

# **CHARLOTTE PLANNING COMMISSION**

## **FINDINGS OF FACT AND DECISION IN RE APPLICATION OF**

### **Point Bay Acquisition, LLC**

#### **Site Plan Amendment for Outdoor Lighting Application PC-08-13**

#### **Background**

The marina has been in operation since at least 1968. A previous Site Plan Amendment (PC-03-10) allowed expansion of the boat storage yard. The current application proposes to add lighting along the driveway and parking area.

#### **Application**

Materials submitted with the application are listed in Appendix A. Materials submitted for the hearing on July 17<sup>th</sup> are listed in Appendix B.

#### **Public Hearing**

A public hearing for this application was held on May 15, 2008. On its own motion, the Planning Commission re-opened the hearing (after public notice) on July 17, 2008. At the hearing on May 15<sup>th</sup>, John Evans, Todd Smith and Stephen Gutowski represented the applicant. At the hearing on July 17<sup>th</sup>, Stephen Gutowski represented the applicant. No other parties were present at or otherwise participated in either hearing.

#### **Regulations in Effect**

Town Plan, amended March, 2008

Land Use Regulations adopted March, 2006.

Recommended Standards for Developments and Homes adopted September, 1997

#### **Findings**

1. The applicant is proposing to install pole mounted lighting along the westerly side of the driveway from Thompson's Point Road to the marina store, and along the southerly row of the main parking lot to the east of the store. New lighting is also proposed for the sign at the entrance on Thompson's Point Road. Additionally, five existing spotlight fixtures along the easterly property line are proposed to be replaced with the same fixtures that are proposed along the driveway.
2. The application is being reviewed under Sections 3.9 and 5.5(D)(7) of the Charlotte Land Use Regulations.
3. The applicant stated at the public hearing that the primary reason for proposing lighting is to address a safety concern, because boaters frequently walk on the driveway which also has vehicular traffic. An additional reason is that boat-owners often perform maintenance on their boats after dark and lighting is needed to help them find their way around the

site. Also, the proposed lighting provides some security for the protection of the boats and associated equipment, and provides an attractive entrance to the property and visibility for the business.

4. The Planning Commission finds that the applicant has valid concerns for which outdoor lighting is an appropriate remedy.
5. At the public hearing on July 17<sup>th</sup>, the applicant stated that the eastern-most fixture labeled D1 on the lighting plan by Salem Engineering, Inc. is not being proposed.
6. At the public hearing, the applicant stated that lights are proposed to be illuminated only during the boating season, and that during the boating season lights are proposed to be illuminated constantly from dusk until 11:00 PM, and then they will be motion-activated from 11 PM until dawn. The applicant stated boat-owners can use the property throughout the night, although most activity ends at approximately 11:00 PM.
7. The property lies entirely within the Shoreland District. Although the property is surrounded by residential properties, it is located in a relatively rural area. The property is visible from Thompson's Point Road and from Lake Champlain.
8. The introduction of additional exterior lighting has the potential to negatively affect the character of the neighborhood.
9. The proposed average foot-candles (1.12) as indicated on the plan by Salem Engineering, Inc. submitted for the hearing July 17<sup>th</sup> meets the recommended light levels (in Table 2) of the "Outdoor Lighting Manual For Vermont Municipalities" published by the Chittenden County Regional Planning Commission in 1996.
10. The proposed lighting as indicated on the plan by Salem Engineering, Inc. and as described by the applicant, with conditions below, is the minimum necessary for safety, security and visibility of the site, and it is compatible with the character of the neighborhood.
11. A cut sheet for the lighting fixture for the sign was not submitted.

## **Decision**

Based on these Findings, the Planning Commission approves application PC-08-13 for the proposed outdoor lighting with the following conditions:

1. Lighting will be installed as indicated on the lighting plan by Salem Engineering, Inc. entitled "Point Bay Marina, Charlotte, VT, Entrance Road Photometrics" dated June 27, 2008, no revisions, except that the eastern most fixture labeled D1 will not be installed.
2. Lighting fixtures will be mounted no higher than 12 feet in height from the average natural grade at the base of each light pole.
3. Lights will be illuminated only during the boating season, and lights will be illuminated constantly only until 11:00 PM, and then they will be motion-activated from 11 PM until dawn.
4. Lighting for the sign at Thompson's Point Road will be directed downward, will be mounted no higher than eight feet in height from the surrounding average natural grade, and will be positioned so as to not create glare for drivers.
5. All new utility lines will be underground.

**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 May 15<sup>th</sup>:** Jeff McDonald, Jim Donovan, Robin Pierce, John Owen and Eleanor Russell.

**Members Present at the Public Hearing on July 17<sup>th</sup>:** Jeff McDonald, Jim Donovan, Linda Radimer, John Owen and Eleanor Russell

**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 site plan by Phelps Engineering, Inc. entitled "Point Bay Marina, Charlotte, Vermont, Additional Open Storage Plan" dated 7/15/03, last revised 7/21/03 on which proposed and existing lighting had been added.
- 3. A cut sheet from Cooper Lighting showing a fixture by INVUE named EXM, X-Form, Extruded Site, Medium. The proposed fixture uses a 175 Watt metal halide lamp.

## **Appendix B**

Material submitted for the hearing on July 17<sup>th</sup> consisted of:

1. A lighting plan by Salem Engineering, Inc. entitled “Point Bay Marina, Charlotte, VT, Entrance Road Photometrics” dated June 27, 2008, no revisions.
2. A cut sheet from Cooper Lighting showing a fixture by INVUE named EXM, X-Form, Extruded Site, Small. The proposed fixture uses a 175 Watt metal halide lamp.