

**THE APPLICANTS PROPOSE TO ADD TO FINDINGS OF FACT:**

1. At the re-opened hearing on re-consideration, the Applicants submitted a new lot plan which addressed many of the concerns raised in the Commission's Findings of Fact and Decision of January 12, 2017.
2. The Applicants and their experts continued to disagree about the existence of an area of "Core Forest" along the southwest border in the area of Lots 5, 6, 7 and 8. The Town and its experts point out that to be "core forest", the forest lands must be more than 100 meters (328') from "*a zone of human disturbance. Human disturbance zones were defined as developed, industrial, or residential areas, agricultural openings, and roads*". Appendix A, Technical Guide to Classifying, Identifying, and Justifying Significant Wildlife Habitat in Charlotte, Vermont.

The Applicants and their experts provided a plan showing a 100 meter line from the edge of the active agricultural meadows on the west and northwest corners of the property. In addition, they show on the plan a 100 meter line from the road on the former Allmon Parcel to the south of their property which is now part of Mount Philo State Park. They and their experts argue that while such road is not currently used for vehicular access, that it is heavily used by walkers and hikers going up and down the side of Mount Philo. They assert that the extensive year round pre-dawn to post-dusk use of such road by pedestrians, often with unleashed dogs, has a much greater disturbing effect on wildlife in the area than a road serving a few houses. Thus they argue that there is no area of "core forest" on their land.

3. Despite the disagreement about the presence of "core forest", the Applicants and their experts did express their understanding regarding the importance of creating and maintaining wildlife linkages to the lands to the north and west.

The Applicants have revised their plans to provide a 100' wide wildlife/nature corridor along the southerly boundaries of Lots 6, 7 and 8 which corridor connect with the wildlife/nature corridor in the center of the property. Thus together these two corridors will provide both north/south and east/west wildlife/nature linkages. Further, to enhance the westerly linkage, the Applicants have agreed that the corridor on the south side of Lot 8 shall extend to the former pond and drainage way and that such areas shall lie fallow and allow regeneration of shrubs and trees in order to eventually provide a wooded corridor linking the lands on the west side of Mount Philo Road. This southern corridor will be adjacent to and connect with the State Park land on the west side of Mount Philo and south of the project which is currently regenerating as a woodland and provide further linkage.

In addition, there will be a 100' riparian corridor centered on Kimball Brook.

4. In order to protect the wildlife/nature corridor, but also recognizing the need for the Applicants' existing homes and new homes to undertake some limited cutting for view, the Applicants have proposed that the Wildlife/Nature Corridors would be subject to the following limitations on tree cutting within such areas:

*Within the Wildlife/Nature Corridor shown on the Lot Plan, trees and vegetation may be removed in order to provide screened "view corridors" from adjacent homes. Such view corridors may be created by "keyhole" tree limbing and cutting and vegetation removal provided at least 50% of the canopy cover is retained within such corridors and no corridors shall be greater than 25 feet wide.*

*Within the Wildlife/nature Corridor, lot owners may create and maintain limited natural footpaths (no more than 4' wide) for non-commercial walking and other non-commercial, non-motorized, non-mechanized, pedestrian recreational activities.*

*All cutting and clearing by lot owners of trees or other vegetation to create or maintain a view corridor or footpaths shall be conducted in a manner so as to render the corridor or path as natural in appearance as possible. Tree and vegetation removal shall emphasize retention of native trees and the control of non-native invasive species.*

5. The revised Lot Plan delineates an area of at least fifty-six (56) acres as "Open Space" which shall be subject to the standard provisions of a typical Town of Charlotte Open Space Agreement containing the following provisions:
  - a. The 30 acre meadow on Lot 9 shall include a 100' riparian corridor centered on Kimball Brook, which corridor shall be left undisturbed.
  - b. Only accepted agricultural practices which meet the Vermont Guidelines for Organic Crop Certification shall be allowed on the 30 acre meadow of Lot 9.
  - c. There shall be the further restriction on the area north and west of Kimball Brook that no grazing of animals, spreading of manure, use of pesticides, building or construction of any kind will be allowed.
  - d. There shall be the further restriction on the area south and east of Kimball Brook that grazing of animals will be allowed only if prior to any grazing, appropriate fencing shall be installed at least 50' from the boundary of the delineated wetlands in order to keep grazing animals well outside the riparian corridor and away from the Brook.

The forested portions of the Open Space shall be subject to a forestry management plan prepared by a qualified forester prior to forestry activities in areas outside the boundaries of the road or driveways, the building envelopes, the septic systems or utility corridors and the area of Lot 1 delineated to be re-established as a meadow.

Such forestry management plan shall address and implement the following stewardship goals and management objectives:

- *Protect sensitive habitats, plants and plant community types, especially unusual, rare, threatened or endangered species of certain flora and fauna.*
- *Protect streams and wetlands.*
- *Protect and enhance wildlife/nature habitat and linkage corridors, including but not limited to, retaining or creating a variety of forest structures, including den trees, snags, cull trees for structure recruitment purposes, and fine and coarse woody debris on the ground.”*

6. The Applicants have also agreed that Lots 1 and 2 shall be accessed from Half Mile Road as shown on the revised Lot Plan.
7. The Applicants will create one additional curb cut from One Mile Road. The location of such curb cut has been approved by the Town Road Foreman, who has indicated he will recommend approval of a curb cut permit. Such curb cut shall serve as the joint access to Lots 3 and 4.
8. The Applicants have also agreed that Lot 4 will have 2 alternative building envelopes (with only one being allowed to be used) as shown on the revised Lot Plan.
9. The Applicants have also agreed that the building envelopes on all Lots, except Lot 9, shall be a maximum of ½ acre as shown on the revised Lot Plan.
10. Assuming that the proposed conditions relating to the Wildlife/Nature Corridors are approved, the Applicants will move the Lot 6 septic system out of its proposed location. The community septic system on proposed Lot 5 should either be reevaluated or redesigned to meet the wastewater requirements for Lot 6, or Lot 6 should be served by another septic system.
11. The Applicants have also agreed that any buildings on Lots 8 and 9 shall be subject to covenants which are designed to ensure that the buildings built on such lot will blend into the forested background. Such covenants shall include:

(a) *The exterior materials of the buildings shall use materials of “earth tone” color, defined as those colors draw from a color palette of browns, tans, greys, greens, oranges, and reds. The colors shall be muted and flat in an emulation of the natural colors found in dirt, moss, grasses, trees, shrubs and rocks. Roofs may be earth tone, grey or black. It’s the intent of this covenant that the color scheme of the exterior materials of the buildings blend with the surrounding landscape during most of the year.*

*(c) The top coating of any driveways or parking areas shall be "earth tone" or black. White stone shall not be used as a top coating. Driveways shall not be paved.*

*(d) Only down-shielded exterior lights with wattage no greater than 75 watts shall be installed, maintained and replaced as necessary. All lighting shall be kept to the minimum practical necessary for the use intended and shall be substantially screened so as to provide minimum visibility from off the Property.*

**THE APPLICANTS PROPOSE TO REVISE THE FOLLOWING CONDITIONS**

**CONDITION 1 SHALL BE REVISED AS FOLLOWS:**

1. The final plat will reflect the following:
  - a. The changes made to the project in the revised Lot Plan and as discussed in the findings of fact.
  - b. The original access on One Mile Road and lengthy driveway to serve Lots 1 and 2 will be removed and those lots will be accessed from Half Mile Road. To the extent practical, the water line and utility for such lots will be located within the Half Mile Road right of way and the driveways and utilities will be designed to minimize impact on forested areas.
  - c. All lots with have a maximum of a half-acre building envelope except Lot 9 which shall have a one acre building envelope, all as shown on the revised Lot Plan.
  - d. Lot 4 will have 2 alternate building envelopes (with only one envelope being allowed to be used) as shown on the revised Lot Plan.
  - e. A mapped area of at least 56 acres shall be designed as Open Space, as shown on the revised Lot Plan. The revised Lot Plan delineates an area of at least fifty-six (56) acres as “Open Space” subject to the standard provisions of Open Space with the Town, but containing the following provisions:
    - i. Wildlife/nature Corridors:
      - A. There shall be a minimum 100’ wide wildlife/nature corridor along the southerly boundaries of Lots 6, 7 and 8 as shown on the revised Lot Plan.
      - B. There shall be north/south central wildlife/nature corridor as shown on the revised Lot Plan.
      - C. The corridors shall connect to provide both north/south and east/west wildlife/nature linkages. Further, to enhance the westerly linkage, the corridor on the south side of Lot 8 shall extend to the former pond and former stream and that such areas shall lie fallow and allow regeneration of shrubs and trees in order to eventually provide a southerly more wooded corridor linking to the lands on the west side of Mount Philo Road.
      - D. There will be a 100’ riparian corridor centered on Kimball Brook on Lot 9.

E. Some limited cutting for views will be permitted in the Wildlife/Nature Corridors subject to the following limitations:

*Within the Wildlife/Nature Corridor shown on the Lot Plan, trees and vegetation may be removed in order to provide screened "view corridors" from adjacent homes. Such view corridors may be created by "keyhole" tree limbing and cutting and vegetation removal provided at least 50% of the canopy cover is retained within such corridors and no corridors shall be greater than 25 feet wide.*

*Within the Wildlife/Nature Corridor, lot owners may create and maintain limited natural footpaths (no more than 4' wide) for non-commercial walking and other non-commercial, non-motorized, non-mechanized, pedestrian recreational activities.*

*All cutting of trees or other vegetation by lot owners to create or maintain a view corridor or footpaths shall be conducted in a manner so as to render the corridor or path as natural in appearance as possible. Tree and vegetation removal shall emphasize retention of native trees and the control of non-native invasive species.*

ii. Lot 9

- A. The 30 acre meadow on Lot 9 shall include a 100' riparian corridor centered on Kimball Brook, which corridor shall be left undisturbed.
- B. Only accepted agricultural practices which meet the Vermont Guidelines for Organic Crop Certification shall be allowed on the 30 acre meadow of Lot 9
- C. There shall be the further restriction on the north and west of the Kimball Brook that no grazing of animals, spreading of manure, use of pesticides, building or construction of any kind will be allowed.
- D. There shall be the further restriction on the south and east of the Kimball Brook that grazing of animals will be allowed only if prior to any grazing, appropriate fencing shall be installed at least 50' from the boundary of the delineated wetlands in order to keep grazing animals well outside the riparian corridor and away from the Brook.

iii. Forestry Management

The forested portions of the Open Space shall be subject to a forestry management plan prepared by a qualified forester prior to forestry activities in areas outside the boundaries of the road or driveways, the building envelopes, the septic systems or utility corridors, or the area of Lot 1 which is designated as re-establishment of meadow lands.

Such forestry management plan shall address and implement the following stewardship goals and management objectives:

- *Protect sensitive habitats, plants and plant community types, especially unusual, rare, threatened or endangered species of certain flora and fauna.*
- *Protect streams and wetlands.*
- *Protect and enhance wildlife/nature habitat and linkage corridors, including but not limited to, retaining or creating a variety of forest structures, including den trees, snags, cull trees for structure recruitment purposes, and fine and coarse woody debris on the ground.”*

- f. The Applicants will move the Lot 6 septic system out of its proposed location. The community septic system on proposed Lot 5 should either be reevaluated or redesigned to meet the wastewater requirements for Lot 6, or Lot 6 should be served by another septic system
- g. The driveway serving Lots 5 to 9 shall have vehicle turn-outs (12' wide x 35' long) every 800'.

**CONDITION 5 SHALL BE DELETED (FORESTRY ISSUE INCLUDED IN CONDITION 1)**

**CONDITION 12 SHALL BE DELETED (LINKAGE CORRIDOR INCLUDED IN CONDITION 1)**

**CONDITION 14 SHALL BE REVISED AS FOLLOWS:**

14. Any buildings on Lots 8 and 9 shall be subject to covenants which are designed to ensure that the buildings built on such lot will blend into the forested background. Such covenants shall include:

(a) *The exterior materials of the buildings shall use materials of “earth tone” color, defined as those colors draw from a color palette of browns, tans, greys, greens, oranges, and reds. The colors shall be muted and flat in an emulation of the natural colors found in dirt, moss, grasses, trees, shrubs and rocks. Roofs shall be earth tone, grey or black. It the intent of this covenant that the color scheme of the exterior materials of the buildings blend with the surrounding landscape during most of the year.*

(B) *The top coating of any driveways or parking areas shall be “earth tone” or black. White stone shall not be used as a top coating. Driveways shall not be paved.*

(d) *Only down-shielded exterior lights with wattage no greater than 75 watts shall be installed, maintained and replaced as necessary. All lighting shall be kept*

*to the minimum practical necessary for the use intended and shall be substantially screened so as to provide minimum visibility from off the Property.*