Town of Hinesburg
Development Review Board
November 19th, 2013
Approved 12-3-13

Members Present: Zoe Wainer, Dennis Place, Kate Myhre, Greg Waples, Ted Bloomhardt, Dick Jordan, Sarah Murphy.

Also present: Peter Erb (Zoning Administrator), Alex Weinhagen (Director of Planning & Zoning) and Freeda Powers (Recording Secretary). Representing Applications: Brett Grabowski (Developer), Cliff Collins (Engineer), Kevin Brzys (Engineer), Brian Cote (Engineer).

Public Present: Meg Handler, Mary Beth Bowman, Dorothy Pellett, Paul & Alyssa Lasher, Greg Tomczak, Kyle Bostwick, Bill Moller, Bill Marks, Jeff Glassberg, Lara Atkins, Dan Jacobs, Rebecca Pfeffier (Vermont ANR Rivers Program).

Zoe W. chaired the meeting, which was called to order at 7:30pm.

Minutes from 11/5/13:

Zoe W. **made a motion to approve as amended** the minutes from 11/5/13. Greg W. **seconded the motion.** Sarah M. abstained as she was not present at the 11/5 meeting. The motion was approved **6-0.**

Thibodeau/Palmer: (Site Plan Review) Cont'd from 5/21, 6/18, 7/2, 8/20 & 10/15 – 62 Charlotte Road - **The applicant is requesting this be continued to one of the January meetings.** The applicant was not present at tonight's meeting. Zoe W. considered if it would be prudent at this time to deny the application without prejudice since this will be the sixth extension request from the applicant. Alex W. recommended against that, suggesting the Board extend the application one more time, noting that the applicant has submitted revised application materials but that specifically, parking concerns remain. Zoe W. made a **motion to continue the application to the 1/21/14** meeting. Dennis P. **seconded the motion.** The Board voted **7-0.**

Hinesburg Center LLC: (Subdivision Revision) Cont'd from 11/5 - The applicant is requesting a revision to the Hinesburg Center subdivision to account for differences between actual versus approved building setbacks from property lines. This represents an after-the-fact application as the buildings in question have already been built. Side yard setbacks of as little as two feet were approved in some cases, but certain buildings were constructed with setbacks of less than one foot from interior property lines. The subdivision was originally approved on 9/7/2010, and was last revised on 6/18/2013. The Hinesburg Center subdivision includes 9 lots and 9 buildings (6 of which have been built) including commercial (e.g., Kinney Drugs), mixed-use (e.g., Bristol Bakery and apartments), and residential buildings. This property is located on the west side of Route 116 and the north side of Farmall Drive in the Village Zoning District.

Brett G. (Developer) told the Board of some changes to the site, including the addition of several portions of sidewalk. One section was added to the south side (front face) of the Bristol Bakery building to address handicap access (60% of building requires handicap access according to state permitting). In addition to that small section, private sidewalks were added to each of the three

residential buildings on Lot 44 & 46. This, he said, was to improve the asthetics and for additional privacy to those residential units.

Other changes included movement of three light posts along Farmall Drive, overhangs over the entrances (housing mechanical units for heating systems), additional landscaping around Lots 44 & 47.

Brett G. also noted that the residential buildings on Lots 44, 45 & 46, have been moved to the north so that the porches on the south side of the buildings meets the approved front yard setback. He feels that any variances between the approved site plan and as built measurements are deviations defined as "acceptable tolerance" by staff at the November 5th meeting.

Alex W. noted that staff has been to the site and measured the proposed area for the "pocket park" and have found it to be 5' narrower than plans show. Brett G. replied saying all amenities as approved will be there. Dick J. inquired on the porch depths. Brett G. said the porches are over 6' deep. Greg W. inquired on the sequence of these changes. Brett G. said he felt from the beginning that the landscaping plans were marginal and was intending all along to add to them. He went on to say that gutters have been installed and benches and a bike rack for the pocket park area are soon to be put in place.

Ted B. said if the plans had come before him as they are now, with changes as they have been made, he would tell the developer that the proposal was creating an area that was too dense for approval. He said he is beside himself and it is hard to understand how professionals can do this. Brett G. concurred he should have come to staff for changes made such as additional sidewalks and feels he did not need to check in to increase landscaping around the residential buildings.

Zoe W. said for her, the frustrating thing is that this is not just one or two small or simple changes, but rather an 11-point list of changes, none of which were brought before staff or the Board for review or approval.

Alex W. noted that setbacks were not a constraining piece of the project. Peter E. asked what is the depth of the porches. Brett G. replied roughly 5'. Greg W. said he is really disappointed in the execution of this project and feels there must be consequences to what he sees as a cavalier disregard to what was approved. He asked the applicant, Mr. Grabowski, if he had any suggestions for amenities to the project. Brett G. said he would like to have that conversation with staff. Peter E. suggested consideration on future phases of development. Dick J. asked about the base square footage, or footprints to the buildings, are they the same as originally proposed? Brett G. said yes.

Zoe W. opened discussion to the public.

Bill Moller spoke from the audience, having done a cursory examination of the site, he had the Board and those present view via the projector some PDF files showing actual measurements of distances between the buildings at their rooflines (less than 2') saying they are less than ½ the distance that was approved. The Board agreed, measurements are taken from the structure's base, not the rooflines. Nonetheless, Zoe W. concurred with the point Bill M. was making and said there is further confusion in what was approved vs. site plan. Bill M. asked why then the roofline contours were depicted in the streetscape elevation. There was no response.

Tom C. said that when Creekside was built, fire code was part of the spacing discussion. It was generally agreed that this may be due to the mixed-use type of buildings involved in this phase of

development; the State may apply different fire codes to Single Family Home structures as are the case in the Creekside neighborhood.

Dan J. inquired from the audience, can the fire department reach the tops of the buildings in this development? Alex W. said this project has been reviewed and the heights of the buildings have not changed.

Paul L. spoke from the audience, thanking Ted B., Zoe W. and Greg W. for speaking up on this application. He went on to say he hopes that the Board will hold this developer accountable. Alyssa L. also spoke, saying she assumes that an increase in sidewalks on site naturally equates to an increase in impervious surface area and encouraged the Board to consider this in the overall project as it handles storm runoff. She also noted that the change to location of the light posts along Farmall Drive have resulted in light flooding her bedroom at night. She reminded the Board that no matter how "small" the developer thinks the changes he has made have been, they have a direct impact on people's lives. She implored the Board to please pay attention to this developer, saying in her opinion, he is *not* to be trusted.

Dick J. inquired on the stormwater plans for the project. Brett G. said that water will sheet off the sidewalks and run into the storm catch basin in the street.

Ted B. suggested the Board approve revisions and confer with Staff to come up with further ideas for mitigation. Peter E. reminded the Board that CO's are still needed for two of the buildings in the project, which are currently occupied. Ted B. said that is something the Selectboard must decide, ultimately. He voiced his concerns that the green space is smaller than anticipated. Greg W. reiterated his view that serious violations need consequences. He went on to say he does not recommend tearing down buildings that have already been constructed but said future development on the part of this developer is potentially at risk. He said he plans to hold the developer accountable in those discussions. Brett G. replied that he assures the Board a serious concession to the Town will be made. Zoe W. made a **motion to close the public hearing and take up the application in deliberative session.** Dick J. **seconded the motion**. The Board voted **7-0.**

Hinesburg Center LLC: (Conditional Use-Fill in a Flood Plain & Subdivision Sketch Plan Review) Cont'd from 8/20, 9/3 & 10/15 – The applicant is seeking both sketch plan approval and conditional use approval for phase 2 of the Hinesburg Center project. The conditional use approval is for development in a flood hazard area - approximately 55,000 cubic yards of fill of which 17,000 cubic yards will be in the Patrick Brook flood plain. This development proposal includes completing most of the infrastructure (roads, sidewalks, stormwater treatment) involved in the 46-acre Lyman property master plan as well as 21 units of affordable rental housing, 17 single family house lots and placeholders for 7 buildings (mixed use in nature) that may include retail/commercial, one and two bedroom apartments and congregate housing. This property is located on the west side of Route 116 and the north side of Farmall Drive in the Village Zoning District.

At the start of discussions, Brett G. (developer) voiced his desire to remove the Sketch Plan at this time. Zoe W. agreed, saying the Board would discuss Conditional Use at tonight's meeting. The Board has received a copy of the revised study from Milone & MacBroom. Brett G. said that per staff requests, they have expanded on the original study and have done further analasys based on that and have come to the same conclusion; that the fill in the flood plain as proposed will have minimum impact.

Zoe W. said she recalls staff requesting results for a 500yr storm event, and she does not see that data provided in the report. Brian C. (civil engineer) said they did look at both 100yr & 500yr storm event data and found that the changes in velocity remain the same.

Zoe W. noted that in Scenario #6 listed in the revised report, suggests that Phase II of development does not cause flooding but she wonders does it affect the ability of the flood plain to handle flood events. Rebecca P. (VT ANR) said that is more to the point, and said that looking at future hydrology, the magnitude of difference from Phase II fill is the concern. She went on to describe that if velocity slows down it takes longer to drain downstream. She said it is helpful to look at the floodplain as buffering (capacity of landscape to store and move water).

Greg W. asked about questions raised by the report, such as the effect of spreading development out in order to alleviate the potential adverse impacts. Rebecca P. said yes, part of undue impacts is what is done to mitigate. She noted also that the project is likely to change ownership, so it is important to look at what mitigation might be done with regard to increased flooding to Phase I. She encouraged the Board and the developer to consider the capacity of emergency workers to access/evacuate as well.

Brian C. (engineer) noted that Scenario #6 from the revised study flows are taking into account that all lots are developed to potential. He said all buildings and roads would not be flooded, but rather the areas near the edge of the fill area only. Greg W. voiced his concerns with properties downstream (i.e., Levensworth Road area). Maps were viewed showing the larger watershed of the LaPlatte River and the smaller area denoted by the Patrick Brook watershed, and it was noted that any major flooding event to be seen at Creekside is likely going to be as a result of the LaPlatte rather than from Patrick Brook.

Greg W. asked Rebecca P. if there was anything in the report that she would like to expand upon. Rebecca P. said the report is pretty good, and represents a good faith effort to look at the localized watershed. It appears to use sound engineering and she does not feel that anything was left out of the report.

Kyle B. spoke from the audience, wanting to discuss stormwater runoff & treatment plans for the site as they may pertain to the Creekside neighborhood which already experiences some flooding. Zoe W. said that is a separate issue, and said that this discussion is regarding the ability to put fill in the flood plain.

Bill Marks acknowledged memos sent from Ray Mainer (former Planning Commissioner) and Meg Handler (Conservation Commissioner) and noted that in the memo submitted by Ray Mainer, the intention of the Planning Commission (as Ray M. states) *"was that fill was to be allowed only to allow access to parcels that would otherwise be isolated and unable to be used. It was not [our] intent to allow fill to be used to increase the developable area."* In summary, he noted, Meg H.'s memo also indicates significant concerns and questions in regard to fill in the floodplain.

Rebecca P. assured those present that development *can* decrease impacts and accommodate for flooding. There are adaptive ways to address this concern. Brett G. added that the regulations we have here in Hinesburg do allow this type of fill so long as *no adverse undue impacts* are resulting.

Alyssa L. spoke from the audience, informing the Board of a recent Act 250 hearing that took place in regards to issues at the Creekside neighborhood as they relate to fill, flooding and impacts (held 10/25).

Meg H. spoke from the audience, saying that on behalf of the Conservation Commission, she encourages the Board to be cautious of the accuracy of modeling; these are assumptions made, not facts. Rebecca P. said the models are using past data, generally looking at what has happened in the past. She said that flooding has changed, and that should be part of the consideration and review process. Ultimately, she said, it comes to a question of adverse impact as opposed to a functioning system and capacity.

Dick J. said it is important to consider the cumulative impact from both Phase I and Phase II.

Greg W. made a **motion to continue the hearing to December 17th.** Ted B. **seconded the motion.** The Board voted **7-0.**

Alan & Nancy Norris: (Preliminary Plat Review for a 25-unit Planned Unit Development)
Cont'd from 11/5– This agenda item was for DRB discussion only.

The Board reviewed a response to concerns brought up in the 11/5 hearing, dated November 11th, from the engineers of the project, O'Leary-Burke.

Zoe W. said elevations should be provided to the Board at the December meeting, which she hopes will be helpful for some questions. Ted B. said the project does appear to be constrained to a degree by the site itself, the steep bank to VT Rte. 116 and the existing stream and wetland buffer area.

Peter E. noted in his memo to the Board, that our regulations as they pertain to "streetscape" refer to more than just the building facades (Section 5.22.2[7]). He went on to say that due to the design and placement of the garages as proposed, there is inadequate space for substantial landscaping, the entry ways are not prominent but rather set back into the structures. Overall, the new sketch is largely the same. He does not feel the project fits all 4 PUD requirements.

Ted B. said the project appears designed around the buffer areas, but concurs there is a bit of an issue as it relates to the elevation near Rte. 116. He feels the project is designed fairly well considering the site.

Sarah M. said she feels the applicant should do something to improve integration to the streetscape. Dennis P. asked about existing trees along Rte. 116 near the proposed project. Peter E. said they are in poor condition and per VTRANS, once they die out, they will not be replaced. He went on to note that our regulations reference 40' spacing or denser according to building mass. The Board was in agreement to increase the plantings overall, and specifically indicated their desire to see more substantial trees (opposed to Crab Apple etc.) with a more regular planting pattern.

Alex W. said he feels that the project's functionality in relation to the street is an issue, mainly due to the steep grade by Rte. 116. Review of site plans show an elevation difference of roughly 10-11' from Rte. 116 to the structures. He asked the Board to consider options for the applicant to implement other means of slowing traffic. Ted B. suggested letting the applicant propose ideas for this.

In regards to concerns on impacting wetland buffer areas, this issue has been resolved with the State, who reportedly have done several site visits and express no concerns with obtaining a Wetlands Permit.

Zoe W. asked the Board how they felt about the proposed sidewalk along Rte. 116 as it relates to the PUD density bonus. The Board came to a tentative consensus that the sidewalk proposed should count towards the density bonus for the overall project. Zoe W. said she is still on the fence as to whether or not the sidewalk should count towards the bonus. Greg W. said he would like to see the applicant be creative with the streetscape improvements if that bonus is given as a result of the sidewalk construction.

Kate M. said parking needs to be addressed as well. Ted B. said he feels the interior roads are unappealing but he does not believe that our regulations address them.

Zoe W. made a **motion to continue this discussion to the 12/3 meeting.** Dennis P. **seconded the motion.** The Board voted **7-0.**

Other Business:

- Brian & Penny St. Cyr: Sketch Plan Approval Extension Request. Zoe W. made a **motion to grant the extention**. Dennis P. **seconded the motion.** The Board voted **7-0.**

- Discussion of Rural Area Zoning Training: Alex W. agreed to email the Board regarding the RAZ training time/date/details.

Zoe W. **made a motion to adjourn.** Ted B. **seconded the motion.** The Board voted **7-0.**

The meeting adjourned at 11:16 pm.

Respectfully Submitted,
Freeda Powers---Recording Secretary