

**Town of Hinesburg**  
**Planning Commission**  
**September 26<sup>th</sup>, 2012**  
Approved 10/10/12

**Members Present:** Joe Iadanza, , Carrie Fenn, Maggie Gordon, , Tim Clancy, Johanna White, Bob Linck, Ray Mainer, Kyle Bostwick arrived at 7:38 pm.

**Also Present:** Alex Weinhagen (Director of Planning & Zoning), Renae Marshall (Recording Secretary) .  
*Public Included: Valerie Spadaccini, George Bedard, Tom Miner, Kathleen LaClair, Jean Miner, Matt Baldwin, John Veilleux, Dick Francis, Andrea Haulenbeek, Mike Bissonette*

Joe Iadanza chaired the meeting, which was called to order at 7:32 pm.

**Rural Area Regulations & Town Plan Revisions**

Alex began by stating that the public hearing was a statutory requirement for this Commission. He said that a minimum of one public forum is required for this Board. The next step is for the Planning Commission to decide if they want to make additional changes based on the feedback that has been received or simply forward this proposal onto the SB at this point. He pointed out that the SB has the opportunity to make additional changes and will hold their own public hearings. The Selectboard ultimately has final approval.

Joe I. opened the meeting up to the audience for brief comments before the Commission begins to discuss the feedback from the public hearing.

George Bedard stated that Leonard Duffy had brought up a comment during the public forum regarding that procedurally, Town Plan changes were to be made first and then the regulation changes. Alex responded that actually both are addressed at the same time by State Statute. George asked for clarification if the minimum number of public forums required by statute is 1 or 2. Alex confirmed the Planning Commission was only required to hold the minimum of one public hearing.

Val Spadaccini stated that she has listened to all of the comments made and encouraged the PC to consider those residents who bought their land many years ago with the understanding they could subdivide their land down the road. Val S. lives on Pond Brook Road. Alex stated that her land wouldn't be affected under the new proposal as it is located in the Rural Residential 1 District but agreed that she brought up a valid point for such landowners in the Rural Residential 2 & Agricultural Districts.

Dick Francis owns a multigenerational farm. His family has farmed this land for 200 years. He agrees with the concerns that large landowners weren't invited into these conversations in the beginning. He doesn't feel that the meeting notices are enough because not everyone pays attention to these. He stated that the majority of landowners don't want to develop their land. However, they do want to have the option to have land available for children and grandchildren to live here.

Matt Baldwin said that the farm and the land they own is their greatest asset and they make their living off of it. This proposal negatively affects those that have kept their land open and

rely on the full value of their land in order to continue farming the land. It hurts the landowner that is pursuing conservation by negatively affecting the value of their land.

Ray Mainer responded to Dick's comments. He questioned how the PC would determine what equates to a large landowner—at what amount of acreage do you draw the line? He also asked Matt to clarify how it negatively affects the landowner in terms of value and ability to conserve the land. Matt responded by saying that it restricts build-out potential of the land. It takes out chunks of land that can't be developed and therefore lowers the development potential as a result. He questioned why landowners aren't able to decide. Matt B. feels this process should be more about encouraging conservation rather than imposing so many restrictions on the landowner.

Ray M. asked Matt how they come up with a dollar figure to pay for development rights. Matt B. stated that value given comes from the number of lots that can be developed. He said they look at the Town Regulations and comparable pieces of land. Matt confirmed this conservation money has given farmers the ability to continue to farm their land. Kyle B. added that if a farmer uses his land as an asset for the purchase of additional land and if this proposal decreases the value of the land, it is also limiting the farmer's borrowing power in order to continue to farm the land.

Matt B. said that his family farm operation has been going on a long time. His family has implemented their own plan as to how they want to move forward. This proposal catches them off guard and changes that direction for his family.

Andrea Haulenbeek commented that the devaluing of the land is regarding take-outs. If you have a lot with septic and you want to place your house in a location at the base of a steep hill, you no longer would have the option under this new proposal. Andrea H. stated that after take-outs, you could be left with very limited land to build on. She also commented that we don't want to see these ½ acre and 2 acre lots all over Hinesburg. They value the open space and that is why they have worked so hard to keep their land open. However, farmers are losing money each year. They are not able to sustain through farming alone. Most farmers have other jobs in order to get by financially. It is essential that farmers are able to use their land to continue farming. Farmer's backs are already against the wall; she asked the PC to not put further restrictions on farmers.

Andrea did state that she is happy with the additional uses that are now included in this proposal. This will definitely help landowners find other creative ways to make money off their land.

Tom Miner asked if there will be agricultural lands that can't be used due to these take-outs. Joe I. responded no, primary resources don't include primary ag soils, etc. Tom M. also stated that large landowners have saved open land at their expense and now under this new proposal, their land won't be available for their children to build on.

Andrea Haulenbeek stated the Town has devalued our land. We could never sell our land at its true value because of these take-outs.

John Veilleux lives off of Texas Hill Rd. He purchases land 29 years ago with the idea of what he would do with the land based on the regulations at the time. Now this proposal really limits

what options he has in the future. Landowners want to conserve land, yet, they want to have other options available to them if necessary. Regarding the question of how to best determine which large landowners to notify, John V. suggested the PC look at a Tax Map of the Town and determine who is directly affected by this plan and notify those people.

Jean Miner stated that 95 years ago, her husband's family purchased their land. She agrees with earlier comments that landowners should be compensated for the loss in value of their land. She feels the property taxes should be lowered to compensate for the decrease in value. Jean referenced the state Constitution Chapter 1, Article 2 that states, when land is taken for use by public; landowner should be compensated by the equivalent in money. No part of a persons land shall be taken without the landowners consent. She finished by saying 12 acres of land in the rural area doesn't begin to equal affordable housing.

Matt B. asked for clarification from Alex regarding his understanding that take-outs are not to be built on. Alex confirmed that Matt B. was correct—Take-outs are the portions of land that can't be built on. Joe clarified that primary resources are the take-out areas that are not able to be physically built on. However, Joe I. stated that these areas can be included as part of the lot. Joe I. stated the purpose is to separate lot size from density. This enables the landowner to sell off much smaller portions of the land and retain the majority of the land for farming & forestry.

Matt B. stated that if you are requiring that 50% be left open and a separate parcel then that doesn't leave much land left in most cases. Maggie responded that the 50% can include the undevelopable portion of land (primary resource). Joe I. added that the density will be the same. Matt B. said that if land is to be kept open forever then we (landowners) need to be paid for it. Ray M. asked Matt how much of his land was included as take-outs. Matt B. replied 30 acres.

George B. addressed the PC and stated that you have a proposal on the table that has people concerned with how much you are taking away from them. Jean Isham's property was conserved in a way that brought value to her family. She had 300 acres of land and brought forth a package that clearly had value. She had to demonstrate how much regular development she could do on her property. She demonstrated she could create 8 lots and those 8 lots had a market value that helped elevate the entire value of the project and made the numbers work for conserving the land.

Bob L. stated that the appraisal process does not talk about potential build-out. It simply looks at comparable sales in Hinesburg—the full market value and the restricted value. This proposal might not affect conservation easement value as much as people might think.

Joe I. closed the public comments and asked the Board to discuss the comments that have been made. Joe said that from what he has noted, there appear to be 3 primary concerns:

- 1.) Significant concern regarding take-outs
- 2.) Significant concern over base density #'s
- 3.) A number of small landowners with land between 10-12 acres that are concerned about their loss of development potential.

Joe I. stated that the question before the Board this evening is do we want to make any changes to the numbers we have, to rectify those concerns?

Kyle proposed they include the take-outs in the density formula while still restricting building away from these areas. He gave an example using a 100-acre parcel with 30 acres of take-outs. Instead of only using the remaining 70 acres in the density calculation, he proposed they use the entire 100 acres.

However, Kyle said if a developer comes in to develop land more densely than can be currently accommodated by the road class the parcel is located on, then it should be at the developers expense to upgrade the road to the level required to accommodate the new density. Alex stated that in most cases, no single development would have enough impact to exceed those limits of a given road. It is the cumulative effect of multiple developments that creates this impact.

Joe I. stated that what he likes about the proposal is it removes the argumentative nature away from the DRB. They no longer would have to make decisions at their discretion. There are clear guidelines and a precise formula that will dictate each decision.

Tim C. clarified that the density calculation was never about roads. 97% of the Town has the 10-12 acre density. The Town Plan doesn't refer to road maintenance.

Kyle suggested the PC keep the density number identified by road class and keep the take-outs in the density calculation.

Tim C. said the he keeps hearing people say it is a taking of land and we are devaluing land. Tim stated he feels this is not the case for the following reasons:

- 1.) what happens currently in front of DRB is a variable density which is far divorced from 2 to 3 acre lots in writing.
- 2.) if you create fewer lots and therefore have fewer available at a time, the values of those lots would increase.

Tim C. stated the intention was to maintain the rural character and stay consistent with past DRB decisions and with the densities in place in surrounding areas. Tim C. stated he is against major changes at this point. He felt the PC held true to the Town Plan.

Alex felt the loss in value of land was more of a result. The cause of the concern is a perception that the number of developable lots is less than it was before. Alex stated that Matt B's comment was good. He had an expectation that they could have a lot every 10 acres based on his knowledge & surrounding neighborhood. He feels you just have the number of lots wrong.

Kyle returned to Matt's example of a 100-acre parcel that could previously support 10 lots. If you cut that number down to 7 lots, you might find that individually each of the seven lots may be worth more. However if you combine the values of each of those 10 lots, you would find that would equal more. Kyle feels we are close but encourages the other members to agree to put the take-outs back into the density equation. Ray M. stated that he agrees with Kyle regarding the take-outs.

Joe I. stated that on the other hand, if you had a 100-acre parcel and 90 of those acres were take-outs, would you want to see 10 houses on the remainder?

Bob L. feels we should leave the proposal regarding take-outs as is. He feels we are letting the land speak for itself.

Carrie F. was in pursuit of a compromise. She suggested the PC take 50% of the take-outs and add back to the acreage that is developable. Carrie said the minimum lot size of a half-acre would be affordable in the country. However, Joe countered that septic, wells, and transportation would make it non-affordable.

Maggie commented that it seems an unrealistic expectation that someone who buys on a hillside could develop to the same density as someone who buys an open flat piece of land. Kyle returned to the flip side of someone who owns 100 acres of land and they aren't given the same rights as someone else on 100 acres of land.

Maggie feels it is our (PC) responsibility to give the DRB regulations to go by that are very clear, objective, and predictable. Isn't it the intent of Current Use for land to be kept open and to cut property taxes accordingly? Alex was curious what difference would there be if development potential was calculated with take-outs vs. no take-outs.

Alex showed side-by-side examples comparing the proposal with the take-out model vs. no take-outs. When you eliminate take-outs, there are more parcels that are developable but not that much more development potential overall. Tim noted that there seems to be a minimal change in build-out. Alex stated the take-out model enables you to distinguish between different properties with different development potential based on limitations within a road class.

Joe stated that with regard to take-outs vs. no-take-outs, if there isn't a lot of difference then why do we invest so much in this. Joe said in his experience, engineering standards show a difference of less than 10% is not significant. Kyle reiterated—10 lots of 100 acres vs. 7 lots. He questioned how much it would really change the rural landscape. Alex stated that they weren't the first PC to wrestle with the issue of take-outs. We looked at a chart with the density definitions of other towns. Density is acres/unit. Tim noted that we were trying to compare ourselves with towns at the outer edge of Chittenden County.

Alex stated that most people that have come here this evening and came out for the public hearing have buildable lands and feel it isn't fair to take this land from the calculation. Ray suggested what if we just eliminate take-outs altogether and not count them as acreage since they can't be built on anyway. Tim felt that this was discussed extensively and he was against it at the time and still is. Bob L. also stated that he is against it as well.

Maggie feels that development density should be based on developable land. People feel that take-outs are taking away when in fact it is undevelopable land. Joe feels if we get rid of the take-outs it will have very little impact on rural character and the Town plan. By doing this, we will make the proposal more palatable for those folks who feel it is taking land from them.

After extensive discussion regarding take-outs, Joe I. asked the Board to come to a consensus in regard to take-outs.

Ray M. **MOVED that we strike out any reference to take-outs in the rural zoning regulations.** Kyle **seconded.** 3 in favor; 3 opposed; 2 abstained. Joe amended that to say these take-outs are non-buildable areas. After some discussion, a revote was taken with 5 in favor and 3 opposed.

Alex clarified that Ray's proposal only strikes out take-outs from the formula but we still have these areas included as primary resources. Joe feels that the overall benefit of this proposal far outweighs the minimal difference of having take-outs or not.

Joe I. encouraged the Board to move on to 10 to 12 acres. Bob L. feels we should leave this the same. Kyle stated he would be willing to move it to 10. Maggie expressed concern with the cumulative effect of changes at this point.

Andrea H. feels that if someone bought a 10-acre lot; they are not farmers. They just wanted to live in a rural area and had to purchase that size of lot due to previous septic requirements. Andrea H. stated that she is against further dividing these lots. She doesn't want to see chopping up of these rural areas.

Joe stated that his personal opinion is that we should leave it at 12 acres. He feels at this point there is more harm than good that can come out of changing it.

Joe I. made a **MOTION to leave the 12-acre exemption, as is going forward to the Selectboard;** all in favor 8-0

Tim C. felt that the 15 acre density on class 4 roads is a perception issue and he feels we should remove it. Maggie G. disagreed; she doesn't feel we should further burden those on Class 4 roads. George B. stated that Class 4 roads are entirely paid for by the residents on those roads. The Town pays nothing for these; by statute, it is the responsibility of the developer.

Alex said that we looked at the actual densities in existing neighborhoods—these densities ranged from 12 to 14. Back in 2009, during the first forum we had, the numbers were very different than this. By not dealing with take-outs, the effective density increases. Tim C. questioned if we should be changing the effective density now after we have spent so much time getting to this point. He recommended lowering the base density to account for the lack of take-outs.

Joe I. felt the numbers proposed are keeping with the objectives of the Town Plan. He is in favor of classification by road carrying ability. The density classification by road type supports this. Bob L. was personally okay with changing density numbers. Ultimately, fewer houses in rural areas will be better for the Town and the landowners.

Joe I. made a **MOTION to forward proposal to the Selectboard with the density numbers as they are today.** 6 in favor; 2 opposed

Joe I. stated they will get together during the 1<sup>st</sup> meeting in October and continue with Peter's comments. Alex stated that the Selectboard most likely wouldn't have the opportunity to look at this proposal until after Town Meeting. Alex said that once the Selectboard warns their hearing, the proposed regulations would apply. Alex will encourage the Selectboard to delay in warning the public hearing to allow people time to do what they can under current regulations. It will most likely take the Selectboard several months to go through this proposal line by line.

**Minutes from August 22, 2012 meeting:**

Carrie F. made a **MOTION to approve as written.** Johanna W. **seconded the motion;** all in favor.

**Minutes from September 18, 2012 Meeting:**

Johanna W. made a **MOTION to approve as amended.** Carrie **seconded;** all in favor.

**News/Announcements:**

Alex informed the PC that the Town has applied for a Municipal Planning Grant that the PC needs to sign off on. The grant funding would go towards hiring consultants to perform growth analysis. The PC members gave Joe the okay to sign the document.

Next Alex discussed that it was now budget time. He stated that he would need to submit the Planning & Zoning budget by October 5<sup>th</sup>. In order to properly set the budget, Alex stated they would need to discuss the work plan. The PC agreed they would work on the Rural Residential 1 and Shoreline Districts after Rural Area Zoning.

Alex also stated that the Stormwater regulations are very antiquated in terms of stormwater. Peter & Alex will bring examples that are being used in other towns. Alex also noted that he would be putting money in the budget for work on the Town Plan.

**Other Business:**

The Town of Williston will be doing a Regulation revision on October 6<sup>th</sup>.

Joe I. thanked everyone for his or her participation at the public hearing.

Joe I. made a **MOTION to adjourn.** Tim C. **SECONDED the motion;** all in favor. The meeting adjourned at 10:17 p.m.

Respectfully Submitted,  
Renaë Marshall--Recording Secretary