

Town of Hinesburg, Vermont
Selectboard Meeting
Draft of May 13th, 2013

Members Present: Jon Trefry, Phil Pouech, Mike Bissonette, Andrea Morgante, and Town Administrator Joe Colangelo. Members Absent: Tom Ayer.

Also Present: Freeda Powers (Recording Secretary), Alex Weinhagen (Town Planner), as well as members of the public to include: Richard Palmer, Chris Morrell, Jean Miner, Carrie Fenn, David Fenn, Marie Gardner, Connie Kendall, John Veilleux, Don Taub, Rob Bast, John Dunshee, Landon Dennison, Andrea Haulenbeck.

Jon T. chaired the meeting, which was called to order at 7:00pm. Jon T. asked for non-agenda comments or items. There were none.

Proposed Rural Area Zoning Ordinance

The board scheduled this special meeting to resume discussions on the proposed RR1 Zoning Regulations. Alex W. was present to answer concerns and questions and further discussions.

Phil P had some questions on revisions to the PUD additional costs vs. the density bonus. Alex W. said there was a recognition from the PC that the PUD process is perceived as being more costly, more intensive and more open-ended. This is an attempt to simplify that process. Currently the incentives for developers to take the PUD route are a density bonus of 25% and the ability to flex zoning regulations. The expectation, in turn, is that PUD developments offer a Master Plan and reserve large pieces of Open Space. There are no firm numbers to determine the cost, and the density depends on the lot build-out potential.

Andrea M. noted that while the Master Plan part of the PUD is required at the start of the project, construction can be phased in over a long period of time. Alex W. said that is correct.

Mike B. has noted that the current requirement of 25% (min) Open Space can be increased by the DRB if they choose and noted that it must serve a purpose (Forestry, Ag lands, Wetlands, RTE protection, etc.) The proposal seeks to increase the required Open Space portion to 50%. This will better reflect what neighboring towns' implement and as Alex W. explained, 25% tends to be a small portion of a lot compared to the footprint where development will take place.

Phil P. asked if the proposed PUD changes would only affect the rural district. Alex W. said the Open Space requirement change is specific to the rural areas to preserve larger tracts of land.

Alex W. went on to address questions around the Town Plan Revisions. To protect Wildlife Habitat, addition of a clear definition and a wildlife habitat map, it is not a new vision, just a tactical change to provide a basis for new regulations.

Tom A. had a question about Ag practices; is the statement in the plan that Field protection techniques (mowing of hay) have contributed to the decline of bird species. Alex W. said there are other factors involved in this decline, but that there does appear to be a connection to the early mowing of hay.

Mike B. said he has reservations about tweaking the Town Plan. Alex W. said the plan has to enable and inform the regulations and the regulations have to implement the plan.

Phil P. asked for clarification on the process of changing the zoning vs. changing the town plan. Alex W. said the difference is in the number of hearings held. John T. added that the Town Plan is adopted by the Selectboard with no opportunity for appeal, but zoning regulations can be appealed.

Mike B. asked about Objective #2 regarding Design Standards. He asked if siting homes specifically on a site in such a way as to respect the natural features is based on data that supports the marketability of this. Alex W. said no, but it is based on planning literature (Growing Greener) and actual development patterns. It makes logical sense.

Mike B. asked if the proposed changes will be the same in RR/Ag Districts. Alex W. said the Design Standards would apply equally in each district, as are density allowances, allowed uses, and design standards. The break down between the districts is mainly forest vs. agriculture. The PC did talk about this, and decided forested areas and Ag areas should be protected equitably. Differences are mainly in allowed uses and the purpose statements of those districts.

Mike B. also asked about the PC minutes referencing use value. Alex W. said this is a taxation issue. The Planning Commission looked at the state's Current Use program, which encourages preserving larger lots, allowing and preserving access to allow continued farming. The PC wants to ensure that this program is one that we continue to leverage.

Mike B. asked about take-outs, were they considered in density formulations. Alex W. said the take-outs are not counted, they are removed prior to development potential calculations. The PC got a lot of feedback on this topic. The difference in build-out potential calculated with vs. without the take outs was so small, they decided to remove them from the model. In the overall Town view, it is hard to calculate total build out potential as current regulations don't lay out a definite formula. In setting the development density, the Commission's intent was to cognify current practices.

Andrea M. had a question regarding Objective #1; Expanded Allowed Uses. She asked if these additional uses are only allowed on existing parcels being used for Agriculture or Forestry. Alex W. said no, they are not intended to only be on existing lots. He said the Standards look at the impact; many uses are meant to be stand-alone (slaughter house, repair shop, etc.). Some are tied to existing Ag uses (i.e., integrated Ag & Forestry) to help diversify uses; the Principle Use must be in place for the integrated use to go forward.

Andrea M. asked about Non-Residential Uses. She feels these need to be scaled to be able to become residential use or part of an agricultural operation again. Alex W. clarified that is more like the Home Occupation or Cottage Industry. He said if a small business fails, the owner (or new owner) is under no burden to continue that use. Andrea M. asked what if an owner needs to expand the use due to viability. She also feels we are not preserving the rural land by allowing commercial uses. She worries about creating a “commercial park” in a residential area. Alex W. said this is a good point; a case by case review by the DRB could address this concern based on Conditional Use review. Andrea M. voiced her concerns that this may potentially create conflict with the Town Plan. In regards to the commercial park concern, Alex W. said there are provisions to limit the number of lots used for commercial purposes allowed on a given parcel.

Alex W. said the landscape is changing and we need to evolve with it. More innovative agribusiness allow us to begin these changes with caution and planning.

John T. asked about enforcement; are the conditions enforced by the Zoning Administrator and if so, with what “teeth”? Alex W. said enforcement would be handled the same as it currently is, the Zoning Administrator is made aware of a problem or concern, he contacts the property owner and makes a decision at that time if the project is in compliance or not. Any decision or action from the ZA can then be appealed to the DRB.

Andrea M. asked if the Road Foreman, Mike Anthony, had been consulted about the expanded uses proposal and what types and impacts it might have on roads. Alex W. said yes, he has specific concerns. An attempt was made to qualify the roads and it did not proffer clear results. He said this is why the Conditional Use review process is being used instead. Andrea M. asked if the DRB requires traffic impact studies. Alex W. said that depends on the intended use and anticipated traffic patterns.

Mike B. asked how impacts are measured. Alex W. said there are liberal allowances for Home Occupations. There are quantitative limits at the time of the application which are then locked in to become the defacto tool for the ZA. Currently, we defer to having review on a case-by-case basis. Andrea M. said she does not feel we are getting away from this issue. Alex W. said adding defined language, which offers predictability and flexibility should help.

John T. opened the discussion to the public. Bill Marks spoke, saying the Conservation Commission has questions/concerns about the rationale in eliminating the take-outs. He feels the sentiment was that people were against the density numbers, and the take-outs have little impact on that concern. Also, the environmental impact is indeterminable as we can not know *where* development will happen; in that regard, we should assume in favor of increased protection. He worries about the potential to drastically impact limited areas.

Tom ** asked if the new RR2 district regulations are seeking to protect Ridgelines as well. Alex W. said the language is not specific to ridgeline protection, but rather to steep slope and elevation limitations. Tom asked what about the development in the Mount Pritchard area. Alex W. noted that is in a different district (RR1). Tom asked about development around Lake Iroquois, which Alex noted is also in a different district (Shoreline).

Missy R. asked about Commercial Uses being allowed in the rural areas. She worries about incremental growth in traffic. While at on an individual basis, each project may not trigger concern, cumulatively as well as incrementally, the impact will be increasing, particularly on dirt roads. She asked what problem was the Commission trying to solve with this new proposal. She feels there are a variety of ways to address these concerns in the existing regulations.

John D., a resident on Texas Hill Rd, said he has been enrolled in the state's Current Use Program for 30 years now and it is not what it used to be. By that, he explained, he means that the funding has been cut and continues to decline and the tax break equates to a couple hundred dollars, not thousands. He went on to explain that there are changes being made to the program which aim to increase the penalty for withdrawing lands from Current Use for development.

John D. also voiced concerns in the proposed increase in Minimum Lot Size. The proposal raises the MLS from 3A to 12A, an increase of 400%. He finds that over the top and reminded the board that the regulations in place prevent over-building on a site. He strongly suggests it remain at the existing 3 acres.

Connie Kendall spoke, saying as a landowner, these proposed regulations will directly impact her. She appreciates what the Planning Commission is trying to do to soften the blow such as take-outs and an increase of allowed uses. She feels the creative approaches on uses give landowners other opportunities. The new proposal would eliminate the PUD option for her, however. She would like to see the existing Density Bonus of 25% for PUD to remain as is.

Jean Minor spoke, saying she is also against the proposed 12A MLS. She said she feels the new proposals are taking value away from her and her family. She feels landowners are due some compensation for the land they are essentially losing. She cited the Vermont Constitution (Chapter 1; Articles 2&9) which says land owners *must* give their consent and be compensated.

She feels if the owners are to be restricted on their own land to the benefit of the entire town, then the town should help pay.

John T. clarified that the 12A MLS would be determined by the entire parcel, not restricting the owner to only the creation of 12A lots.

Rob Bast spoke, saying he owns 20A off Silver Street and he recently began the process of subdivision. He suggests adding language to allow time for completion of applications already in process. In regards to concerns brought up around commercial businesses, he said we must allow some reasonable level of growth while maintaining a balance with the people who live here and want to continue to do so.

**Dennison spoke, voicing concerns with allowing small lots to be business use. What about businesses that don't "fit" in with their residential surroundings? He suggests a Conditional Use allowance that includes a time limit. If the business is successful, it will eventually have to move to maintain viability. He worries about a succession of small businesses becoming "warts" on the landscape.

John T. reiterated Alex's point that landowners (or new buyers) will be under no obligation to remain as commercial use.

Andrea H. spoke, saying her family farm has been through the subdivision process, and remains essentially unchanged. She is totally against the take-outs being removed for density calculation. She said she would like to keep options on land for landowners. She understands the problems but is torn as a landowner and a working farmer. The dilemma for the Planning Commission is to keep the land rural while remaining fair to all landowners. She likes the 12A and sees value in the "extra space" created. Regarding development in the rural districts, a lot of businesses *could* fit in in those areas. In her opinion, businesses *can* keep agricultural land working and open. She said we must provide options with common sense to land owners. She agrees we should limit impacts on dirt roads and also encourages the board to consider the impact when larger lots subdivide for commercial uses. She encourages compromise.

Missy R. agreed with Andreas' concern of impact on roads when subdivisions take place for commercial use. Andrea H. pointed out that there is a limit of 34% lot/commercial use. But she still suggests the board reconsider the density numbers and offered 5A/6A/7A for consideration. John T. said we are looking at the PC's proposed numbers for the purposes of this discussion; other figures have been considered.

Richard ** said he feels the MLS of 3A should actually be made smaller. He cited the state's formulation of assigning the homestead the first 2A.

John T. asked for a review of where board members stand on the proposal.

Phil P. said he is overall supportive of the proposal. He feels the process is a good one. He said the changes made based on feedback from previous public meetings seem appropriate. He said the expanded uses are overall a good idea. He feels the concern around rural roads is fair. He is open to further discussion around the 12A number and agrees to consider an expanded time frame.

Andrea M. said she is also overall supportive. She feels some language changes could better demonstrate our aim of preserving options while maintaining the viability of farmlands. She suggests consideration of MLS that consider animal presence to curtail water quality affects. She voiced concerns around staff time in creating maps etc. saying it should be the Town's role to inform, but we should not have to take the time to create the documents for individual land owners. She would like to see editorial comments removed from the proposed ordinances. She cited some conflicting values at play; home placement vs. energy efficiency among others. She suggests the DRB have more site visits on projects that come before them.

Mike B. said he is still struggling with the density issue and has concerns around the PUD bonus. He sees some concern as Town Assets vs. Personal Assets, and said we need a balance between these two. The road impacts also remain a concern for him as well as the practicality of enforcement. On the other hand, he does see the requirement of traffic studies as going too far.

John T. said he, too, is overall supportive of the proposal. He is not interested in recrafting the language. He is open to further discussion on density but said he respects the work done by the Planning Commission on this issue. In his opinion, he is satisfied with the work done by the PC but will consider suggestions offered. He has the willingness to compromise and said it doesn't look like any wholesale changes will be taking place.

Bill M. said on behalf of the Conservation Commission, he would like to request further discussion amongst the board regarding Ridgeline Protection. He would like them to also consider leaving the take-outs in for density calculations and suggests they consider lowering the overall density numbers as well.

The board agreed that the goal is to gain a better understanding of growth, to make sense of the process and to add some predictability to it, and to treat every parcel equitably. The next public meeting will be held on 5/20 at 7pm at Town Hall.

Phil P. made a motion to adjourn. Mike B. Seconded the motion. All in favor, meeting adjourned at 9:29p.m.

Respectfully Submitted,

Freeda Powers (Recording Secretary)