

**TOWN OF HINESBURG  
DEVELOPMENT REVIEW BOARD  
FINDINGS OF FACT, CONCLUSIONS & ORDER**

**Haystack Crossing LLC & Black Rock Construction  
Subdivision Sketch Plan Denial  
Tax Map 16-20-56.500**

This matter came before the Hinesburg Development Review Board (DRB) on the application of Black Rock Construction, hereafter referred to as the Applicant, for sketch plan approval for a 90+ lot subdivision on the west side of Route 116 and south side of Shelburne Falls Road. The DRB held meetings to review the sketch plan review on February 18, March 18, June 3, June 17, July 1, and July 15, 2014. Ben Avery, representing the Applicant, was present at all of the meetings.

Based on the above-mentioned public hearing and the documents contained in the “document” file for this proposal, the DRB enters the following Findings of Fact, Conclusions and Order.

**FINDINGS OF FACT**

1. The Applicant is requesting sketch plan approval of a 90+ lot subdivision in the Village Northwest and Agricultural Zoning Districts. The subject parcel is approximately 84 acres, and is located on the west side of Route 116, south of Shelburne Falls Road; parcel # 16-20-56.500. This property is owned by Haystack Crossing LLC (Bissonette family). The property constitutes lot #4 from the 2011 Bissonette 4-lot subdivision approved on April 5, 2011 (plat recorded on map slide 191A, 191B). Lot 1 of this previous subdivision is now owned by Fletcher Allen Health Care, and is the site of the new Hinesburg Family Health facility. Lot 3 of this previous subdivision is now owned by B. Cairns Property LLC, and is undeveloped. Lot 2 of the previous subdivision is owned by Haystack Crossing LLC. The subject property for the proposed subdivision (lot 4) has two access strips (for future road connections) connecting to Shelburne Falls Road, and a long frontage along the west side of Route 116.
2. Natural features are well identified. The eastern agricultural fields consist of mapped agricultural soils interspersed with several small wetland areas. Much of the southern boundary is adjacent to Patrick Brook (including an associated fluvial erosion hazard area), and portions of the northern and northwestern boundaries are coincident with an unnamed tributary of Patrick Brook. This unnamed tributary runs south bisecting the parcel into easterly agricultural fields and westerly woodland. Extensive flood hazard areas associated with Patrick Brook and the LaPlatte River are present in the westerly woodland, and extend a short distance along the unnamed tributary. The westerly woodland is approximately 28 acres, and includes clay plain forest remnants and a small area of steep slopes in the northwestern corner. The VELCO electrical transmission line runs along the western side of the parcel, and the future VT Gas transmission pipeline is planned for this same general area. Overall, the property is exceedingly flat with the land rising in the northeast corner to a high point along the northeastern Route 116 frontage.
3. Development is proposed in the eastern agricultural fields, largely in the Village Northwest zoning district. Approximately 225 dwelling units are proposed – 69 single family dwellings, 10 units in duplex buildings, 46 units in multi-family town houses (3 and 4-plex buildings), 20 units in two 10-plex multi-family buildings, and 80 units in five mixed use (including non-residential uses) buildings. An additional 56 units of congregate senior housing is also proposed. One fully non-residential building (Building D) is proposed. The five mixed use buildings (Buildings A, B, C, E, F) plus Building D are anticipated to have a total of approximately 60,200 square feet of non-residential space – e.g., office, retail, restaurant, etc. Four of these six buildings are located along the Route 116 frontage for a total of about 53,200 square feet (88.4%) of the overall non-residential building space.

4. Development is also proposed for a portion of the westerly woodland in the Agricultural zoning district. A large-scale solar array (150-500kw) is proposed for the northern portion of this 28-acre woodland area. The actual size of the solar array is not determined, but could occupy between 0.5 acres (80'x275') and 1.7 acres (275'x275'). The Applicant indicated that this would be a net-metered system for the benefit of the proposed development, and that it would also require review by the Public Service Board.
5. The subdivision involves approximately 90 lots +/- laid out along an interconnected grid of proposed roads. Three new roads running north/south and three new roads running east/west. Three principal access points to existing public roads are shown – two to Shelburne Falls Road, a portion of one is over the existing drive serving Hinesburg Family Health, the second is via a road providing right-in, right-out only access that is yet to be built on the east side of the Hinesburg Family Health property; the third to Route 116 via an right-in, right-out only access in the northeastern corner of the property. Two future access points are also shown on the plans – one to Route 116 opposite the existing Riggs Road intersection; the other extending south of the project to Kaileys Way and Farmall Drive across yet to be developed land (Lyman property). Pedestrian access is proposed via sidewalks along all of the new roads shown on the plan as well as along the property's Route 116 frontage. Trails are also proposed on the north and south boundaries of the development areas. The southerly trail shows a connection to Route 116 just north of Patrick Brook. Municipal water and sewer service are proposed, and an existing, private wastewater line bisects the property from north to south.
6. The Hinesburg Official Map shows that a variety of future public infrastructure is planned for the subject parcel given the important role it plays in the VG-NW district and the overall Village Growth Area. These elements include:
  - a. A through road south from Shelburne Falls Road to Farmall Drive (West Side Road), including a connection to Route 116 opposite Riggs Road.
  - b. Sidewalks along the aforementioned new roads as well as along the Route 116 frontage.
  - c. Two different trails - one along a portion of the southern boundary line, and one providing access from here to the north.
  - d. A community facilities area (approximately 2-3 acres) - possible uses mentioned on Official Map; Selectboard conversation during Official Map adoption centered on developed park/recreation facilities.
7. Another subdivision is being reviewed for the property in question. An application to revise the April 5, 2011 subdivision approval was made on November 13, 2012 and to create an approximately ten acre lot, #5, in the western portion of this parcel, to be gifted to the Town for recreational fields. This application received sketch plan approval as a Planned Unit Development on December 18, 2012 and preliminary plat approval on April 16, 2013. Black Rock Construction and the Town are coordinating on the configuration of the future recreation field lot, and a final plat application to create this lot is expected soon. In other words, the subject property of the Black Rock Construction project is currently the full 84 acres, but is expected to shrink to approximately 74 acres +/- once the subdivision for the Town recreation field lot is completed. This reduction in size is entirely within the Agricultural District portion of the property, and has no impact on the density calculations for the project.
8. The sketch plan application was received on December 12, 2013 and included various plans, maps, and supporting narratives. The plans and narratives were modified and supplemented

throughout the review process. The final sketch plan is depicted on multiple plans with multiple dates. The overall layout is shown on plans dated June 3, 2014 with a corresponding narrative dated June 1, 2014; however, the portion closer to Route 116 was further revised showing two options (A & B) as shown on plans dated June 26, 2014 with a corresponding “Option B – Unit Count and Mix of Uses” document dated July 1, 2014. All of these submissions are contained in the document file (16-20-56.500) in the Hinesburg Planning & Zoning office. This file also contains staff reports and other correspondence that were discussed during the review and are part of the record.

9. The following members of the DRB participated in the review, and were either present at the hearings, or if absent, reviewed the VT Community Access Media video recordings of the hearings: Zoe Wainer, Dennis Place, Ted Bloomhardt, Greg Waples, Dick Jordan, Sarah Murphy, Andrea Bayer. See the official meeting minutes for actual attendance at particular meetings, and a list of others present at the meetings.
10. The applicant provided the following calculations of development densities – allowed and proposed. Total parcel size of 84.56 acres. Area within the Village NW district excluding stream buffer areas is 34.21 acres. Pursuant to section 2.4 (Zoning), this is the area upon which to calculate base and maximum residential density. The base density allowance for the Village NW district is 3 units/acre; therefore, the base density allowance for the property is 102.6 units. Pursuant to section 2.4, a density bonus of up to 120% is possible via provisions outlined in sections 2.9 and 5.21. The Applicant is proposing to satisfy some or all of the following bonus/incentive provisions for the full bonus, in order to achieve the maximum number of 225 dwelling units.
  - a. 50-74% of units will meet the small dwelling unit size criterion.
  - b. 75% or more of the units will meet the Green Home Certification criterion.
  - c. 50-74% of the units will meet the Renewable Energy Technology criterion.
  - d. The Applicant requests one incentive point under the Important Public Spaces & Public Infrastructure criterion via various project components – e.g., town green, recreational paths, public parking and access to support the future Town recreation fields, and community gardens.
11. Pursuant to section 3.6.3 (Zoning), density limits do not apply to the proposed 56 dwelling units of congregate, senior housing.
12. Pursuant to section 3.6 (Zoning), all residential development in the Village NW district shall be reviewed as a Planned Unit Development (PUD), and must comply with the special standards contained both in section 3.6 and section 4.5 (PUD).

### **CONCLUSIONS**

1. The proposed development density represents a maximum residential build out scenario. Maximum residential build out in the Village NW district is consistent with the density provisions in sections 2.4 and 2.9 (Zoning). The number of residential dwelling units proposed is in keeping with these density provisions. The number of dwelling units is also in keeping with the intent in the Village Growth Area (section 3.1), the purpose statement for which calls for development densities to be high relative to the rest of Hinesburg, to be maximized to better realize the Town’s overall “smart growth” strategy, and to serve as an incentive to promote the creation of affordable and moderately priced housing.

2. One of the central problems with this sketch plan is that too much residential and commercial use is concentrated on the eastern portion near Route 116, with the vast majority of the developable area occupied by a lower density single-family neighborhood. The purpose statements for both the overall Village Growth Area and the Village NW district are abundantly clear about the need for a vibrant mix of residential, non-residential, and civic uses. Although the proposal includes substantial amounts of each of these use types, they are not mixed as envisioned in the regulations. Due to the segregation of uses from east to west, the plan provides little to no reason for the wider community to visit and spend time in the central portion of the development. This directly conflicts with the stated purpose in section 3.1.
3. The sketch plan shows a problematic east/west divide with the only true mixed use area located along the Route 116 frontage. This area between the easterly north/south road and Route 116 contains approximately 134 dwelling units and 53,200 square feet of commercial space (88% of the dedicated commercial space). This portion of the project is focused on the Route 116 frontage and associated frontage roads and/or parking lots rather than the two interior north/south streets. This is counter not only to the purpose statements for the area, but also to the special design guidelines laid out in section 5.22.4 #3 (Northern Gateway Area Design Guidelines), which call for the creation of more traditional and vibrant village streetscapes on new street networks outside of the Route 116 corridor. These regulations envision a traditional village streetscape with mixed uses on the interior street network. This vision is further supported by the future “West Side Road” shown on the Official Map, which per section 3.2 of the Town Plan was envisioned to provide access to additional lands for higher density development as well as alternate corridors for local traffic. Rather than inviting activity and commerce into the central portion of the development, where new local roads are proposed, this sketch plan keeps too much commercial activity along the Route 116 corridor.
4. The Applicant’s proposal to create one dedicated mixed use building (Building E) and two small “nodes” of potential mixed use (market driven – i.e., could be residential) does not guarantee the mix of residential and non-residential uses along the two north/south “main streets”. Unlike the 53,200 square feet of dedicated commercial space near/along Route 116, the sketch plan only commits to a single building with 3,500 square feet of commercial space on the interior of the project. The other proposed mixed use nodes could be whatever the market dictates at the time of development – including purely residential. Leveraging Route 116 for commercial development makes sense, but not to the scale or with the exclusivity proposed in this sketch plan. The Village NW district was not created to facilitate 50,000+ square feet of commercial uses in a narrow strip along Route 116. Many of Hinesburg’s existing businesses and most of the Town’s nearly 100 home occupations do not require exposure along Route 116 to be successful. Expansion of these businesses would be well served by development in the interior of the project.
5. Economic development forecasting is difficult, but over 50,000 square feet of commercial space along Route 116 is unlikely to be needed in Hinesburg or occupied in reasonable time frame. Section 3.6 (Zoning) requires that non-residential space in a PUD in the Village NW district shall either be constructed first or concurrently with the residential space. The sketch plan’s emphasis on Route 116 commercial space is likely to shift the focus of commercial development away from interior roads. This has the potential to encourage a pattern of strip development along Route 116 with nothing but a large residential neighborhood to the west.
6. The proposed access plan is deficient without concurrent development of the eastern connection to Route 116 at the Riggs Road intersection. The Applicant is to be commended on negotiating

an access easement arrangement across the KB Real Estate LLC property to Route 116 at the Riggs Road intersection. This needs to be one of the principal points of access to the development. The plan should focus on this point of access rather than the right-in, right-out access to Route 116 proposed at the northeastern corner of the property. The proposed right-in, right-out access is in conflict with section 5.22.4 (Northern Gateway Area Design Guidelines) of the zoning which states that the through function and capacity of this section of Route 116 (shall be retained) by limiting access points to a small number of key 4-way intersections reflected on the Town's Official Map, and currently envisioned at Commerce Street, Riggs Road, and Shelburne Falls Road. This is further supported by the purpose statement of the Village NW district and section 6.1.12 Access Plan from the subdivision regulations which state, "A highway access plan for the tract of land to be subdivided shall provide for the minimum size and fewest number of safe points of access to any public highway ..."

7. The proposed access plan is also deficient without concurrent development of the southern connection to Kaileys Way and Farmall Drive. This road connection to the south across Patrick Brook is a critical connection between the Village and Village Northwest districts. The Applicant indicated a willingness to work with the adjacent landowner (Lyman) and developer (Milot Real Estate). Details could be worked out later, during preliminary plat review, but development and phasing of the proposed project would need to be tied to the construction of this road connection.
8. The Board sees no major flaws in the sketch plan with respect to the following planning standards outlined in section 5.1 of the Subdivision Regulations: 5.1.1, 5.1.2, 5.1.4, 5.1.7, 5.1.10. As a conceptual-level plan and review, these planning standards require additional consideration at later steps in any subdivision review (e.g., preliminary and final plat review) as projects evolve and more detailed plans are created.
9. Subdivision planning standard 5.1.3 (cultural features protection). The size and scale of the proposed buildings along Route 116 in the northeastern portion of the property have the potential to interrupt a scenic view (to the west and southwest) from the high point on that portion of Route 116. Section 3.1 (Zoning) anticipates the loss or shifting of some scenic views as this area develops; however, it also anticipates that new view opportunities will be provided from the new public street network and other perspectives available to the public. Consideration of the views from the Route 116 high point is important given that the overall sketch plan does not create alternative scenic view opportunities from the proposed interior road network. This does not necessarily constitute a fatal flaw for the project; but does raise concern about the size, scale, and elevation of those particular buildings, which would need to be addressed at later steps in any subdivision review (e.g., preliminary plat review).
10. Subdivision planning standard 5.1.5 (compatibility with surroundings). Based on the configuration of lots, pattern of development, and site topography, the Board is concerned about the potential size, height, and massing of the two buildings in the northeastern corner of the project along Route 116. These large mixed use buildings (A & B) are located on the highest portion of the site, and must be carefully sited and designed so as not to overwhelm this portion of the northern gateway area. The compatibility of this project with its surroundings (section 5.1.5, Subdivision) depends on proper integration of these large buildings.
11. Subdivision planning standard 5.1.6 (transportation). As discussed above, there are substantive issues with the proposed access plan. As proposed, compliance with the transportation planning standard in section 5.1.6 (Subdivision) is problematic. Extension of roads to the east (Route 116) and to the south (Farmall Drive) is necessary to provide appropriate access and to ensure the

project will not cause unreasonable highway congestion. Beyond access points, it should be noted that there is substantial existing traffic congestion along Route 116 during the morning and evening peak times. A comprehensive traffic study would be needed at a later step in any subdivision review (e.g., preliminary plat review) in order to fully judge compliance with this standard. Even without such a study, the Board concurs with the former Town Administrator's suggestion (February 3, 2014 letter) that construction of the project should be contingent on the State of Vermont completing planned improvements to the Route 116, Shelburne Falls Road intersection (currently scheduled for 2017 construction).

12. Subdivision planning standard 5.1.8 & 5.1.9 & 5.1.11 (water supply, wastewater disposal, municipal services). As noted in the Applicant's May 9 narrative, the project will have substantial impacts on the Town's water supply and wastewater treatment capacities. These are not grounds to deny the proposed sketch plan, but do warrant further review at later stages of any subdivision review (e.g., preliminary and final plat review) before compliance with these planning standards can be determined. These issues, combined with transportation impacts and the likely need for additional municipal infrastructure (e.g., planned fire truck, highway truck, etc.) will warrant a discussion of project phasing at any future preliminary plat review, should a new sketch plan be submitted.
13. Subdivision planning standard 5.1.12 (energy conservation). The proposed lot layout does not provide maximum solar gain per this planning standard. Although this subdivision planning standard is advisory, section 3.6 of the Zoning Regulations clearly requires that projects in the Village NW district be "designed, sited, and constructed to take advantage of passive and/or active solar energy resources..." As such, the project will need to implement the proposed solar array or a suitable green home certification – preferably both.

### **ORDER**

Based on the Findings of Fact and Conclusions set forth above, the Hinesburg DRB denies the proposed subdivision sketch plan.

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Development Review Board

August 27, 2014

Date

Board Members participating in this decision: Zoe Wainer, Dennis Place, Greg Waples, Dick Jordan, Sarah Murphy, Andrea Bayer.

Vote: 6-0 (vote on final decision language taken via email & phone poll outside of a meeting)

***30-day Appeal Period:***

An "interested person", who has participated in this proceeding, may appeal this decision to the Vermont Environmental Court within 30 days of the date this decision was signed. Participation shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding. See V.S.A. Title 24, Chapter 117, Section 4465b for clarification on who qualifies as an "interested person".

Notice of the appeal, along with applicable fees, should be sent by certified mail to the Vermont Superior Court - Environmental Division. A copy of the notice of appeal should also be mailed to the Hinesburg Planning & Zoning Department at 10632 Route 116, Hinesburg, VT 05461. Please contact the Court for more information on filing requirements, fees, and current mailing address.

***Hinesburg DRB - Notice of Decision  
Haystack Crossing LLC, Black Rock Construction Subdivision Sketch Plan Denial***

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***State Permits:*** It is the obligation of the Applicant or permittee to identify, apply for, and obtain required state permits for this project prior to any construction. The VT Agency of Natural Resources provides assistance. Please contact the regional Permit Specialist at 878-5676 (111 West St, Essex Jct., VT 05452) for more information.