

OFFICIAL MAP

RELEVANT REGULATION:

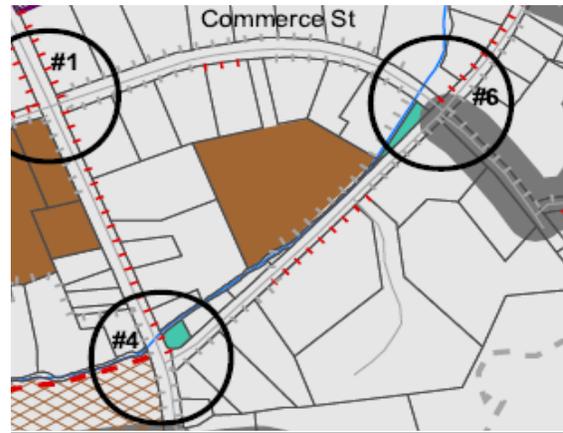
State Statute title 24, Chapter 117 § 4421. Official map

A municipality may adopt an official map that identifies future municipal utility and facility improvements, such as road or recreational path rights-of-way, parkland, utility rights-of-way, and other public improvements, in order to provide the opportunity for the community to acquire land identified for public improvements prior to development for other use and to identify the locations of required public facilities for new subdivisions and other development under review by the municipality.

(5) Development review for properties with mapped public facilities. Any application for subdivision or other development review that involves property on which the official map shows a public facility shall demonstrate that the mapped public facility will be accommodated by the proposed subdivision or development in accordance with the municipality's bylaws. Failure to accommodate the mapped public facility or obtain a minor change in the official map shall result in the denial of the development or subdivision. The legislative body shall have 120 days from the date of the denial of the permit to institute proceedings to acquire that land or interest in land, and if these proceedings are not started within that time, the appropriate municipal panel shall review the application without regard to the proposed public facilities. (Added 2003, No. 115 (Adj. Sess.), § 95.)

HINESBURG OFFICIAL MAP – Relevant area

Future community facilities for the areas shown include, but are not limited to: town Green, Community Center, Fire/Police station expansion, Farmers Market venue, Parks and Recreation areas, Library relocation.



BACKGROUND

The Town adopted the Official Map for important and sound reasons. The initial rationale for creating an Official Map stemmed from public feedback received at the Planning Commission’s initial Village Growth Area discussion sessions in 2006 and at public hearings on the Village Growth Area rezoning in 2007 and 2008. Community members felt the ambitious growth plan needed to include provisions for future community facilities. The types of facilities listed stem directly from needs and desire lines identified by community members – many of which are described as goals or recommendations in the Town Plan (e.g., need for a Town Green, need for more recreation fields, etc.). The Selectboard reiterated this when they sent back the Planning Commission’s original rezoning proposal in 2008 with instructions to develop a formal Official Map proposal to accompany and inform the village growth area rezoning package. The Official Map was refined late in 2008, and reviewed at

Planning Commission and Selectboard public hearings early in 2009 – January and April respectively. The Selectboard adopted it along with the larger package of village growth area rezoning in May 2009

REVIEW

All of the public facilities mentioned appear to require a fairly large footprint and it doesn't appear that anything like them could be accommodated by the current proposal. As well, there hasn't been, thus far, any indication from the applicant that they will attempt to accommodate the map. Early on we met with the applicant and explained the issue and their response was that they didn't feel that our official map would hold up in court. We have sought legal counsel from Bud Allen, the Town Attorney, and Steve Stitzel (a well respected that attorney whose firm represents many municipalities) and they both indicated that our official map is sound and contains the necessary specificity to be legally enforceable.

It is important to remember that the validity of the regulation itself is not an issue for the DRB. The official map was adopted and not appealed, and is part of Hinesburg's regulations. Whether it could be overturned by some future court appeal has no bearing on the decision you have to make based on the Official Map regulation in place at this time. The burden is on the Applicant to demonstrate that the mapped public facility can be accommodated by this or a modified proposal. .

ACTION

If the applicant offers a plan or rationale indicating that their proposal can accommodate the official map, obviously it should be discussed and considered at the meeting. If nothing is offered it makes little sense to debate the legal merits of the regulation, and we should move on. As noted above the statute says "Failure to accommodate the mapped public facility or obtain a minor change in the official map shall result in the denial of the development or subdivision". We would recommend that any formal decision about the official map be done when these meetings and hearings are officially closed and included in the final decision addressing all aspects of the proposal. Bear in mind that if you decide that the proposal cannot accommodate the map it does not mean that the land will necessarily be purchased. It only notifies the Selectboard that they have 120 days from the date of the denial of the permit to institute proceedings to acquire that land or interest in land. If these proceedings are not started within that time frame the DRB must review the project again without regard to the official map.

Peter Erb, Zoning Administrator