

**SUBDIVISION REVISION – FINAL PLAT**

<b>Owner: Bernard A. Giroux Trust, June T. Giroux Trust, Victor J. Giroux Trust and Ramona M. Giroux Trust. They own both lots</b>	<b>Applicant: Tyler Sterling for Hannaford Bros. Co.</b>
<b>Surveyor/Engineer: O’Leary Burke Civil Associates 1 Corporate Drive Essex Jct. Vt.</b>	<b>Property Tax Parcel: 20-50-02.100</b>

**BACKGROUND**

The approval of the proposed new Hannaford Supermarket, granted on November 6, 2012 recognized, in Finding of fact #2, Conclusion # 15 and Order # 15, that for the approval to be valid, land from the “Automotion” lot would have to be added to Commerce Park lot # 15 (this Hannaford lot.

Hannaford Bros. Co. the Applicant, is now requesting a revision to the final plat approval, granted on December 27, 1987, and recorded on slide 106 in the Town records, located on Commerce Street Extension, Tax Map 20-50-02.100 in the Commercial Village District.

Specifically the applicant is requesting to transfer .32 acres, from the eastern side of the “Automotion” lot, Tax Map 20-50-02.200 to this lot #15, This will make lot #15 4.88 acres and the Automotion Lot 1.31 acres after this portion is added to lot #15 and a 0.13 acre portion has been conveyed from the Automotion lot to the Giroux body shop storage Yard. All lots will comply with the dimensional requirements for the districts in which they are located.

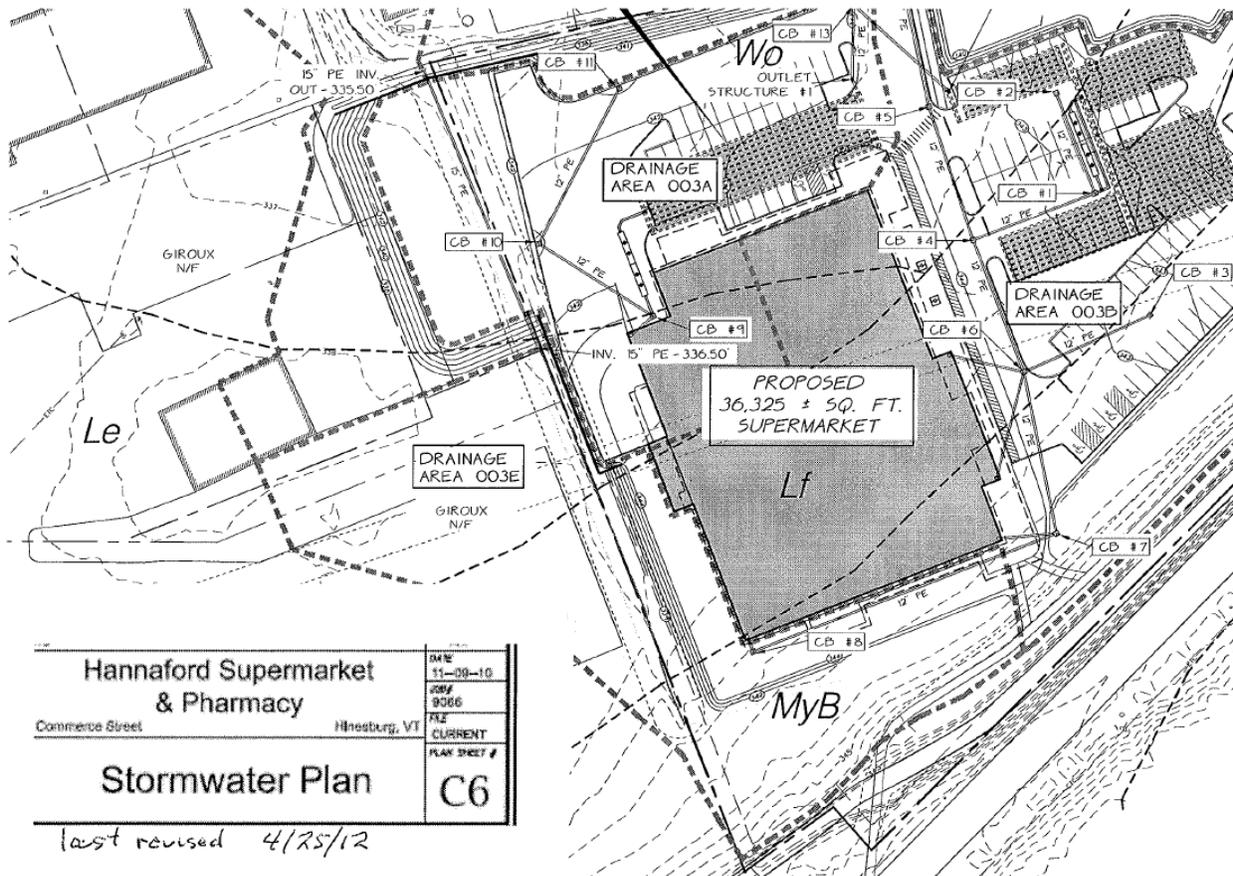
No new lots will be created by the transfer or the relocation of the lot line. The major physical change that will result from this application, other than the earthen platform itself, is the impact on the stormwater easement area, grassed swale and lawn area on the Automotion lot. The swale is proposed converted to a culvert under the earthen platform of the Farmers Market area and the surrounding grassed or brush areas will be covered.

This filled Farmers Market area was included in the site plan approval however since no application had been made to convey, and therefore impact the Automotion Lot, the ramifications of the creation of the earthen platform were not thoroughly reviewed.

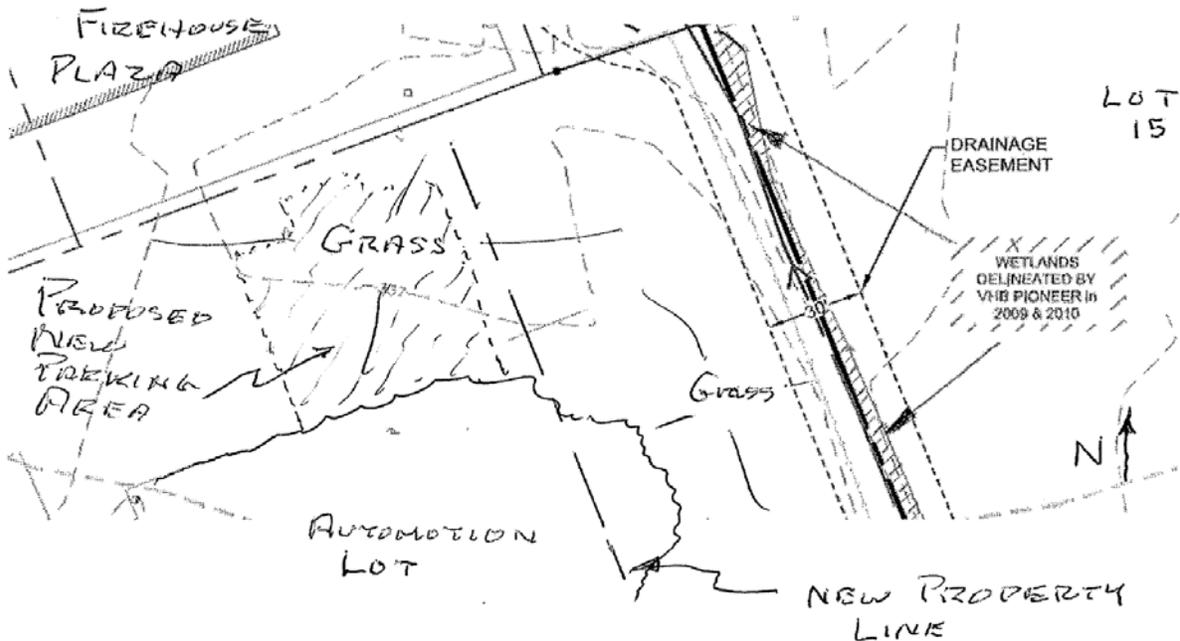
Section 6.6.2 of the subdivision regulations requires that: “An adequate surface storm water drainage system for the entire subdivision area shall be provided....”. Stormwater flow on the eastern side of the Automotion property was identified in the 2005 approval as follows: “the rear portion of the property drains to a swale at the rear of the property, which flows north under commerce street and eventually to Patrick brook”. There is currently over 60 feet of grassed surface available between the existing gravel area and the center of the swale on the eastern boundary of the lot extending the full width of the lot for the treatment and flow control of the stormwater coming from the existing gravel parking area. The construction of the earthen platform for the farmers market will isolate this property from direct access to above mentioned swale and there is no proposal for treatment of the existing stormwater.

The swale which is proposed to be eliminated also accepts in indeterminate amount of stormwater from the Giroux storage yard lot and, as well, from the south western portion of lot # 15., The existing swale both treats and slows down the stormwater flow and no evidence has

been presented about the impact of the elimination of this portion of the swale.



Wetlands have been identified for lot #15 (refer to the plan above) up to the boundary and they continue to an unknown extent onto the area to be transferred and covered by fill. There has been no delineation of the wetlands on the Automotion lot. They are contiguous to the others on lot #15 and should be addressed as well.



While there is a Master Plan Submission Requirement within the Village Growth Area zoning districts section 3.1), the DRB can determine that this is a minor amendment to a previously approved project and not require one. This should be determined by the DRB.

The Planning Standards, Section 5.1.2 Natural Features Protection – requires due regard to among other issues wetlands. It is almost certain that some exist on the Automotion property to be annexed and until they have been identified a finding of due regard is impossible.

As I was ready to hit print for this report I started thinking about the fact that the parcel which has to be added to lot # 15 is in another zoning district. I hesitate to raise this question however I am not sure how to interpret the regulations in this instance.

The November 6, 2012 site plan approval which approved Hannafords contains the following:

*Finding # 2) This project relies on the purchase of a portion of lot # 20-50-02.200, a .32 acre lot to the West where the Automotion business is located and easements on lot 20-50-04.00 which is where the Giroux storage yard is located, both in the adjacent Village District. These properties and lot #15 are all owned by Victor J. and Ramona A. Giroux Trustees.*

*Order # 15) The approved site plan, zoning lot coverage, official map approval, and some of the landscaping are all contingent upon the addition of the parcel from the Giroux property to the west. This permit is null and void if revisions to associated subdivisions and site plans are not approved, and if such property is not conjoined to lot 15 according to all approved plans.*

My question is less about whether the area can be annexed but rather, once it is annexed, it remains in the village district where retail uses of over 20,000 square feet are not allowed. Although the structure is clearly in the commercial district, it may be that it is not a standalone use and there is not sufficient area in the district where it is allowed. If the use is completely dependent on the acquisition of the parcel in the village district, then is that portion of the village district in effect being used for a use that is not allowed there?

Respectfully submitted,

Peter Erb

cc: Applicant