

Town of Hinesburg
Planning Commission
April 23rd, 2014
Approved May 14th

Members Present: Maggie Gordon, Tim Clancy, Joe Iadanza, Dennis Place, Kyle Bostwick, Russell Fox, Rolf Kielman.

Members Absent: Aaron Kimball.

Also present: Alex Weinhagen (Director of Planning & Zoning), Freeda Powers (Recording Secretary).

Public Present: Jamie Carroll

Joe I. chaired the meeting which was called to order at 7:34p.m. There were no public comments for non-agenda items.

Stormwater Regulation Revisions (Cont'd from 4/9/14 meeting)

The Board reviewed revised draft language, specifically noting changes made per discussion at 3/26 and 4/9 meetings.

Maggie G. made an editorial change to pg. 2, add the word "and" to the first sentence to read "...that requires a zoning permit or DRB approval, and which creates new impervious surface..." She also asked if smaller additions or renovations (fewer than 10,000 sq.ft.) would not trigger this. Alex W. said that is correct, this would require the addition be over 10,000 sq. ft. of *new* development. This is a concern we are hoping to address as well, that of incremental development (i.e., the old cheese plant site).

Kyle B. asked for clarification on pg. 2 in regards to state review. Alex W. said to be clear, no, this is not saying that projects must get state review but rather that a licensed engineer has to design a plan that meets the state standards.

Kyle B. asked is it the town's responsibility to audit? Alex W. said if the DRB feels that is warranted, the town can hire an engineer to review a given plan. Kyle B. said so there is no fall back to the state? Alex W. said not unless a project triggers Act 250 review. He added that points 2 & 3 (regarding proper use of infiltrating soils and post-development drainage patterns) are in addition to the state standards.

Rolf K. asked about the reference throughout the draft language to "qualified licensed engineer" and asked if that is specific to Vermont licensed engineers? Alex W. said that is a good point for consideration. Rolf K. felt this was a good idea as out of state companies may apply different sets of regulations for their designs. He said to his knowledge, one must be licensed with a state to do work within its borders. He offered to call the Secretary of State to get a firm answer on this.

Tim C. took issue with the fact that this proposal only addresses new development. He said we have heard over and over again about the impact of incremental development. This will not address that concern. Alex W. reminded the Board that there is Site Plan Review (for non-residential or multi-family

development) and that if new projects are creating less than 10,000 sq. ft. of impervious surface area, we want to see a plan.

Rolf K. asked if that is evaluated and reviewed in its sum, as an aggregate over a couple of years. Alex W. said yes, and gave as an example the Norris development on Silver Street, which took place as two separate buildings but was reviewed as one project. He said only in a phased review would it be done sequentially. Tim C. said so there is no good way to address incremental development? Alex W. said not with this draft; it is predicated on site by site review. He suggested it may be based on the geography of an area (i.e., portions of the village). Tim C. asked about addressing areas developed pre-zoning. Alex W. said this is the Zoning Administrator, Peter Erbs' concern as well, and is mentioned in the draft language; "Incremental development or redevelopment via small projects shall include at least incremental improvements in stormwater control and treatment." Alex W. went on to explain that new regulations do not make projects out of compliance; only when people want to change existing development can the regulations bite them. But if done in a proportional manner, incremental changes can be met with incremental improvements to stormwater impacts.

Kyle B. said this feels like better than nothing but asked can we make it more conditional with the DRB? Alex W. said this language does just that, if a project falls below the trigger, the developer doesn't have to meet the standards, but they are still strongly encouraged and the language reads as "shall" include incremental improvements to stormwater treatment and control.

Tim C. asked if there is a way over time to get properties to make these incremental improvements until they meet the current regulations. Alex W. said he hesitates to say yes to this as it is unlikely these projects would ever meet the attenuation standards of the state. Joe I. said the language almost guarantees that the projects won't reach the state standards in larger projects as their impervious surface is already so great. Tim C. said he would feel better if the regulations were moving more in the direction of full compliance but asks is that unrealistic? Alex W. said in his view, yes. We can achieve the goals around stormwater treatment and control by larger community-scaled projects. Compliance, in that sense, is not the number one goal. Tim C. agreed, but said we should set the regulations in such a way that they get you to where you want to be.

Joe I. said there are some hooks in these regulations which help to bring the conversation to the DRB regarding what is an incremental improvement. Alex W. said Tim makes a good point for consideration. Rolf K. said conformance; if you make significant improvements or modifications to a building, typically you are made to conform to the new standards. Alex W. said this is true with FEMA with regard to homes build in a Flood Hazard Area. If someone proposes to increase the value of a property by more than 50%, they could have to meet the new standards. Kyle B. cited the ADA code, which says if a square footage threshold is reached, a project must meet the standards. In this approach, we could use changing or modifying an existing structure the trigger point. Tim C. said as property values grow, there is potential here. Alex W. said the investment has already been made in terms of infrastructure with those properties, the net benefit to the community to not require them to invest in new stormwater treatment, which can be cost prohibitive and therefore has the potential ability to stymie economic development and growth where the public expects to see it (i.e., the village).

Russell F. asked if a municipal stormwater treatment facility would be paid for through impact fees. Alex W. said yes, impact fees are a very effective mechanism to achieve these types of projects. Ultimately, he said, it is a decision made by the Select Board, but the proposal or idea can be submitted to them from the Planning Commission.

Rolf K. said zoning language is not exactly encouraging development which exceeds 10,000 sq. ft. Joe I. said you really have to have people sign on to the idea of a stormwater utility. Tim C. said look for the optimal solution, which is not necessarily a municipal facility. Alex W. said it could be done simply as we do capital budget planning. He reiterated that this would be a community-scale project. Tim C. said we have talked about this for a couple of years and he thinks the time has come to address the issue. He is personally in favor of more natural, instinctive, creative and innovative treatment measures (i.e., wetland type treatment). Perhaps at some time the town could consider purchasing a parcel of land and utilizing a managed wetland of sorts. He voiced caution on relying solely on incremental treatment, which he feels is inherently inadequate and unlikely to achieve or keep pace with the goal of overall water quality care and control.

Russell F. asked about the treatment portion of existing impervious surface area? He suggested language to result in treatment of a greater portion of the site runoff than what the project generates. Alex W. said the language could have thresholds of existing structures which add X number of sq. ft. In other words, have the fix be proportional to the project. Maggie G. agreed. Dennis P. asked how the DRB will determine what constitutes an "incremental improvement". Alex W. said that remains an open question which is at the discretion of the DRB and the applicant. Tim C. suggested a measure of value or of size; if additions or improvements to an existing development results in an increase in the value of the development, or measured by the increase of the developments' overall size. Joe I. said he sees the issue here as impervious surface area. He said value is not the question. Alex W. suggested the Board consider tying treatment to lot coverage, perhaps even using a table for referencing the scale of a give project. In such an example, the percentage of lot coverage (with impervious surface area) would result in the specified level of treatment required for the site. Dennis P. said we should also consider current on-site treatment with each project. Alex W. concurred.

Rolf K. said he is convinced the language around "incremental improvements" needs more teeth. He said if significant improvements to stormwater treatment are going to be mandated, he feels we need to get to a clear and beneficial standard. Alex W. cautioned against creating Hinesburg-specific standards. Maggie G. said she is in favor of tying this to lot coverage. Rolf K. asked if there is a way to apply the threshold to projects which do significant alterations to a site and also asked if an engineer could provide treatment options to a project and allow the applicant to choose from a variety of treatment possibilities. Maggie G. voiced her concerns with the idea of the engineer making suggestions as they are working on behalf of the applicant, typically. Kyle B. asked then, how to incentivize the developer? Joe I. suggests the language already does this. He added that zoning has very few quivers to offer as incentives. Alex W. cited density bonuses and lot coverage bonuses as examples of zoning incentives. Dennis P. said those types of incentives in this case seems counter-productive to him. Alex W. suggested another option would be to revise the fee schedule to propose to the Select Board. Maggie G. said that would require some consideration of the cost of stormwater treatment improvements vs. the bonus offering to ensure the incentive is truly there. Joe I. agreed, saying we want to avoid scenarios in which a developer would forego the cost of treatment or improvements if outweighed by the one-time charge. He said the net-effect of regulations should be to reduce the immediate stormwater runoff *with* the new use/development. Alex W. said it is rare to see development that exceeds the 60% lot coverage maximum. Joe I. said the incentive must make financial sense to the developers. The impact fee needs to take into account the money required to achieve sufficient stormwater treatment and control. Alex W. said that if the proposals paying the impact fee are the only drivers of the need, the project can be supported 100% by impact fees.

Maggie G. said it is in the town's best interest to have a comprehensive stormwater control and treatment facility or regulations that achieve the best outcome we can. Dennis P. said landscaping is

tied to the money spent (i.e. a certain % of a project's overall budget) and suggested a similar tact here. Maggie G. asked how much do the improvements cost? Kyle B. agreed, saying we need to know what mitigation costs vs. cost of a project. Alex W. reminded the board that we are talking about smaller scale projects, namely redevelopment projects. He said the Board can consider a provision or clause that such projects shall meet the current regulations. Joe I. said the last sentence says state permits omit the requirements ("Evidence of an approved State Stormwater Permit will constitute compliance with the five standards listed..."). Alex W. said the Board can modify that language if they want.

Dennis P. asked what is different from the state permits issued 20 years ago and the ones being issued today. Alex W. said there were previously no attenuation standards in flood events. He said he is not sure on the specifics, but that they have changed.

Dennis P. asked about maintenance of ditches and swales. Joe I. said as the percentage of impervious surface area on a site increases, should the developer be responsible for decreasing the percent of runoff from the site? Dennis P. questioned how to quantify this; on a 30-40A parcel, how could one determine the percentage of stormwater leaving such a large site if they can not be sure of the precise place it is leaving the site.

Maggie G. asked if Site Plan Review requires review or input from an engineer. She feels it would be less expensive to implement LID practices (i.e., rain gardens, rain barrels, etc.) Joe I. said non-residential entities typically fall under Site Plan Review.

Tim C. said he still questions the approach of "incremental" improvements. He said we need to quantify this with qualifying language.

Jamie Carroll said old permits are good to review. He suggested giving the DRB a menu list of LID practices or treatment options and allow them to choose the most feasible ones for the project before them. Also, he would like to see a mechanism to allow an increase in lot coverage to allow lots to remain financially viable.

Joe I. said there need to be hooks to ensure development is meeting the standards and allows the DRB to evaluate those projects with the help of hired professionals. Tim C. suggested adding examples in the language to guide applicants in the right direction (i.e., rain barrels, tree plantings, rain gardens). He said we don't want people to need an engineer for small projects. Dennis P. asked about projects that propose to move the drainage area of a site. Tim C. said it matters not where the drainage occurs on the site, but that it is well treated in the process. Alex W. agreed with Tim's assessment. Joe I. concurred, saying it is a matter of the water leaving the site not where it leaves the site.

Joe I. proposed the Board postpone Agenda Items #3 & #4 due to the late hour.

Dennis P. mentioned an email from Alex W. requesting assistance with the Shoreline Regulations revisions. Rolf K. agreed to assist staff.

Alex W. asked the Commissioners to consider the Town Survey questions and be prepared to discuss them at the next meeting.

Minutes of the April 9, 2014 Meeting

Rolf K. made a **motion to accept the minutes of April 9th as written.** Dennis P. **seconded the motion.** All in favor, the Board voted **7-0.**

Other Business

- Correspondence/News/Announcements
 - AT&T Wireless Telecom Facility Upgrade at the Leavensworth Road site. The previously withdrawn application has been resubmitted.
 - Route 116 Corridor Study Report was presented to the Select Board on the 21st. The report contains some significant recommendations and can be viewed on the town website.

Maggie G. made a **motion to adjourn.** Rolf K. **seconded the motion.** The board voted **7-0.** The meeting ended at 9:50pm.

Respectfully Submitted,
Freedra Powers--Recording Secretary