

CHARLOTTE PLANNING COMMISSION

FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

**Flying Pig, Inc., Property Owner
Lakefront Hospitality Associates, LLC, Applicant
Site Plan Review
For a Retail Food Shop**

Application PC-07-17

Background

Sketch Plan Review for Site Plan Review occurred on September 6, 2007. The applicant also applied for Conditional Use Review under Section 5.4 of the Charlotte Land Use Regulation, for which a decision (ZBA-07-05) was issued separately.

Application

Materials submitted with the application are listed in Appendix A.

Public Hearing

A public hearing for this application was held on October 18, 2007. Don Welch, the applicant's architect, represented the applicant at the hearing. No other parties participated in the hearing either in person or in writing.

Regulations in Effect

Land Use Regulations adopted March, 2006.

Sewage Ordinance as amended December, 2004.

Recommended Standards for Developments and Homes adopted September, 1997

Findings

1. The subject property is a 0.8 acre parcel located in the Village Commercial District. The building was used most recently as a bookstore. Previously it was a café and prior to that a post office.
2. As testified to by the applicant, and as found by the Zoning Board of Adjustment in ZBA-07-05, the applicant is proposing to sell food on a "to go" basis only. There will be no public seating or public restroom facilities.

Section 5.5—Site Plan Review

(D)(1)—Site Features

3. There are currently trees and bushes along the western portion of the parcel, between the parking area and the westerly property line. This vegetation provides a visual buffer for the parking lot, and also provides cover for wildlife, so is desirable to maintain.
4. The applicant stated at the public hearing that the existing vegetation between the parking lot and the westerly property line will be preserved.

5. The applicant has indicated that he may create a garden on the parcel from which he would grow produce to sell at the food shop. In a letter to the applicant dated June 1, 2007, Julie Foley of the Vermont Agency of Natural Resources stated that “such a use is considered an Allowed Agricultural Use under the Vermont Wetland Rules provided that the configuration of the wetland’s outlet or the flow of water into or out of the wetland is not altered and that no draining, dredging, filling, grading or stumping occurs.”
6. The Planning Commission finds that the project as presented will not negatively impact wetlands or wetland buffer areas provided that any activity within the wetland or buffer, including cutting of vegetation or grading of the site, be solely for agricultural purposes.
7. The project as presented will not negatively impact prime agricultural soils, active agricultural operations, surface waters, special natural areas, critical wildlife habitat, prominent ridgelines, hilltops, areas with steep slopes, or historic sites or structures.

(D)(2)—Site Layout & Design

8. The subject property is located within the Village Commercial District. The purpose of the district, as stated in Table 2.3, is “(1) to offer retail and personal services primarily for residents of Charlotte, (2) to provide for office space, (3) to provide for civic uses including public and quasi-public facilities and services, (4) to allow for mixed residential and commercial development; and (5) to promote a density, scale and pattern of commercial development that is compatible with the character and pattern of development in Charlotte’s villages as expressed in the Charlotte Town Plan.”
9. Currently the neighborhood includes a mixture of municipal buildings, a Day Care Facility, and some residences.
10. Since the project does not involve significant changes to the existing site plan or structure, the Planning Commission finds that it will be in keeping and harmonious with the size, scale, arrangement and appearance of the neighborhood.

(D)(3)—Access

11. The applicant is proposing to maintain the location of the existing access.
12. The access to the property is approximately 420 feet from Route 7.
13. After a concern was raised during Sketch Plan Review regarding the potential for “potholes” to impede the entry of vehicles into the parking lot, which could potentially create a backup towards Route 7, the applicant has proposed to pave the apron of the access.
14. The only potential for shared access would be with the Charlotte Children’s Center. Sharing an access between the two uses would result in an awkward site configuration, and would likely not improve traffic flow, and could conceivably result in traffic congestion since the highest vehicular use of both properties is likely to coincide during the early evening peak traffic hours.
15. The Selectboard is considering construction of sidewalks on Ferry Road in the village, however the plan has not been completed, and it is not clear whether the plan will be implemented. Currently the only existing sidewalks in the village are along the driveway to the library, on the south side of the town office, and on the north and east side of the post office. There are no sidewalks directly adjacent to the subject property.

(D)(4)—Parking, Loading, & Service Areas

16. The applicant is proposing to maintain the current parking area. In response to discussion at Sketch Plan Review, parking will be eliminated within the frontyard setback, as depicted on the current site plan.

17. The building has approximately 1,000 square feet of floor area—therefore the proposed business needs four parking spaces. The site plan currently shows ten spaces.
18. Section 3.11 of the Charlotte Land Use Regulations requires that all public, commercial and industrial uses must provide adequate clearly marked accessible parking spaces in accordance with state and federal Americans with Disabilities (ADA) requirements, and at least one bicycle rack. According to the submitted site plan, it appears there is sufficient room for both requirements to be met and still allow for the required number of parking spaces.
19. The parking area appears to have sufficient room for loading and unloading, in addition to parking.
20. Creating shared parking with the Charlotte Children's Center would result in an awkward layout.

(D)(5)—Landscaping and Screening

21. The parking lot is not currently screened or buffered from Ferry Road. The applicant has not proposed any screening or buffering.
22. As indicated above, the applicant stated at the public hearing that the existing vegetation between the parking lot and the westerly property line will be preserved. This vegetation will help to visually buffer the parking lot, but it is not sufficient. Additional landscaping along Ferry Road is needed to buffer the parking area.

(D)(6)—Stormwater Management and Erosion Control

23. The site is flat. Clearing of vegetation is not proposed. With the exception of the paved apron, the parking area is proposed to remain a gravel surface.
24. The application indicates that existing lot coverage is 14%, and existing building coverage is approximately 3%. The maximum lot and building coverages allowed by the Charlotte Land Use Regulations are 40% and 25% respectively.
25. The applicant is not proposing to make any structural changes to the building, and is not proposing to expand the parking area. Therefore, no change to lot coverage or building coverage is proposed.

(D)(7)—Outdoor Lighting

26. The letter from the applicant dated October 15, 2007 states “lighting will be wall mounted at each door (6’6” high) and pole mounted (8’0”) at ramp/front entry.”
27. At the public hearing the applicant requested an additional wall mounted light on the northern side of the building.
28. The lighting cut sheets submitted with the application indicate that the exterior fixtures are to use 100 watt lamps.
29. At the hearing, the applicant proposed a downward directed lighting fixture to be mounted above the sign, which is to use a 60 watt lamp.
30. At the public hearing the applicant stated that four wall-mounted lights will be sufficient (in addition to the sign-mounted light), and that the pole mounted light will not be needed.
31. At the hearing, the applicant stated that he is willing to explore the use of compact fluorescent bulbs, or other low energy bulbs, for the exterior lighting.
32. The proposed exterior lighting plan as revised at the hearing is generally acceptable, with conditions noted herein.
33. Street lighting is not currently appropriate or necessary.

Other

34. The water source and wastewater disposal area for the subject parcel are located on the adjoining parcel to the west owned by Charlotte Day Care Center, Inc.
35. The two previous property owners, who operated the bookstore and café, respectively, had business signs that appear to have been located in the Ferry Road right-of-way. The sign posts for the previous sign are still erected, and the prospective owner is proposing to use them for a new sign of the same size and in the same location.
36. The Planning Commission finds that the proposed sign location is acceptable unless the Selectboard requires the sign to be moved because it interferes with the Town's use of the road right-of-way.
37. The existing fence is located within the Ferry Road right-of-way. There is no indication that the property owner received Town approval for its installation. At Sketch Plan Review, the Planning Commission initially indicated that a fence may be desirable. The applicant added it to the site plan, but at the hearing the applicant indicated that the fence is not necessarily a desired feature of the site plan.
38. The business is likely to generate short visits by customers, some of whom are likely to leave their vehicles idling while they shop. Idling vehicles contribute to air pollution and climate change. The installation of a sign that requests customers not leave their vehicles idling is an appropriate measure to address this prospective impact.

Decision

Based on these Findings, the Planning Commission approves application PC-07-17 with the following conditions:

1. The site plan by Don Welch Architecture will be amended as follows:
 - A. The title block will indicate Lakefront Hospitality Associates, LLC is the applicant.
 - B. The location of four building-mounted lights and one sign-mounted light will be depicted.
 - C. Three shrubs of indigenous species that mature to 3-4 feet in height will be depicted south of the parking lot, to the west of the driveway and outside of the Ferry Road right-of-way.
 - D. The existing and proposed fence within the Ferry Road right-of-way will be removed.
 - E. A note will be added that vegetation to the west of the parking area will be preserved.
 - F. At least one space will be marked as an accessible parking space in accordance with state and federal Americans with Disabilities (ADA) requirements.
 - G. A signature block and recording block will be added.
2. Two paper copies (one full size and one 11"x 17") and a mylar (18" x 24") of the site plan, as amended in accordance with Condition 1 above, will be submitted to the Planning Commission for review and endorsement within 160 days and recorded by the applicant in the Charlotte Land Records within 180 days.
3. Prior to opening the business, the applicant will complete the following items:
 - A. The paved apron will be installed as depicted in the site plan.

- B. A bicycle rack will be installed in an accessible location.
 - C. Three shrubs of indigenous species that mature to 3-4 feet in height will be planted south of the parking lot, to the west of the driveway and outside of the Ferry Road right-of-way.
 - D. A fence or curb stops along the westerly side of the parking lot will be installed.
 - E. The existing fence within the Ferry Road right-of-way will be removed.
 - F. A sign indicating an accessible parking space will be installed.
 - G. A sign indicating "Please, No Vehicle Idling" or with a similar message will be installed in a visible location.
4. The applicant will preserve the existing vegetation to the west of the parking area, and will replace this vegetation if it becomes damaged or diseased, or if it dies.
 5. The applicant will replace the shrubs planted to the south of the parking lot and west of the driveway (as required herein) if they become damaged or diseased, or if they die.
 6. The applicant will use the exterior light fixture as submitted with the application, provided that the lamp does not protrude from the fixture. (A glass globe surrounding the lamp is allowed to protrude from the fixture). If the lamp protrudes, the applicant will use a similar fixture which uses lamps that do not protrude from the fixtures.
 7. Exterior lighting will be mounted in the four locations depicted in the approved site plan. The wall mounted fixtures will be mounted no higher than 6.5 feet in height.
 8. If possible, compact fluorescent light bulbs or other low energy bulbs will be used for the exterior lighting.
 9. A Site Plan Amendment will be required for any proposed increase of the number or wattage of exterior lights. Minor changes to the lighting fixtures are allowed with administrative review by the Town Planner.
 10. All exterior lighting will be turned off when the business is closed in the evening, with the exception of the light on the sign, which may be left on at the owner's discretion.
 11. The sign may stay in its current location unless the Selectboard requires that it be moved because it interferes with the Town's use of the road right-of-way.
 12. All new utility lines will be underground.
 13. With the exception of the paved apron, the parking area will be surfaced with non-white crushed stone.

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 4th 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 October 18th: Jeff McDonald, Jim Donovan, Linda Radimer, John Owen, Robin Pierce, Peter Joslin and Andrew Thurber.

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 Don Welch Architecture entitled “Flying Pig Schematic Site Plan, Ferry Road, Charlotte, Vermont” dated May, 2006, revised April, 2007.
- 3. A cut sheet for exterior lighting fixtures from Progress Lighting, models P5454 (pole-mounted) and P5654 (building mounted).
- 4. An e-mail from Paul Heald to Don Welch, which includes an e-mail from Erica Smith to Paul Heald regarding the business sign.
- 5. A memorandum from Don Welch to Tom Mansfield dated October 15, 2007
- 6. An e-mail from Don Welch to Dean Bloch dated October 18, 2007.
- 7. A cut sheet for the sign lighting fixture from Love It Lighting, model 57/855 ESW.