potential impacts of the subdivision on traffic safety related to the extremely dangerous, blind corner intersection of Cook Road and Route 67. Similar to the Hydrogeologic Study described above, a traffic study was required by the Planning Board for approval of this subdivision during the previous application but was never completed. The request was documented in correspondence between Mr. Wilkinson and Santo Associates on March 20, 2021 (Figure 1).

The intersection of Cook Road and Route 67 is notorious for accidents because of the high rate of speed vehicles travel on Route 67 as they approach Cook Road from the west around a blind curve. Additionally, if you are not familiar with it, Cook Road is a quiet, heavily tree-line street with very little vehicular traffic overall. It is a street where residents frequently walk their pets and children are often out playing. The sum total of Mr. Heflin's proposed subdivisions will increase the total number of homes and traffic on Cook Rd. by 20% (Parcel Viewer, 2021). Based on this increase, existing residents of Cook Road can expect an additional 16 vehicles on the road, on average, per day (USBOTS, 2021). Not to mention the significant volume of constant truck and machinery traffic that will occur over the next several years as the applicant constructs homes on these new lots. Therefore, approval of this subdivision will dramatically increase the number of vehicles potentially using the dangerous Cook Road and Route 67 intersection as well as increasing the risk for vehicular-pedestrian and vehicular-animal related incidents on Cook Road itself.

The following elements should be studied and included in the required traffic safety study:

- a. Traffic volume
 - b. Road geometry
 - c. Signage
 - d. Lighting
 - e. Visibility
 - f. Accident Data and Relevant Enforcement Measures
 - g. Driver Behavior
 - h. Pedestrian Safety
 - i. Potential Improvements and Interventions
3. **The Subdivision will unnecessarily change the rural character of Cook Road and runs counter to Charlton's Comprehensive Plan:** The Planning Board should describe, in writing, how it plans to reconcile the approval of the proposed subdivision with the vision statements of the Town's Comprehensive Plan. Specifically, how will approval of the subdivision
 - a. Protect and enhance the Town's agricultural, historic and aesthetic character;
 - b. Protect the Town's environmental resources, especially groundwater quality, quantity, and availability; and
 - c. Ensure Cook Road remains safe for traffic, walking, and biking?

If the Planning Board approves the application for subdivision of the lands of Mr. Heflin the Town will forever change the character of Cook Road. As described above, Cook Road is a quiet, heavily

tree-line street with very little vehicular traffic and remaining areas of field and forest. The 20% increase in traffic will impair the character and quality of the existing community.

Furthermore, this kind of development on a quiet, rural road, runs counter to the general character of the Town of Charlton and directly contradicts the vision described in the Town's Comprehensive Plan (Town of Charlton, 2007). In 2007, the Town of Charlton adopted a comprehensive plan with the following specific vision statements which are particularly appropriate in this situation.

1. "Protect and enhance" the "Town's rural, agricultural, historic and aesthetic character."
2. "Protect" the "Town's environmental resources, particularly groundwater quality, quantity, and availability."
3. Ensure the "Town has quality, aesthetically pleasing and safe roads, and pathways for vehicular traffic, walking, and biking."

The proposed subdivision will isolate existing fields, including one apple orchard, from potential agricultural activity. The location of the parcels proposed for subdivision contain substantial wetland complexes which serve current Cook Road residents with vital groundwater filtration and recharge of their water supplies. Additionally, the increased number of homes and traffic the proposed subdivision will create will impact the safety and aesthetically pleasing nature of existing conditions.

4. **The Planning Board should classify the subdivision as a "Type I" action under the State Environmental Quality Review Act (SEQR):** The Planning Board should make a determination of significance under SEQR and classify the subdivision as a Type I action, thereby requiring the applicant to complete a full Environmental Impact Statement (EIS), not just the Environmental Assessment Forms (EAF) already submitted which only assist the "Lead Agency" (the Planning Board) in making a determination.

Under SEQR in New York Codes, Rules, and Regulations (6NYCRR) § 617.7(c)(2) the "Lead Agency" "must consider reasonably related long-term, short-term, direct, indirect and cumulative impacts, including other simultaneous or subsequent actions" when making their determination. The Planning Board (i.e. "Lead Agency" under SEQR) must therefore by law, consider the cumulative impact of Mr. Heflin's various subdivision applications when making its determination of significance. The cumulative impact is clearly significant and the Planning Board has already signaled it agrees with this position given its request for further studies to be conducted. Most importantly, it is clear that this subdivision meets the criteria explained in 6 NYCRR 617.7(c)(1) for a Type I action including:

- a. A substantial adverse change in existing ground or surface water quality or quantity, traffic or noise levels (6 NYCRR 617.7(c)(1)(i)) - The addition of multiple new wells, disturbance of existing wetlands, grading and draining of soils, mowing and clearing of vegetation, etc... that will be conducted as part of the subdivision are all well documented activities that cause adverse changes to ground and surface water quality and quantity.
- b. The creation of a material conflict with a community's current plans or goals as officially approved or adopted (6 NYCRR 617.7(c)(1)(iv)) and The impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character (6 NYCRR 617.7(c)(1)(v)) -

As previously discussed the proposed subdivision conflicts with the Town of Charlton's Comprehensive Plan and its defined and published goals (see number 3 above). Because Cook Road and the Town of Charlton is an agricultural, right to farm, rural community with a heritage steeped in agricultural history, the proposed subdivision will impair the character of this important historical road and its aesthetic resources. Therefore, by law under SEQR, as a result of the Town's Comprehensive Plan and the nature of this subdivision and its impacts the Planning Board must make a Type I determination.

Justifications for why this subdivision application meets each of the criteria under 6 NYCRR 617.7 could be provided, but it is clearly unnecessary given the extent to which it meets even just a few. Furthermore, we have seen the lack of detail in the application completed thus far. This includes a lack of understanding and disclosure of the potential impact the subdivision may have on existing wetlands, a classified stream, and groundwater. Therefore, as the "lead agency" the Town Planning Board must designate this a Type I action under SEQR.

5. **The applicant must be required to resubmit their Environmental Assessment Forms due to incomplete and inaccurate answers:** The applicant has provided an incomplete and inaccurate submission of the required short and long Environmental Assessment Forms as part of their subdivision application. In order for the full environmental impact of the project to be known, the public to have an accurate understanding of the impact, and the Planning Board to make an informed and accurate SEQR determination, the applicant must be required to resubmit.

The following items are either inaccurate or incomplete and must be addressed before any further consideration of the application can be made by the Planning Board:

Part 1 - Short Environmental Assessment Form -

- a. "Brief Description" - The description of this project as only a "4-lot" subdivision is an inaccurate and dishonest representation of the actual project. The public record shows that the applicant previously submitted an application for a total of 8 lots, was denied half, sold those lots they were originally approved to subdivide, and has now come back with an application for the original second half of lots but with slightly altered lot lines. Under SEQR the total project must be considered by law. See Part D.1, Question E of the Full Environmental Assessment Form. This proposal is an expansion of an existing project and therefore should be documented as such.
- b. #4 - "Aquatic" should be marked as well due to the presence of continuously flowing streams and significant persistent wetland areas on the property.
- c. #6 - Should be marked "No." As stated previously, the subdivision will alter the existing character of the neighborhood due to the conversion of existing landuse activities.
- d. #8 - Should be marked "Yes." The proposed action will increase traffic by 20% or more on Cook Road.
- e. #10 - Incomplete Answer. Since the applicant has marked "No" they must provide a description for how potable water will be supplied.
- f. #11 - Incomplete Answer. Since the applicant has marked "No" they must provide a description for how wastewater treatment will be supplied.
- g. #14 - "Early Mid-successional" should be marked as well due to the presence of early to mid-successional fields on proposed Lots 4 and 5.
- h. #15 - Is the applicant 100% certain that the subdivision and proposed building lots do not contain threatened or endangered species?

- i. There are significant wetland complexes which exist within the proposed subdivision of lands. There is also a permanent stream. These aquatic habitats are used for the propagation and survival by many different reptiles and amphibians. NYSDEC currently lists 27 different reptiles and amphibians as endangered, threatened, or of special concern. Many of which are native to the area.
- i. #17a - Should be marked "Yes." Due to the natural contours of the topography in the area any new stormwater runoff created as a result of the development of the properties may naturally flow to adjacent properties in the downstream watershed. Any uncertainty should be documented in the Stormwater Pollution Prevention Plan and made publicly available.

Full Environmental Assessment Form -

- a. Part C.4, Question C - Should be marked "Volunteer." The addition of the proposed number of lots will place a new and significant burden on the volunteer first responders serving Cook Road and should be identified in this application.
- b. Part D.1, Question C - Should be marked "Yes." The public record shows that this application for subdivision is an expansion of the applicant's previous subdivision application of the same lands which came before the Planning Board in 2021. It would appear this response suggests a misrepresentation of the nature of the application in an effort to create a perception of reduced impact on the residents and character of Cook Road.
- c. Part D.1, Question E - Should be marked "Yes." As a result of this application being an expansion of an existing project and the fact that construction has already begun on previously approved subdivided lots, the applicant must indicate the multiple phases of the entirety of the proposed project. Therefore, the other elements required under this question must also be completed.
- d. Part D.1, Question F - Contradicts the previous statement by the applicant in Question E of this same part. Are there multiple phases or only one?
- e. Part D.2, Question C - The total anticipated water usage/demand per day should be revised to double or more the amount listed by the applicant to approximately 3,200 gallons/day. When the full impact of this expansion of the existing project is considered as required under SEQRA, the total volume of water used per day is increased to double that (6,400 gallons/day). The average American household (family of 4) will use approximately 400 gallons per day. For rural homeowners on private wells, this usage can double due to the water intensive backwash and filtration aspects of maintaining proper water treatment systems.
- f. Part D.2, Question H - Should be marked "Yes." The project may in-fact generate methane. As existing homeowners know, the groundwater on Cook Road is often laden with methane gas due to the natural, underlying geologic formations, and the significant areas of wetlands which are efficient at generating methane underground. As a result many Cook Road homeowners have water treatment systems which remove methane gas from their wells and emit methane gas into the atmosphere. Therefore, the likely answer to this question is "Yes" given the nature of existing wells on Cook Road. Therefore, the other elements of this question should also be answered by the applicant. Furthermore, the drilling of new wells has the potential to create new bedrock fracture lines which may change the direction of methane gas release, resulting in the

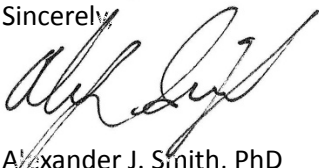
introduction of methane gas into existing Cook Road wells that do not currently have methane.

- g. Part D.2, Question J - Should be marked "Yes." As described multiple times in these comments, the proposed subdivision will increase traffic on this rural road by 20% or more. Dramatically more during construction, which we have already experienced. Therefore, the remainder of the elements of this question must also be completed. The recommended traffic study should be required to complete this section in an accurate manner rather than simply supplied through guesses.
- h. Part D.2, Question L and M. - The Hours of Operation listed should be revised to remove any activities on the weekends and end activities by 4:00pm daily. The applicant's current construction activities at their previously approved lots have been a disruption to Cook Road residents generating noise, heavy truck traffic, substantial roadside garbage and debris, and damage to existing weak points in certain paved sections.
 - The hours of operation should be adjusted to modify this existing impact. The Saturday hours have already proven disruptive to Cook Road residents with heavy machinery operating and creating noise early in the morning and late into the evening.
 - The applicant should be required to maintain a clean work site and clean up all garbage and debris their construction activity has created, or will create in the future, on Cook Road. The road sides adjacent to the applicants current construction activities have been periodically laden with coffee cups, lunch garbage, and misc. construction debris from workers.
 - All construction vehicles should be required to enter and exit Cook Road from the intersection at Route 67 and Cook Road. Currently their heavy vehicles travel south on Cook Road to Eastern Avenue at high rates of speed. This should be required to minimize the impact to the residents during construction times.
- i. Part E.1, Question A - "Aquatic" should be marked as well due to the presence of continuously flowing streams and significant persistent wetland areas on the property.
- j. Part E.1, Question E - No answer was provided. The applicant is required to complete the form in its entirety. Therefore, the form must be resubmitted with the accurate answer provided.
- k. Part E.2, Question H - Stream Names and Classifications. The applicant responded "N/A". This is incorrect. The answer must be revised. When considering the total area of the proposals there is a permanent stream which flows through the property, tributary to the Mourning Kill.
 - 1. NYSDEC PWL-ID 1101-0073
 - 2. WIN # H-299-P27-13-9
 - 3. Class C
- ii. This stream runs through lots 225.-1-36.3 and 225.-1-36.1
- l. Part E.2, Question M - No answer was provided. The applicant is required to complete the form in its entirety. Therefore, the form must be resubmitted with the accurate answer provided.
- m. Part E.2, Questions O and P - Is the applicant 100% certain that the subdivision and proposed building lots do not contain any species of plant or animal that is listed by the Federal Government or NYS as endangered or threatened? There are significant natural habitats on the subject property which may contain such species. Given the lack of completeness and accuracy of the current application it is likely research has not completed before providing an answer.

- n. Part E.2, Question P - Should be marked "Yes" and a description provided. A high proportion of the residents of Cook Road engage in hunting and other recreational activities in the forested areas adjoining the southern and eastern edges of the property boundaries.
- o. Part E.3, Question A - Should be marked "Yes." The property proposed for subdivision is located within Saratoga County Agricultural District 2 under the protection of NYS Agricultural District Law, administered by the New York State Department of Agriculture and Markets. Therefore the remaining elements of this question are required to be completed.
- p. Part E.3, Question E - Is the applicant 100% certain that the subdivision and proposed building lots do not contain or are not substantially contiguous to a building, archeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? Cook Road is one of the earliest settled roads in Charlton and as such as several homes and barns originally built in the 1700-1800s which played a role in the settlement of the County. Since the subject properties were originally part of these historical farms it could be possible that such a designation exists.

Thank you in advance for your consideration and taking the time to review my detailed comments. I look forward to hearing from you.

Sincerely,



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References

Parcel Viewer, 2021. Saratoga County, NY Map Viewer. Version 2.6.5.
<https://spatial.vhb.com/SaratogaMapView/>.

Town of Charlton, 2007. Town of Charlton Comprehensive Plan. Adopted by the Town Board July 9, 2007. Prepared by the Town of Charlton Comprehensive Plan Steering Committee. Charlton, New York. 29 pgs.

USBOTS, 2021. United States Bureau of Transportation Statistics. Household, Individual, and Vehicle Characteristics.
https://www.bts.gov/archive/publications/highlights_of_the_2001_national_household_travel_survey/section_01.

Figure 1. Scanned Letter from Planning Board Chairperson, Jay Wilkinson, to Andrew Schauffert of Santo Associates on March 20, 2021. The letter documents the decision by the Planning Board to require both a hydrogeologic and traffic study before any further consideration of the Heflin subdivision application of that same year (underlined).

March 20, 2021

Andrew Schauffert, L.S.

Santo Associates Land Surveying and Engineering, P.C.

1 Barney Road, Suite 109

Clifton Park N.Y. 12065

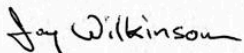
Re: Subdivision of Lands of Garry Heflin 2158 Cook Rd - Tax Parcel Numbers 225.00-1-35, 36.1, 36.2, & 36.3

Dear Mr. Schauffert,

The Planning Board continued the Public Hearing of the proposed subdivision of the above referenced parcels of Mr. Heflin at its March 15, 2021 meeting held on Zoom. Public comment continued and was centered around concerns of the impact 7 new homes would have on identified wetlands on these parcels, concerns about future wells to support these new homes and their effect on existing wells of current residents of Cook Road, among other things. Increase in traffic, loss of wild life habitat, wetlands that have been filled in over the years and loss of rural character if the development is approved as proposed. Letters and emails of concern sent to the Board prior to the meeting are enclosed.

Based on the concerns of town residents the Planning Board is requesting additional information from the applicant in the form of reliable and current wetland delineations be conducted and verified by the appropriate agency of jurisdiction (NYSDEC AND USACOE), a hydrogeology study be completed to assess and determine potential impacts and effects new wells may have on existing wells of neighboring properties and a traffic study performed to determine the impacts and effects of 7 new homes would have on the Cook Road route 67 intersection. If there are any questions, please let us know and we will let you know what was stated at the last meeting of the Planning Board.

The public hearing remains open and the Board will continue to take comments at its April 19, 2021 meeting at 7:30PM.


Jay Wilkinson, Chairman

Town of Charlton Planning Board