

**Town of Hinesburg  
Development Review Board  
January 17, 2017  
Approved February 7, 2017**

Members Present: Greg Waples, John Lyman, Dennis Place, Dick Jordan

Members Absent: Ted Bloomhardt, Rolf Kielman, Sarah Murphy

Representing Applications: Larry Williams, Abby Dery, Todd Haire, Brett Grabowski

Public Present: Brian Hunter, Larry Williams, Dale Wernhoff, Jon Slason, Jon Farmer, Greg Tomczak, Dan Jacobs, Wayne Maceyka

Also Present: Dawn Morgan (Recording Secretary), Mitchel Cypes (DRB Coordinator & Zoning Administrator).

Dennis P. chaired the meeting, which was called to order at 7:33 pm.

**Agenda Changes:** Mitchel C. made an announcement after the review of the 12/20/16 meeting minutes. John L. recused himself from agenda item number 3, which left the Board without a quorum. As a result, item number 4 (Catamount-Malone/Hinesburg, LLC) was addressed before Item number 3 (Hinesburg Center, LLC/David Lyman).

**Public Comments for Non-Agenda Items:** None.

**Minutes of 12/20/16:** Greg W. made a **motion to approve the 12/20/16 minutes as amended.** Dick J. **seconded the motion.** The Board voted **3-0.** John L. abstained.

**Announcement – Water allocations by Select Board on 1/16/17:** Mitchel C. announced that the Select Board, at the 1/16/17 meeting the previous evening, provided water and waste water allocations to the Foam Brewers and the expansion of Vermont Smoke & Cure. He said that the allocations use 2,150 gallons per day of the Annual Capacity Allocation. He went on to say that there are 2,850 gallons per day remaining in the allocation. Mitchel C. said that the Annual Capacity Allocations are updated every June and they may go up, go down or remain the same.

Greg W. asked what the Select Board's action meant in terms of how much water was available for contemporaneous applications. Mitchel C. said that it may result in there not being enough water for something more than the remaining 2,850 gallons per day. Greg W. asked about which stage of an application the Board needs to know whether enough water is available. Mitchel C. said he was not sure. Dennis P. said that normally the applicant would find out after the sketch plan stage, and Greg W. noted that some applications (such as Foam Brewers) do not require a sketch plan. Mitchel C. said that his understanding is that if an applicant has an existing site plan, they are able to request an allocation. Mitchel C. went on to say that a sketch plan or subdivision would need to go through a bit of the process before they can receive an allocation.

Greg W. asked if the Select Board was aware that there were competing demands for the available allocations and Mitchel C. said that he would think they would have some knowledge of the applications, but could not presume to speak for the Select Board.

Greg W. asked if a fair summary would be that there are two applications presented at tonight's meeting that are competing for the available water allocations, and there is not enough remaining allocation to grant both applications. Mitchel C. said that the Board had options on how to proceed. Dick J. noted that the brewery has already received their allocation so it should not be an issue with their site plan review.

Greg W. asked if the cheese plant already has an allocation of water that the brewery could tap into. Mitchel C. said it did. Greg W. suggested that the Board Chair open the first application for review.

**Catamount-Malone/Hinesburg, LLC (Cheese Plant): Site Plan Review for a 5,200 square foot, 6-employee brewery to lease space that is currently vacant. The applicant is proposing changes to parking, landscaping, and sidewalks. The project is located at 10516 VT Route 116 in the Industrial 3 Zoning District.**

The Applicant (Larry Williams) said that they were requesting approval for occupancy of a 5,200 square foot, 3-bay garage located between the restaurant and Vermont Smoke & Cure. The Applicant said that the garage would be occupied by Foam Brewers. There was discussion of where the garage was located in the plant. Mitchel C. showed the site plan on screen and pointed to the location of the garage.

The Applicant said that prior applications had left usage in front of the garage space to be determined. The Applicant said that this application proposed the addition of a full island and a half island, which would help delineate the entry road to the property. The application also proposes additional landscaping and the addition of a sidewalk along the south side of the entry road.

The Applicant said that as part of this application, the Cheese Plant had agreed to allocate the balance of their water allocation to the project. He went on to say that there is a slight discrepancy with the Town's records regarding remaining water allocation. The Applicant believes they have 330 gallons/day of remaining while the Town's records indicate 300 gallons/day.

The Applicant said that in addition to the 330 gallons/day (or 300 gallons/day), Foam Brewers has requested an additional allocation of 1,850 gallons/day. In addition to that, the Cheese Plant requested an additional 400 gallons/day for the proposed expansion of Vermont Smoke & Cure. The Applicant said that they requested the allocations approximately 1 week ago based on their understanding of Town Ordinance.

The Applicant addressed Staff comments requesting a parking island, and he said that they specifically left that out of the application. He said that the brewery is planning to use all 3 of the bay doors for deliveries and an island would make that more difficult. The Applicant said that they are fine with the request for a 5-foot sidewalk setback, and that Foam Brewers could speak to the level of anticipated noise.

Greg W. asked if they planned to make the project a pub and brewery, and the Applicant said that they are not requesting pub use at this time, only brewery use. Dick J. asked if they planned to provide

customer samples or allow customer visits, and the Applicant (Todd Haire) said no. Greg W. asked if there would be retail sales and John L. asked if there would be public access. The Applicant said that is not currently the goal and that it would be a small production facility. The Applicant also said that the noise would only be that from the pumps.

Greg W. asked what the water/waste water necessity is for (e.g. beer, disposal of byproduct, etc.). The Applicant confirmed that they would use Hinesburg well water for their beer, utilize municipality sewer for liquid byproduct and grain byproduct would be side-streamed to local cattle.

Dick J. asked if the doors would be closed, even in the summer, and the Applicant confirmed. Dick J. expressed a concern about the location of the parking spaces in front of the garage door. He said that if the existence of an island would compromise deliveries then the parking spaces would also create an issue. Dick J. further noted that the spaces are currently meant as general use for the whole property. The Applicant said that deliveries are fairly intermittent and that using the area primarily for parking and then managing it (roping it off, coordinating with neighboring businesses, etc.) during deliveries seems like a good use of space. Dick J. pointed out that the spaces were not theirs to rope off, and John L. said that deliveries would have to be scheduled.

Dick J. said that he can see the benefit of an island there because it delineates the travel lane from the parking area. Dennis P. asked if there would be enough room for trucks if the island was there and the Applicant said there would not be. The Applicant then said that they've developed the cheese plant incrementally and that this would be another incremental step in the process. He surmised that in coming years there may be further development such as a patio, and at that time they could install the last island. Dick J. inquired about the proposed plantings. The Applicant (Abby Dery) indicated on the map where they would be located.

Greg W. asked if the Applicant had any views on the water allocation issue that had just been brought to the Board's attention. The Applicant said that they believe the Ordinance is clear. Greg W. said that there are only 4 members of the Board present at the meeting and he was not prepared to take any action at this meeting. Greg W. continued by saying that he believes that more time should be allowed for reflection by the Board and Staff, and Town council should be consulted before proceeding to ensure that the Board is making an informed decision.

The Applicant (Larry Wilson) asked if the Board would consider moving forward with the decision with a condition that the allocation be validated by Town council. Mitchel C. noted that the Applicant will also need to return for a conditional use application for the sidewalk that is in the stream buffer. John L. said that the sidewalk application will need to be a warned hearing and Mitchel C. said that the Board has the option of continuing an allocation condition until that hearing.

Dennis P. suggested reviewing both applications without considering the question of allocation and noted that the Board could have potentially reviewed them without ever being made aware of the allocation issue. Greg W. said that they could theoretically do that, but that council needs to be consulted either by the Board or the Select Board. Greg W. went on to say that if neither Board wished to take on the issue then the Board would issue potentially conflicting decisions, issue permits that are competing for the same limited supply of water, and then one of the Applicants will likely appeal the Board's decision. Greg W. reiterated that he believes council should be consulted before the Board makes decisions that are almost certain to be appealed by at least one of the two parties.

Dick J. noted that the narrative indicates that production estimates are 1,000 barrels of beer per year (bbl/yr) in the first year, increasing by 1,000 bbl/yr with a maximum production of 5,000 bbl/yr. Dick J. asked if the water allocation that has currently been approved covers the 5,000 bbl/yr and the Applicant confirmed that it does.

Mitchel C. said that there is a method in the allocations where an Applicant can obtain some allocation that they are using and then pay certain fees to reserve additional allocation. He went on to say that he believes the Applicant has acquired some of the allocation that they will use now and are reserving additional allocation for later on.

The Applicant (Abby Dery), said that she supports Larry Wilson's suggestion that the Board review the application in all respects, excepting the water allocation, and then making the allocation a condition. John L. said that Staff Comment #4 of the Site Plan Review requires a warned hearing for the stream buffer. John L. said that he does not feel the Board should make any definite answers until that warned hearing, if that is indeed a requirement. Dennis P. asked if John L. wanted to continue the application and John L. said that if a warned hearing for the sidewalk is required then yes, he supports continuing until the hearing. Greg W. reiterated that he is not prepared to support any action at this meeting so no decisions will be made tonight, given that there are only 4 Board members in attendance.

Greg W. said that he would like to hear from Brett Grabowski (Hinesburg Center, LLC/David Lyman), and the Board agreed that they could hear from Brett as a member of the public rather than an applicant. Dennis P. opened the discussion to the public.

Brett G. said that he would encourage the Board to continue the application, as the Ordinance appears to unfairly give advantages to commercial projects that only require a site plan. He said that it would be premature for the Board to make a decision without reviewing the entire Ordinance. Brett G. also noted that there are certain lawsuits pending against the sewer and water allocations, and based on that he is uncertain as to whether the Select Board had the legal authority to grant allocations to any projects. Brett G. also requested that he be permitted to submit a legal opinion on the matter.

Greg W. asked if Brett G. was present at the Select Board meeting the previous evening and whether he anticipated the issue being covered at the meeting. Brett G. said he was not present and did not anticipate this issue would be addressed. Greg W. asked when Brett G. was made aware of the issue and Brett G. said he was made aware at tonight's Board meeting.

Brett G. said that his understanding is that the cheese plant has a large allocation remaining from the initial property redevelopment. Mitchel C. clarified that there was a combination of remaining allocation from when Saputo occupied the space and then an additional application was awarded. Mitchel C. said that the discussion is only about water because there is sufficient sewer allocation.

Wayne Maceyka asked if there are ways to switch how the allocation works, or creative ideas to handle wastewater. Mitchel C. said that it is not a matter of wastewater and that there is a Town Ordinance that spells out the process for water allocation.

The Applicant (Todd H.) said that they have read the Ordinance and have tried to do their due diligence. Dennis P. noted that the application was brought before the Select Board and Mitchel C. confirmed that his understanding of the Ordinance is in line with the Applicant's understanding. Mitchel C. said that he

would provide the Board with a copy of the Ordinance as well as a Staff opinion and see about getting council.

The Applicant (Larry Williams) again encouraged the Board to review the other issues of the application and the Board agreed to review the bullet points. Dennis P. said that if the Select Board did what they were supposed to do then he does not see why they cannot move forward with a decision, and Greg W. reiterated that he is happy to review the bullet points but is not prepared to make a decision at this meeting.

Dick J. reiterated his interest in an island and questioned how the parking & deliveries were going to work. The Applicant (Abby Dery) said that the resistance to the island is the expense, and that they would like the opportunity to at least try to use the doors for deliveries if they can make it work. Dennis P. asked if the parking was there today and how it was currently working. The Applicant (Larry Williams) said that it is being utilized when the restaurant is busy. Dennis P. asked if there was overflow parking and the Applicant confirmed. Dennis P. then suggested that there might be something other than an island that the Applicant could do to help delineate the parking area.

Dennis P. asked about the proposed curb and landscaping and the Applicant (Abby Dery) pointed on the map where the curb and plantings would be added. The Applicant showed where the sidewalk would be created and the associated plantings. The Applicant said that everything else was currently existing. There was discussion about the location of the proposed sidewalk. Mitchel C. said that in the Town Map the area is looked at as a potential Town road and they are trying to create landscaping and curbing in anticipation a Town road. The Applicant (Larry Williams) said that they are not fond of the idea of a sidewalk but are willing to do it as the Town has requested it.

Dick J. inquired as to the purpose of clustering the plantings and the Applicant (Abby Dery) said that the location is where they will be losing the most of plantings as a result of the installation of the sidewalk. Dick J. asked about maximum trips and the Applicant said they would provide a number of total trips per day at the next meeting. Dick J. asked if the total trips per day would include deliveries and the Applicant said it does.

Dennis P. re-opened the conversation to the public. Wayne M. said that it is great to see another business wanting to come to Hinesburg. Dale Wernhoff said that it seems a little unusual that the housing project would have to downsize their project because of the water allocation issue and then have the Select Board allocate water to the brewery. Dale W. suggested that the Boards might have communicated a little better and Mitchel C. said that there were some communications.

Greg W. made a **motion to continue the application for Catamount-Malone/Hinesburg, LLC (Cheese Plant) to the next meeting.** Dick J. **seconded the motion.** The Board **voted 4-0.**

**Hinesburg Center, LLC/David Lyman (Phase II of the Hinesburg Center Project): Sketch Plan Review for mixed use development on a portion of 46-acre parcel located to the west of Hinesburg Center Phase I (Kinney Drug, etc.), south of Patrick Brook, and north of the Creekside Neighborhood. The proposed project includes eight single-family residential units, two 4-unit townhouses, two mixed use buildings with commercial use on the 1st floor and three residential units on the 2nd floor, and open space all within the Village Zoning District. This is a new proposal as the DRB denied the previous subdivision proposal in December 2016.**

The Board agreed that the application should be continued to the next meeting and Greg W. invited the Applicant to submit a legal opinion.

Dennis P. made a **motion to continue the application to the next meeting**. Dick J. **seconded the motion**. The Board **voted 4-0**.

**Other Business:**

- **Ted & Carol Bloomhardt: Extension request – Sketch Plan Approval of a 2-lot subdivision. Decision dated 2/2/16. A first extension was granted on 7/5/16.**

Mitchel C. said that this application will expire on 2/2/17. There was discussion about making the Applicant aware that there will be no more extensions, as they need to have a final approval by March of 2018.

Dennis P. made a **motion to approve the request for a 6-month extension request and, absent extraordinary circumstances, the Board will not entertain any further applications for adjournments of the final application**. Dick J. **seconded the motion**. The Board **voted 4-0**.

- **Sheri & Brian Hanlon: Decision deliberation – Sketch Plan Approval of a 2-lot subdivision.**

There was not a quorum for the discussion so the Board agreed to discuss the decision at the next meeting.

- **On the Record Review discussion (continued from 12/20/16)**

The Board agreed to continue the discussion to the next meeting when more Board members would be present.

- **News/Announcements/Correspondence**

Mitchel C. said that there is a standalone sign application on the agenda for the next meeting. The Board agreed to schedule the item first on the agenda.

The meeting adjourned at 8:32 pm.

Respectfully submitted,  
Dawn Morgan, Recording Secretary