

**Town of Hinesburg
Planning Commission
October 10, 2018
Approved October 24, 2018**

Members Present: Dennis Place, John Kiedaisch, Barbara Forauer, Joe Iadanza, Maggie Gordon; Jeff French joined the meeting late

Members Absent: Rolf Kielman, James Donegan, Marie Gardner

Public Present: Kyle Bostwick

Also Present: Alex Weinhagen (Director of Planning & Zoning), Kate Kelly (Recording Secretary)

Joe I. chaired the meeting, which was called to order at 7:03 PM.

Agenda changes: None.

Official Map Revisions:

Alex W. mentioned that letters to landowners went out in the middle of last week; the Commission probably won't hear from landowners until next meetings. The office has talked to two landowners so far.

Alex W. said that Kyle B. received a notice because of one of three in the Farmall Drive neighborhood due to future road connections (north and south side of neighborhood), and the trail shown through the west side of the neighborhood. Kyle B. stated they grant an easement to VAST every year, and the language they have agreed to with the town is that they will allow a trail to go through along the VAST trail.

Barbara F. asked how many letters went out; Alex W. replied there were 65. Alex W. intends to get information to webmaster this week, so they can inform community at large.

Kyle B. asked if this is the finished product, and the next 4 meetings are for public feedback, or will the Commission be making changes? Alex W. and the Commission replied that they only intend to make changes based on feedback from the landowners. Alex W. said he will bring in feedback he receives.

There were no further comments. Kyle B. left the meeting.

Public Comments for Non-Agenda Items: None.

Village Area Public Open Space Design Standards:

This draft (draft 6) was sent to Town Attorney and planners for comments. Alex W. walked through substantive comments from the Attorney. He outlined:

- 1) Adding the word “non-exclusive” general public use. Joe I. asked for clarification. Alex W. said this refers to not excluding any members of the public.
- 2) Under applicability section, the Attorney would like to see some wording that connects the need for open space to the impact of larger developments. Joe I. said this is what the town wants, and felt there already is a clear linkage between built area and open space. Alex W. replied that from a legal perspective, the Attorney felt this type of statement would be important.
- 3) He suggested language stating that the type and design of public open space shall have a nexus to the nature of the proposed development.
- 4) He suggested the Commission should make the minimum amount of public open space a requirement approved by the DRB (to allow some flexibility).
- 5) The Attorney suggested the standards should give them credit for full easement area (20 ft) instead of 10 ft.
- 6) In the above-ground utility infrastructure section, he suggested deleting the part about above ground solar installations (can’t regulate this, Public Service Commission has jurisdiction). Joe I. asked if we can put it as a should instead of a shall (encouragement). Maggie G. mentioned we can (and do) regulate screening. Joe I. asked if we could still leave this in. Alex W. said we could, but that the DRB could not use this to condition or deny an application. Joe I. would like to have some language to encourage them to do the right thing. Alex W. pointed out that the Standards mentioned that certain things (including ground-mounted solar installations) don’t count toward open space, but then we asked developers to design them a certain way. Joe I. agreed that part is quirky, but we need to try to prevent issues that come up. Alex W. felt this is already accomplished through the screening section of the regulations. John K. mentioned that we do this with parking lots; Alex W. replied that we can do it, but this isn’t the right area to do it.

Barbara F. asked about the wording “well-screened”: should we define this better? Alex W. replied that he also received this comment from a reviewer.

John K. asked if the sentence the Attorney proposed dropping is covered by screening language, and if not, could we move the language to the screening language. Alex W. said we could talk about that, but he recalled it would also need to apply to commercial-industrial buildings.

Joe I. suggested language like “open space should not be impaired by...” Alex W. said we could write something like this. Maggie G. felt we have strong screening regulations already. John K. would like to see screening all the way around, utility cabinets. Joe I. said they have to have a way to open these on one side; discussion ensued about requiring developers to screen all sides. John K. felt strongly that it can be done; Alex W. felt that this language addresses this. Most would like to see well-screened better defined (John K. suggested “year round”).

- 7) If developing public open space outside of project area: developer shall demonstrate control of off-site area
- 8) Contribution alternative section: Don’t make this at sole discretion of the DRB; there will be less legal jeopardy should someone appeal this. Joe I. felt if you make it by-right, it’s going to get used quite a bit, which may negate what the Commission is trying to do with the open space specification. Alex W. said several planners suggested making buy-out expensive enough. He pointed out that the 50% rule guarantees that we will get at least half of what we were aiming for. Joe I. said we are trying to get some smaller spaces distributed through developments; his concern is we will only get a fund to develop the official map/larger spaces. Alex W. pointed out the Attorney is thinking about this from a legal perspective only. Joe I. and Barbara F. were both bothered by the buy-out option.
- 9) Requiring public open space would be deemed a hardship: be more specific
- 10) Coordination with the Selectboard regarding... may be problematic if DRB is seen as delegating authority under these regulations to the Selectboard. John K. asked if coordination means approval; Alex W. said it would be not mean approval, just that the applicant should show coordination. Alex W. said there could be a problem if the Selectboard considered the amount of money in the fund; the DRB is quasi-judicial and wouldn’t take into account the amount money in fund.

Joe I. asked about any potential issue if the town takes money from developer then doesn’t use it to develop (like an impact fee). Alex W. said this could be a problem, and will ask the Town Attorney.

- 11) Under the amount of contribution section, where it mentions that for the half of open space you’re not doing, contribute no less than half of estimated total development cost. What prevents the applicant from low-balling the estimate?
Dennis P. asked if there would still be space for private open space in these parcels. Alex W. ran an estimate, and felt there is still plenty of space for yards and neighborhood-only spaces.

Alex W. reviewed what he received from the planners:

- 1) Linking this back to implementing the Town Plan
- 2) How will space be available to public (easement, deed, good graces)? Alex W. commented that currently in a conventional sub-division, the developer just needs to meet the regs. Or, in a PUD, the developer can ask for waivers, but must have a master planned project, and must set aside some open space (could be deeded to town, have a permanent conservation easement, described and indicated on survey plat and HOA language). He proposed a similar description in this document (these should be open, non-exclusive, could be deeded or easement, etc.).

Maggie G. suggested that some of this money may need to be applied toward maintenance. Alex W. said Selectboard would need to think about the budget for maintenance.

John K. mentioned the Land Preservation Fund (which requires advice from Conservation Commission to Selectboard); might this be structured in a similar fashion? Alex W. responded that this brings up important issues, which areas would town want to take over and maintain?

Joe I. said we as a town (with Selectboard) would like to make this decision (maintenance is the responsibility of the developer, unless the town accepts it). Dennis P. asked what happens if someone gets hurt on this space (would town get sued). Alex W. said most landowners have insurance to cover this. John K. asked who takes care of Green St. sidewalks; Alex W. replied it is landowner.

Jeff F. entered the meeting.

- 3) Run more examples on existing developments in town to see what unintended consequences might be.
- 4) Recommended minimum area requirements were about size but not type: consult with landscape architect?
- 5) Contribution alternative option leading to low-ball amounts. Language could include a requirement that estimates be verified by an independent landscape architect. Alex W. didn't feel this was necessary, as the DRB would have this ability.
- 6) We have many excluded areas (steep slopes, river corridors, etc.): sometimes you could get interesting open space in these areas. Alex W. pointed out that our Overlook Park area includes steep slopes; may want to include some flexibility here.
- 7) Is the public open space meant to be accessory to another use, or the destination in and of itself? Do we want to specify this in the regulations? John K. asked if we have anything on the

official map that touches on this; Alex W. replied no, this is just smaller spaces. Joe I. didn't feel it matters.

8) Many grammatical/language changes.

Alex W. asked how the Commission would like to proceed. Joe I. felt Alex W. could make the updates in a Track changes draft and return this draft to the Commission. John K. agreed, and would like to see a note on which were Town Attorney changes vs. colleague changes.

Barbara F. asked why shall appears in the document so much. Alex W. replied it is the legal equivalent of "you must."

Minutes of September 26, 2018 Meeting:

John K. made a minor amendment.

Barbara F. **made a motion to approve the September 26, 2018 meeting minutes as amended.** Dennis P. **seconded the motion.** The Commission **voted 5-0 to approve** the motion, with Maggie G. abstaining.

Other Business & Correspondence:

Kate K. mentioned the Conservation Commission presentation on natural resources mapping next week, Wed. 10/17 at 7 PM in Town Hall (main hall).

Alex W. would like input on agenda for next time (he will not be present). John K. and Rolf K. will also not be present.

The meeting adjourned at 8:33 PM.

Respectfully submitted,

Kate Kelly, Recording Secretary