

**CHARLOTTE PLANNING COMMISSION**  
**RECONSIDERED AND RESTATED FINDINGS OF FACT AND DECISION**  
**IN RE APPLICATION OF**

**RCC Atlantic, Inc. d/b/a Unicel, Applicant**  
**John H. Crabbe, Jr., Property Owner**

**Site Plan Review**  
**For the Installation of Six Panel Antennas and Associated Equipment**  
**Application # PC-05-31**

**Background**

The applicant applied for both Site Plan Review and Conditional Use Approval simultaneously. Public hearings for both applications were jointly opened and closed on July 7, 2005. The decisions were rendered separately.

In a letter dated August 23, 2005 from William Dodge to Dean Bloch, RCC Atlantic Inc. requested reconsideration of the Site Plan Review decision with regard to Condition #3. The hearing was re-opened (after warning) on September 15, 2005. This Findings of Fact and Decision is the result of the reconsideration.

The Site Plan Review application was reviewed under Chapter VI Section 6.5 and Chapter IX of the Charlotte Zoning Bylaws.

**Application**

Materials submitted with the application are listed in Appendix A.

**Public Hearing**

A public hearing was held for this application on July 7, 2005. The following interested parties were present and participated in the hearing:

- Representing the applicant: William Dodge, Chris Bramley, and John Crabbe.
- Adjoining property owners: Dave Lagerstedt and Michelle Solomon

The hearing was re-opened on September 15, 2005. The following interested parties were present and participated in the hearing:

- Representing the applicant: William Dodge, Chris Bramley, David Rydelek and John Crabbe.
- Adjoining property owners: Michelle Solomon (by letter dated September 13, 2005).

A site visit was conducted prior to the hearing on September 15 at 6:30 PM. The following parties were present:

- Representing the applicant: William Dodge, Chris Bramley, David Rydelek and John Crabbe.
- Planning Commissioners and staff: Jim Donovan, Linda Radimer, Robin Pierce, John Owen, Peter Joslin and Dean Bloch.

## Regulations in Effect

Town Plan as amended March 2002

Zoning Bylaws as amended March 2002

Subdivision Bylaws as amended March 1995

## Findings

1. The application indicates that the proposed antennas will not protrude above the vertical walls of the silo and barn, respectively.
2. The application indicates that the proposed antennas will be painted to match the color of the silo and barn, respectively.
3. The plans submitted with the application indicate that all ground equipment will be located inside the existing silo, with the exception of an electric meter and an ice bridge.
4. At the hearing on September 15, the applicant stated that the meter for the RCC installation will be located on the southward facing wall of the barn, below the location where the existing electric line enters the barn.
5. At the hearing on September 15, the applicant stated that the RCC installation will use the existing electric line which runs from the existing utility pole near the southeast corner of the one story portion of the barn to the south east corner of the barn, and that no additional overhead electric lines will be installed.
6. A kerosene spill occurred on the property in December 2003.
7. At the hearing on September 15 and in the submitted letter from James Bowes of The Johnson Company, the applicant stated that additional excavation for the purpose of burying the existing electric line could increase the contact of contaminated soils with groundwater, and potentially interfere with remediation efforts.
8. At the hearing on September 15, the applicant stated that RCC will use the existing underground conduit (installed by Independent Wireless One) to run telecommunication lines from the existing utility pole near the southeast corner of the one story structure to inside the silo, and that no overhead telecommunication lines will be installed.
9. The barn and adjacent buildings on and in the vicinity of the subject property are listed as a historic site in the Charlotte Town Plan (see Map 12 entitled "Cultural and Recreational Resources," location H32). This listing is based on the "Historic Sites and Structures Survey" conducted by Vermont Division of Historic Preservation, which identifies the farm complex as site number 0403-32.
10. At the hearing on September 15 and in the submitted letter from Pete McTygue of Clough Harbour & Associates, the applicant stated that an underground installation of coax cables between the silo and the barn would very likely damage the foundation of the silo as well as the stone foundation of the barn.
11. Section 9.8.A. of Chapter IX of the Charlotte Zoning Bylaws states "utility or service lines shall be underground, and designed and located so as to minimize disruption to wildlife habitat, agricultural lands, and scenic areas."
12. The proposed use of the existing overhead electric line which runs from the existing utility pole to the barn will not disrupt wildlife habitat, agricultural lands or scenic areas.
13. Because of the historic importance of the barn, and the potential that installing underground cables would damage the foundation of the barn and the adjoining silo, the

Planning Commission finds that the proposed use of overhead cables (and the associated ice bridge) between the barn and silo is acceptable for this application, and further, that they will not disrupt wildlife habitat, agricultural lands or scenic areas.

14. The proposed use, as depicted in the application and described by the applicant at the hearing, will not significantly change the appearance of the farm complex. Therefore the Planning Commission finds that the proposed use will not negatively impact the historic character of the site.
15. The proposed use will also need a Conditional Use Permit from the Town. The review of the request for this permit by the Town of Charlotte Zoning Board of Adjustment will include consideration of the compliance of this application with the requirements of Sections 9.6.1, 9.7 and 9.8. of Chapter IX of the Charlotte Zoning Bylaws.

## Decision

Based on these Findings, the Planning Commission approves the Site Plan Review application to install four panel antennas on the existing silo and two panel antennas on the existing barn, and to install associated equipment within the existing silo at 5692 Ethan Allen Highway as proposed, with the following conditions:

1. No fence will be installed surrounding the silo in association with this use.
2. No new telephone/utility poles will be installed in association with this use.
3. No new overhead electric lines will be installed in association with this use.
4. The antennas will be painted to match the color of the silo and barn, respectively.
5. At least one sign will be posted on the silo indicating a 24-hour emergency telephone number and an RFR warning statement.
6. Mylars (18" by 24") of sheets CO1 and CO2, both dated 4/22/05, will be submitted to the Planning Commission for endorsement and recorded in the town land records prior to the submission of an application for a Zoning Permit.
7. Any changes to or additions of antennae, equipment, or other facilities on the premises related to this use will require approval by the Planning Commission.
8. The applicant will secure a Conditional Use Permit from the Town of Charlotte Zoning Board of Adjustment prior to the submission of an application for a Zoning Permit.
9. This permit is null and void if a Conditional Use Permit is not issued by the Town of Charlotte Zoning Board of Adjustment.

**Additional Conditions:** All plats, plans, drawings, 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 4<sup>th</sup> 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 July 7<sup>th</sup>:** Jeff McDonald, Linda Radimer, John Owen, Peter Joslin, Robin Pierce and Robert Mack.

**Members Present at the Public Hearing on September 15<sup>th</sup>:** Jeff McDonald, Jim Donovan, Linda Radimer, John Owen, Peter Joslin, Robin Pierce and Robert Mack.

**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 application consists of:

- 1. A Site Plan Review application form and appropriate fee.
- 2. A project narrative last revised June 2, 2005
- 3. Plans by Clough Harbour & Associates LLP for RCC d/b/a Unicel; Site Number: VT5026; Site Name: Charlotte silo; Site Address: 5692 Ethan Allen Hwy, Charlotte, VT 05445 Chittenden County; all dated 4/22/05 with no revisions, with the following sheet numbers and titles:
  - Sheet T01 Title Sheet
  - Sheet S01 Comprehensive Site Plan
  - Sheet S02 2 Mile Radius Map
  - Sheet C01 Site Plan
  - Sheet C02 Building Elevations
  - Sheet C03 Structural Details
  - Sheet C04 Structural Details
  - Sheet C05 Structural Notes
  - Sheet E01 Power and Telephone Plan
  - Sheet E02 Grounding Plan
  - Sheet E03 Electrical Details

- Sheet E04 Electrical Details
  - Sheet E05 Electrical Details
  - Sheet E06 Electrical Details
  - Sheet E07 Electrical Specifications
4. A topographic map—USGS Mount Philo quadrangle
  5. Photographs and photographic simulations by Clough Harbour & Associates LLP for RCC d/b/a Unicel for site VT5026 dated April 2005 with titles as follows:
    - “View 10 – Existing view of silo from driveway – looking north from site”
    - “View 10 – Proposed view of silo from driveway – looking north from site”
    - “View 11 – Existing view of west side of barn – looking north”
    - “View 11 – Proposed view of west side of barn – looking north”
  6. A proposed construction schedule—RCC Site #VT5026 Charlotte, VT - Silo
  7. A letter from John H. Crabbe Jr. dated March 15, 2005 authorizing RCC Atlantic, Inc. d/b/a Unicel to file for permits associated with this project.
  8. A letter from Pete McTygue, P.E. of Clough, Harbour & Associates LLP to Chris Bramley dated May 11, 2005 re: “Structural Review – Charlotte Silo, Located in Charlotte, VT, RCC Atlantic Site No VT5026, CHA File No.: 13141-1063-1601 R2”
  9. A seventeen page document on RCC letterhead entitled “Radio Frequency Analysis for proposal to add RCC GSM technology to the existing silo near the intersection of State Park Road and Route 7 in Charlotte VT.”
  10. A three page document by Giant Solutions LLC dated April 11, 2005 entitled “Electromagnetic Exposure Analysis, Rural Cellular Corporation (RCC), Site ID: VT5086Charlotte, VT”
  11. A nine page document by Giant Solutions LLC dated April 13, 2005 entitled “Co-location Interference Analysis Report, RCC VT 5086”
  12. A document with twelve attachments by Clough Harbour & Associates LLP for RCC d/b/a Unicel dated May 23, 2005 entitled “Nationwide Programmatic Agreement for the Collocation of Wireless Antennas Collocation Submission Packet FCC Form 621, Charlotte Silo, VT5026, 5692 Ethan Allen Hwy, Charlotte, VT”
  13. A portion (pages 9-12 and Exhibit B-1) of a lease between John H. Crabbe, Jr. (Lessor) and RCC Atlantic Inc. (Lessee)
  14. A copy of the ULS license – Cellular License – KNKN749 – RCC Atlantic Licenses, LLC.
  15. A copy of the ULS license – Local Multipoint Distribution Service License – WPOK271 – TLA Spectrum.
  16. A one page document entitled “RCC Atlantic, Inc. d/b/a Unicel, Five Year Plan for Town of Charlotte”.
  17. A document entitled “RLI Insurance Company, Tower Removal Bond, Bond No. CMS 225806” executed on May 11, 2005.
  18. A Certificate of Insurance from Marsh USA Inc. for Rural Cellular Corporation and Subsidiaries.

The following were submitted for the hearing on September 15, 2005:

1. A letter from William Dodge of Downs Rachlin Martin PLLC to Dean Bloch dated

August 23, 2005.

2. A letter from William Dodge of Downs Rachlin Martin PLLC to Dean Bloch dated August 24, 2005.
3. A letter from James Bowes, P.G. of The Johnson Company to Planning Commission dated August 25, 2005.
4. A letter from Pete McTygue, P.E. of Clough Harbour & Associates to Chris Bramley dated August 23, 2005.
5. Sheet S02 2 Mile Radius Map as described above, with a revision date of 6/3/05
6. Sheet C01 Site Plan as described above, with a revision date of 6/8/05
7. Sheet C04 Structural Details as described above.