

# **CHARLOTTE PLANNING COMMISSION**

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

### **The Town of Charlotte**

#### **Site Plan for Plouffe Farm Lane Recreational Facility Application PC-09-34**

#### **Background**

The Town of Charlotte owns 75.49 acres of land located at the terminus of a private road (Plouffe Farm Lane) off Carpenter Road near the LaPlatte River in the northeast quadrant of Charlotte. On a portion of this land the town has constructed and maintains a series of recreational trails and associated facilities (parking area, kiosk and signs). Approximately 6 acres of the parcel was formally used as a town landfill (Solid Waste Facility ID#CH130) until August 1992 when the landfill was closed. In 1998 a small portion of the former landfill was approved for a “stump dump”, a brush and stump disposal site for up to 1500 cubic yards of tree stumps, brush and untreated wood reserved for town use only. The “stump dump” portion of the parcel remains a permitted municipal facility and use.

#### **Application**

Materials submitted with the application are listed in Appendix A. Materials submitted for the hearings on January 7 and February 4, 2010 are listed in Appendix B.

#### **Public Hearing**

A public hearing for this application was held on January 7, 2010 and continued until February 4. A site visit was held on Saturday, January 30, 2010. Sketch Plan Review of this application was waived by the Town Planner in a letter to the Select Board dated November 30, 2009. At the hearing on January 7, the applicant, Town of Charlotte, was represented by Dean Bloch, in his role as Assistant to the Select Board, and by Jenny Cole, Select Board member. The Town of Charlotte Trails Committee was represented by Margaret Russell. At the hearing on February 4, John Klesch, attorney from the firm Stitzel, Page and Fletcher represented the applicant. Dean Bloch, Assistant to the Select Board, and Charles Russell, Select Board Chair, were also present at this hearing. Margaret Russell of the Charlotte Trails Committee was also present. At the February 4 hearing, Brooke Scatchard, designer and developer of recreational trails and a member of the Charlotte Trails Committee, made a presentation as to the history of the planning, design and development of the existing Plouffe Farm trails. Adjacent property owners Gregg and Elizabeth Beldock provided testimony and evidence into the record at the January 7 hearing. Bob Hyams, chair of the Charlotte Conservation Committee, provided testimony at the January 7 hearing. Also participating at the January 7 hearing were residents Stephen Brooks and adjoining property owner Skylar Watson. Gregg Beldock also provided testimony at the February 4 hearing. Mr. Beldock was represented at this hearing by Attorney Mark Sperry from the firm Langrock, Sperry & Wool. Attorney Sperry also provided testimony on behalf of Mr. Beldock.

## Regulations in Effect

Town Plan, amended March, 2008

Land Use Regulations adopted March, 2006.

Recommended Standards for Developments and Homes adopted September, 1997 (Road and Driveway Standards)

## Findings

1. The applicant is owner of 75.49 acres of land off of Carpenter Road in East Charlotte that consists of two parcels; Parcel 1, 75 acres, more or less, situated at the terminus of Plouffe Farm Lane, a private right-of-way off the north side of Carpenter Road; and, Parcel 2, a 50 foot wide strip of land (Plouffe Farm Lane) for the purposes of providing access to Parcel 1.
2. The applicant, Town of Charlotte, is a municipality in the State of Vermont.
3. The subject land (site) rests within Rural and Conservation Zoning Districts of Charlotte.
4. A portion of the land, approximately 6 acres, was formally used as the town landfill. The landfill closed in 1992.
5. A part of the landfill portion of the property is currently permitted for use by the town as a disposal site for tree stumps, brush and untreated wood (stump dump). There is a non-functioning gate at the entrance to the stump dump.
6. The LaPlatte River runs along the eastern edge of the site and the applicant states that the site contains natural resources and wildlife habitat.
7. The commission finds no clearly defined property line boundary markers exist on the site.
8. The commission further finds that neighbors to the north of the site have complained that hikers using the site encroach upon their property because of poorly defined property boundary markings.
9. The site has been developed since 1992 with a series of trails designed for hiking, biking, cross-country skiing, snow shoeing and horseback riding.
10. The commission further finds that the developed trails are not structures as defined in Section 10.2 of the Regulations.
11. Under Table 7.1 of the Regulations, Areas of High Public Value, the commission finds the site contains the following areas of high public value:
  - Surface waters, wetlands and associated setback and buffer areas
  - Steep slopes (equal to or in excess of 15%)
  - Wildlife habitat (as identified in *Charlotte Town Plan* or as field delineated)
  - Conserved land on adjacent parcels
12. A color map entitled "Plouffe Lane Trailhead Charlotte, Vermont" prepared by Brooke Scatchard for the Charlotte Trails Committee, July 7, 2007 (Scatchard Map), depicts the developed trail system on the site. The legend for the map differentiates the two types of trails that compose the system. Trails depicted with a solid yellow line (yellow trails) are designated for use by equestrian, hiking and biking. Trails depicted with a dashed red line (red trails) are designated for hiking and biking.
13. The trails are open to the general public.
14. The trail system is served by a parking area at the trailhead constructed in 2006 by the town, approximately at the entrance area to the stump dump.

15. The total developed trail system is approximately 1.6 miles in length.
16. From the trailhead, the yellow trail travels approximately 500 feet north where it splits into two trail spurs, one moving northeast along the path of the LaPlatte River and a second moving northwest through open meadow. At two locations near the northern terminus of the yellow trail, east-west red trail connectors, each approximately 400 feet long, allow the trail user to shorten a total traverse of the yellow trail by use of a connector, red trail.
17. The Scatchard Map depicts a 100' Stream Buffer on either side of the LaPlatte River streambed in accordance with Section 3.15 Surface Waters & Wetlands of the Regulations.
18. As depicted on the Scatchard Map, approximately 600 feet of the developed trail system encroaches into the 100 foot stream buffer of the LaPlatte River. Section 3.15 of the Regulations only prohibits the development of structures, wastewater disposal systems and other impervious surfaces within the 100' buffer. The commission finds those portions of the trail system that encroach on the 100' stream buffer do not constitute a violation of Section 3.15 as such trails are not structures and are not impervious.
19. As depicted on the Scatchard Map, approximately 1200 feet of the developed trail system has been constructed on slopes in excess of 15%.
20. Section 3.14 of the Regulations, Steep Slopes, requires conditional use review by the Zoning Board of Adjustment (Board) of development that impacts an area of 200 square feet or greater with an existing grade equal to or in excess of 15%.
21. The Board, in a 2008 conditional use review of the developed trail system, found it unnecessary to address, under Specific Review Standards of Conditional Use Review, Section 5.4 (D) of the Regulations, any adverse impacts resulting from the developed trail system to significant natural, cultural or scenic features in the vicinity of the site. (Zoning Board of Adjustment Opinion, ZBA-07-13, dated April 23, 2008)
22. The commission finds the developed trail system constructed on slopes in excess of 15% do not create an adverse impact on the natural features of the site.
23. The commission finds the developed trails were sited and constructed in accordance with accepted engineering and best management practices for stormwater management and erosion control in order to prevent runoff, erosion, slumps and other down slope movements of material as well as to minimize associated risks to surface and ground waters, public facilities and roads, and neighboring properties in satisfaction of the requirements of Section 3.14 (A) (2) of the Regulations.
24. As designed, approximately 1600 feet of the red trail is limited to hiking and biking only.
25. Two scenic overlooks with benches exist on the trail system.
26. There are few trail markers along the existing trail system.
27. The applicant states that dogs are allowed on the site but must be kept under control.
28. The site is further developed with a town owned, unpaved access road, Plouffe Farm Lane (Parcel 2), a legal right-of-way that provides ingress and egress to the site as well as to six, single family house lots and to an equine veterinary business.
29. According to two engineering studies of Plouffe Farm Lane road conditions, the existing travel portion of Plouffe Farm Lane has a varying width of 11 to 18 feet, the majority of the approximately ½ mile access road being between 12 to 14 feet wide. (Study by Roger Dickinson, P.E., PTOE of Lamoureux & Dickinson dated July 5, 2007 and a study by David S. Marshall, P.E. of Civil Engineering Associates dated September 8, 2008)

30. There is no signage along Plouffe Farm Lane or at the Carpenter Road intersection directing traffic to the trailhead.
31. Testimony provided by adjoining property owners Gregg and Elizabeth Beldock states that some evergreen screening along the west property line of the site, along that portion of Plouffe Farm Lane that serves as the private drive to their property, was at some point in time inadvertently cut by the town. The Beldocks also state that some additional evergreen screening along the south property line of the site, near the area of the trailhead and parking area, adjacent to other property owned by Beldock, was similarly removed by the town.
32. The commission finds the application submitted is complete.
33. Fees for the application were waived by the Selectboard on July 11, 2007.
34. Sketch Plan review was waived by letter dated November 30, 2009 to the Selectboard by Dean Bloch in his role as Town Planner. Such waiver is allowed under Section 5.5(C) of the town Land Use Regulations.
35. A public hearing, duly warned, was held on January 7, 2010 and continued until February 4, 2010.
36. The commission finds the application seeks approval of a public facility. The application states the facility is comprised of the “[L]ayout and maintenance of a trail system on Town land, and the use of that system (without charge) for informal outdoor recreation]”. *(Narrative for Site Plan Review Application, Classification of the Proposed Use, page 2)*
37. Section 10.2 of the Regulations defines Recreation/Outdoor as “A facility for outdoor recreation, including but not limited to a stadium, tennis courts, athletic fields, swimming pools, and trails for hiking, horseback riding, bicycling, snowmobiling, and cross-country skiing.....”. Emphasis added
38. As a public facility trail system on town owned land, under Table 2.5 Rural District, Section (D) Conditional Uses, the commission finds appropriate review of the application under Recreation/Outdoor, a conditional use which requires Site Plan Review under Section 5.5 of the Regulations.
39. Conditional Use approval of the site for an outdoor recreational trail system submitted for review as a public facility, and reviewed as a public facility, was granted the town by the Zoning Board of Adjustment (ZBA) on April 23, 2008. (Approval #ZBA-07-13)
40. The ZBA approval contained several conditions, among which were:
  - Improvements are to be made to Plouffe Farm Lane
  - The Planning Commission is to assess and approve the parking lot for size, and safe on-site vehicular and non-vehicular circulation under Site Plan review
  - The site is to be gated
41. Site Plan Review, Section 5.5 of the town’s Land Use Regulations requires the application satisfy the following standards and conditions:
  - A. Site Features. It is required that the project layout and design incorporate and protect significant site features which include existing vegetation, surface waters, wetlands, buffer areas, special natural areas, wildlife habitat, and areas with slopes 15% or greater. The commission finds that the project, as presented, is properly laid out and designed in a manner consistent with this requirement.
    - a) The trail system as laid out fits the topographic characteristics of the site.
    - b) No structures have been constructed within the 100 foot buffer of the La Platte River.

- c) No structures have been constructed within areas of significant wildlife habitat.
- B. Site Layout & Design. It is required that the project size, scale, arrangement and appearance are in keeping and harmonious with its surroundings, and that the development will not have a undue adverse aesthetic impact on site features or the surrounding area. The commission finds the project as presented has been designed and developed in a manner fully consistent with this requirement. The commission further finds the project imposes no undue adverse impacts on site features or the surrounding area.
- C. Access. It is required that provisions be made for adequate and safe vehicle and pedestrian access to and from the site in accordance with Section 3.2 of the Regulations. Traffic engineering studies of Plouffe Farm Lane were done in July, 2007 by Roger Dickinson, P.E. from the firm, Lamoureux & Diskinson, and in September, 2008 by David Marshall, P.E. from the firm, Civil Engineering Associates, Inc. Both studies concur in that the existing conditions of Plouffe Farm Lane are not satisfactory for any proposed increase in vehicular use. The commission finds that the proposed development may increase vehicular traffic on Plouffe Farm Road. The commission further finds documented deficiencies in the road construction, specifically insufficient uniform width to satisfy Section 3.2 (D (2) of the Regulations and the "Town of Charlotte Road and Driveway Standards" which require 18 feet of width for access roads that serve 6 or more house sites and which also requires vehicle turn-outs (12' wide x 35' long) every 800 feet and a minimum turnaround at the intersection with Carpenter Road of 1600 square feet. Additionally, the road must be constructed with a minimum of 18" of gravel with a 4" crusher run stone wearing surface and be capable of bearing the weight of a 29,000 lb. (14 ½ ton) fire truck on all 18' of road.
- D. Landscaping & Screening. It is required that proposed developments incorporate landscaping and screening which preserves and incorporates existing vegetation and serves to buffer or screen development from neighboring properties. The commission finds existing natural vegetation, except in the location of the proposed parking area, sufficient as a buffer and screen for the limited development of the instant project which is devoid of new structures.
- E. Parking, Loading and Service Areas. It is required that on-site parking, loading and service areas be provided in accordance with Section 3.2 of the Regulations. The commission finds that provision has been made for adequate and safe on-site vehicular circulation in relation to the intended use.
- F. Stormwater and Erosion Control. See Finding No. 23.
- G. Outdoor Lighting. No outdoor lighting is proposed.

## Decision

Based on these Findings, the Planning Commission approves application PC-09-34 for Site Plan of a public outdoor recreational trail facility on land owned by the Town of Charlotte on Plouffe Farm Lane, with the following conditions:

1. Prior to allowing public access to the trail system, Plouffe Farm Lane shall be widened

from the intersection with Carpenter Road to the trailhead parking area to 18 feet of travel surface with 2 foot wide shoulders, 12' x 35' turnouts shall be constructed every 800' and the intersection with Carpenter Road shall be enlarged to a minimum of 1600 square feet, all in accordance with "The Town of Charlotte Driveway and Road Standards" and Section 3.2 of the Regulations.

2. Prior to allowing public access to the trail system, the parking area near the trailhead shall be planted with sufficient native vegetation of a variety already prevalent on the site to adequately screen the parking area from the view of neighboring property owners.
3. Prior to allowing public access to the trail system, additional trail markers will be placed at reasonable intervals along the trail, indicating the type of use allowed on the relevant portion of the trail.
4. Directional signs at the intersection of Plouffe Farm Lane and Carpenter Road and at the trailhead/parking area, consistent with those proposed by the applicant in size of 24"x30", shall be installed prior to allowing public access to the trail system.
5. Prior to allowing public access to the trail system, the gate at the trailhead/parking area shall be made functional.
6. A sign shall be placed at the trailhead/parking area indicating that all dogs must be under the control of their owner or leashed.
7. Prior to allowing public access to the trail system, a licensed engineer shall certify in writing to the town that Plouffe Farm Lane has been widened and improved as required and that vegetative screening at the parking area has been installed.
8. The parking area surface shall be non-white crushed stone.
9. Markers or signage shall be placed at appropriate locations to indicate town owned property, sufficient to deter public encroachment on adjacent private land.

**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 January 7, 2010:** Jeff McDonald, Jim Donovan, John Owen, Peter Joslin, Linda Radimer, Paul Landler and Eleanor Russell.

**Members Present at the Public Hearing on February 4, 2010:** Jeff McDonald, Jim Donovan, Linda Radimer, John Owen, Peter Joslin, Paul Landler 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: *John Owen*  For /  Against Date Signed: 3/18/10
2. Signed: *J.M.S.M.*  For /  Against Date Signed: 3/18/10
3. Signed: *Charles Russell*  For /  Against Date Signed: 3/18/10
4. Signed: *Andy Radwin* For /  Against Date Signed: 3/18/10
5. Signed: *John*  For /  Against Date Signed: 3/18/10
6. Signed: *Paul Kirsch*  For /  Against Date Signed: 3/18/10
7. Signed: *John* For /  Against Date Signed: 3/18/10

### Appendix A

The application consists of:

1. A Site Plan Review application form and appropriate fee (waived).
2. A description and history of the site entitled "Plouffe Lane Trailhead Narrative for Site Plan Review Application" prepared by Dean Bloch, Assistant to the Select Board.
3. A letter from Town Planner Dean Bloch dated November 30, 2009 waiving sketch plan requirement for the site plan review.
4. Copy of a July 11, 2007 memo from Charles Russell, Select Board Chair, to the Planning Commission for waiver of fees associated with the application for Site Plan Approval.
5. Two color maps of the "Plouffe Lane Trailhead, Charlotte, Vermont" prepared by Brooke Scatchard for the Charlotte Trails Committee on July 7, 2007.
6. A series of 12 color photo copies of existing trail features.
7. A color photo copy of the existing Plouffe Lane Trailhead sign.
8. Six photo copy examples of executed trail sign-in sheets
9. Copy of a July 2, 2007 letter from Julie Foley, State of Vermont District Wetland Ecologist, to Dean Bloch, Charlotte Town Planner regarding trail impacts to the LaPlatte River wetland.
10. Copy of a 4 page letter with 7 page attachments and resume dated September 8, 2008 from David S. Marshall, P.E. of the firm Civil Engineering Associates, Inc. to Mr. Charles Russell, Chairman, Town of Charlotte Selectboard, referenced as "Charlotte Park Plouffe Lane Traffic Impact Study".
11. Photo copy of a survey by Mark V. Ward dated April 1985 and recorded in the Town of Charlotte Land Records on September 11, 1985 at Volume 6, Page 38 and labeled "Survey of Property for Town of Shelburne to be Conveyed to Town of Charlotte, Charlotte, Vermont".

### Appendix B

Material submitted for the hearings on January 7<sup>th</sup> and February 4<sup>th</sup> consisted of:

1. Legal memorandum dated January 27, 2010 from Attorney John H. Klesch on behalf of the Town of Charlotte referenced as "Site Plan Application # PC09-34; Plouffe Lane Trail Facility; "Public Facility" Limitations on Site Plan Review and Upcoming Site Visit
2. Legal memorandum with attachments dated January 28, 2010 from Attorney Joseph D. Fallon on behalf of property owners Greg and Elizabeth Beldock, abutting property owners on Plouffe Farm Lane, referenced as "Site Plan Application #PC09-34; Plouffe Lane Trail System
3. Copy of Town of Charlotte Zoning Board of Adjustment Conditional Use Decision #ZBA-07-13 dated April 23, 2008 and recorded in the Town of Charlotte Land Records on April 24, 2008 at Volume 173, Pages 157-162 in the matter of Charlotte Trails Committee, 800 Plouffe Farm Lane.
4. Copy of email letter from abutting property owners John and Laurie Thompson sent to Town Planner Dean Bloch and addressed to the Charlotte Planning Commission with referenced subject "Plouffe Lane Trailhead signs".
5. Copy of the Planning Commission Minutes from the Town of Charlotte Planning Commission meeting on September 24, 1996 regarding "Beldock-Major Subdivision On Plouffe Lane, Preliminary Plat Review Reopened From 7/23/96.
6. Copy of a document entitled "Wildlife Habitat Appraisal and Management Recommendations for the Property of Gregg Beldock, Charlotte, Vermont" prepared by Jeffrey A. Wallin, Certified Wildlife Biologist, Multiple Resource Management, Inc., Leicester, VT dated September 18, 1996.
7. Copy of a document entitled "Wildlife Inventory and Habitat Analysis of Plouffe Lane Natural Area Prepared for the Charlotte Conservation Commission" by Alicia Daniel and Matt Kolan dated May, 2005 with resumes attached.
8. Copy of Resume' of Brooke Scatchard, 432 Texas Hill Rd., Hinesburg, VT, designer and builder of the existing Plouffe Lane trail system.
9. Copy of a document with attached map entitled "Trail development and recreational uses of Plouffe Lane Natural Area" by Jesse H. Mohr, Consulting Ecologist, Native Geographic, LLC dated 12/1/2010 and addressed to the Charlotte Planning Commission.