

# Town of Hinesburg Planning Commission

April 24th, 2013

Approved May 8<sup>th</sup>, 2013

**Members Present:** Grace Ciffo, Joe Iadanza, Jean Isham, Tim Clancy , Johanna White, Maggie Gordon, Aaron Kimball, Kyle Bostwick .

**Members Absent:** Bob Linck .

**Also Present:** Alex Weinhagen (Director of Planning & Zoning), Freeda Powers (Recording Secretary). *Public Included:* John Roos, John Keidasch, Mike Bissonette, Ginny Roberts, Geoffrey Gevalt, Meg Handler, Gail Henderson-King and Peter Erb.

Joe I. chaired the meeting, which was called to order at 7:35 p.m.

Joe I began the meeting by asking if the public had any comments for non-agenda items. There were none.

## **Zoning Administrator Nomination**

The Planning Commission makes recommendations to the Selectboard to consider for the position of Zoning Administrator. This position is held for 3-yr terms and has been occupied by Peter Erb for the past 9 years. Jean I. made a **motion to nominate Peter Erb for consideration for another 3-yr term to the position of Zoning Administrator, beginning August 1<sup>st</sup>, 2013.** Maggie G. **Seconded the motion.** The motion **PASSED 8-0.**

## **Hannaford Act 250 Review**

The Board indicated at the April 10<sup>th</sup> meeting that they wanted to discuss their role in the upcoming Act 250 review on the Hannaford project. The Planning Commission did provide feedback to the DRB during the project review, asserting that the project did not comply with the Official Map, and should therefore be denied. The Planning Commission commented twice; once in a 12/22/10 letter as the DRB was about to begin its review and again during discussion at the 12/14/11 meeting. At that 12/14/11 meeting, the Planning Commission essentially reaffirmed its earlier letter.

Both the municipality (i.e., the Selectboard) and the Planning Commission have automatic party status in Act 250 reviews. The Board has 3 options, as put forth to them by Alex W. Those options include; 1) make no comments to Act 250; 2) make comments to the Selectboard for consideration in their comments to Act 250 or 3) make comments directly to Act 250.

The Hannaford Act 250 application is available online at <http://www.anr.state.ct.us/ANR/ACT250/Act250.aspx>; enter 4C0654-14 as the Project #. The DRB decision and the Hannaford applications for the DRB process are available online at <http://www.hinesburg.org/lot15/hannaford.html>.

Maggie G. asked if the Board can just forward their comments and corresponding minutes to Act 250. Alex W. said they can do that, but advised that some explanation may be required, and the state will want to know what criteria the comments are being filed under (referring to the list of 10 criteria for Act 250 hearings). Johanna W. said she feels Criteria #10 is appropriate; *[project] is in conformance with any local or regional plan or capital facilities program.* Alex W. agreed, this was likely the most relevant and reminded the Board that they need to make their desire to participate known by the date of the hearing (May 15<sup>th</sup>).

Aaron K. asked if it would be at all out of the ordinary for the Planning Commission to make comments at the hearing. Alex W. said while it may be a bit odd, the Act 250 process does make it possible.

Jean I. said she feels the DRB disagreed with the Planning Commissions' interpretation of the Town Map. She said she feels as a commission, they have put a lot of work into the Town Map, and they should not roll over on the issue now. Looking at the conditions, she said it is far-fetched to see how the project conforms to the Town Map.

Joe I said he feels they have done their job as the Planning Commission.

Maggie G. said she feels the board would be remised not to present the memo and minutes. Joe I. said he sees where she is coming from, but it's more than the submission of a document, it's participation in the process. He feels that the town should speak as one voice. Maggie G. refuted this idea, saying the Planning Commission is not in conflict with the Selectboard, as they have not officially said anything about the Map. Alex W. noted that the DRB *did* address the Map in their decision. Maggie G. said they are simply presenting true and public information that has to do with Criteria #10.

Alex W. asked the board, would their only purpose in submitting the comments be to have a position? Johanna W. said the project invalidates the official map. Joe I said he feels they as a board should take this as a lesson learned, that in the future, they need to be more explicit. Tim C. said he disagrees; in his view, the Map is not binding, it was merely the commissions' intention, our recommendation. Alex W. clarified, saying the Map *is* a regulatory document, but that it only requires that a developer *accommodate*. In other words, if a project cannot accommodate the Official Map, then the Town has an opportunity to purchase that lot. If the town chooses not to do so, then the requirements of the Map are lifted and the project is allowed to proceed. Tim C. said he feels this is the way the process was supposed to work. Joe I. said to him, the Official Map specifies land use. The DRB looks at proposed development & the Map, and decide if they can cohabitate. If they're conducive, the Board can approve the project. The DRB did look at this project and there was no language in the Map that said this use could *not* cohabitate.

Tim C. said he disagrees; to him it is hard to understand how the Hannaford project and the Official Map are compatible at all. Joe I. said he does not see that the issue is compatibility as much as conformity, accommodating a municipal use. In that regard, he said, the project appears not in conformance.

Tim C. said we (the Planning Commission) were not forceful at DRB meetings and he does not agree with participating in the hearings now. Jean I. noted that the Commission did send follow up minutes after their initial memo. Maggie G. said it seems vital in her opinion to provide the information and she does not see a conflict in doing so.

Aaron K. said it may be a concern of interpretation, in other words, it may appear that the Commission is saying the DRB decision was made incorrectly. Either way, he said, this *is* the process playing out, the question becomes is there a "right" way to do this. Alex W. said the Planning Commission can do a sort of "mea culpa" i.e., we did a poor job with our level of specificity for our fellow board to interpret clearly and we would like you to understand that what is proposed is not what the Planning Commission envisioned for a Community Facility.

Joe I. said he thought the commission did not get specific with municipal uses as those can change, he thought the idea was to keep land *available for use*. Alex W. said that is extremely problematic, difficult both in how to apply or evaluate. Tim C. said the Town wasn't going to purchase the Lot.

Joe I. said he feels the area limitations are good, but in retrospect, the vague language was a mistake. Alex W. noted that there is specificity in regards to such things as sidewalks and other community facilities, but reminded the board that without specificity, any decision can be tossed in court. He concedes that at the time, the board did identify the entire parcel as municipal use and

the applicants' proposal (Farmers Market) was one of the examples the board gave. John R spoke from the audience, saying he would like to note that while the proposed Farmers Market was a use listed by the board, the market would only occupy less than 10% of space and 1% of time available on the site and in his opinion that is a minimum accommodation. Peter E. said he attempted to look for specifics in the Map language and he was struck by the use of the term "facility" which to him implies some permanence.

Geoffrey G. spoke from the audience, saying he does not find it strange that one board would disagree with another. He added that the Town Plan took the work of many people and he thinks the Commission should stand up for and be clear about what they think.

Mike B. encouraged the Commission to consider the process and to look at the Official Map in regards to other parcels not yet purchased. He would like the board to represent the town and hold their position. He does not see a problem with having a dynamic discussion.

Joe I. suggested the board take party status in the Act 250 hearings and submit their previous memo and minutes. Tim C. said if we get into this, we should not be passive or subtle.

Kyle B. said he does see the Official Map as binding, and said we created a vision of what we would like the town to look like. If we don't own the land, our hands are tied. He does not propose buy-ups, but rather ensuring developers buy into that vision we presented. He said we should engage in future parcels, but strongly suggests we do not be a voice at the hearings on this parcel at this time.

Alex W. said it is evident that both parties made errors, their application made no mention of the Official Map. John K. asked how can we designate an entire lot as a Municipal Facility and not buy it. He said this is a bigger issue than just Lot 15.

Tim C. said he thinks the right thing to do is to talk to land owners at the time of putting their land on the Official Map. Alex W. reminded the board that this Official Map is only the first version, and it needs to be updated.

Mike B. said it appears that putting restrictions on parcels could make it more difficult for sales. Tim C. said that is not the intention. Joe I. said the DRB can ultimately say whether a design conforms to the Map or not, it is only if a project is *not* in conformance that the project may be stopped.

Jean I. made a **motion that the Planning Commission take party status at the upcoming Act 250 hearings regarding the Hannaford project and that we submit our previous memo and minutes and note that we continue to disagree with the DRB decision in regards to the Official Map.** Grace C. **Seconded** the motion. The board voted **7-1**. Kyle B. voted No.

Jean I. asked about potential culvert replacement plans for Patrick Brook at Rte. 116. Alex W. said due to new traffic data in the Hannaford project, there are now plans to widen VT Rte. 116 to the north of the Commerce Street intersection, which will impact the Patrick Brook culvert. Jean I. noted that the existing culvert is already undersized and questioned why replacement with a larger more appropriate size is not being required. Alex W. said that the culvert issue is one that will have to be reviewed by the DRB.

Maggie G. asked if the town will be hiring a traffic engineer. Alex W. said there are a lot of VTRANS engineers already on the project, so that is unlikely however still possible. The Selectboard ultimately makes that decision (they take up this discussion at their May 6<sup>th</sup> mtg). John R. clarified with the board, saying that VTRANS will not be designing an intersection, they will rely on the applicant for that. He encouraged the Planning Commission to get the Selectboard versed in this for adequate compensation/capacity for larger trucks (i.e., adequate turning radii). Joe I. said with all due respect, the Commission does not have time to adequately research this issue. Alex W. said

VTRANS currently has the application for technical review. Jean I. asked does the Selectboard have say after the VTRANS review. Alex W. said no.

### **Shoreline Zoning District—Regulation Revisions**

Alex W. said that the State shoreline regulation legislation (bill number H.526) will not see any Senate action until next year during an interim moratorium on shoreline development pending further public feedback.

Bob L. had presented via Alex W. some survey question topics for the board to consider in their upcoming shoreline district discussions. In addition, Kyle B. wanted to know more about grandfathered parcels. Alex W. explained how current regs allow for existing non compliant uses to worsen and said the board is in a position to specify language in order to address this. Kyle B. suggested a requirement to mitigate non-compliance. Alex W. said yes, something like that can be put in *expansion of non-compliant uses*.

Of the 10 suggestions provided by Bob L., Jean I. said she felt that #2 and #8 could be combined to gauge one's awareness of water quality issues and how they relate to the larger watershed and the degree to which certain activities not directly on lakeshores can affect lake water quality. She also felt that #10, assessing attitudes towards imposition of various Town restrictions, was too broad.

Maggie G. suggested defining "setbacks" and "buffers" for clarification.

Grace C. suggested wording that gets responses of Yes/No. i.e., "The state is proposing XYZ, do you agree with this? Tim C. agreed, saying try to keep it simple with yes/no answers or multiple choice.

Alex W. considered asking people what they value the most about lake access, and further, what is your greatest challenge when it comes to water quality.

Tim C. asked how to effect these changes without regulations. Alex W. said it doesn't have to happen in regulations; it can be done in education and outreach. Meg H. said the state does an enormous amount of educational outreach and in her view, that method is tried and failed. She said it is time for stiffer regulations. In her experience clear and firm regulations actually reduces conflict and stress in communities as people can turn to objective regulations to resolve conflicts or avoid disagreements.

Alex W. suggested the board open the survey with general questions but should ask specific questions as well.

Joe I. said we should find out what problems people see in their district; algae, septic, etc. also, ask would you prefer the State or the Town to regulate this area.

Jean I. encouraged the board to keep it short!

Aaron K. suggested asking what is working, or going right.

Tim C. would like to ask about the possibility of a setback of say, 500', would you agree to this Y/N? Do you agree no structure should be built within 100' of the lake Y/N?

The board was in agreement that the survey can go in the Record or the Citizen and that they can be collected at the Laundromat and Library as well. Results can be posted on the Town Website and FPF.

**Minutes from April 10<sup>th</sup>, 2013 meeting:** Joe I. made a **MOTION** to **table the minutes until the 5/8 meeting.** Kyle B. **seconded the motion.** The motion **PASSED 8-0.**

**Other Business & Announcements:** Alex W. mentioned the Rte. 116 Corridor Study kickoff which will update and review current traffic and future potential problems. The study will look at VT. Rte. 116 from roughly the Ballards Corner intersection to Buck Hill Road. They will also be taking a look at the proposed Westside Road and how it works with the 116 corridor.

Joe I. made a **Motion to adjourn.** Johanna W. **Seconded the motion.** The meeting adjourned at 10:15p.m.

Respectfully Submitted,  
Freeda Powers--Recording Secretary