

**HANNAFORD SUPPLEMENTAL STAFF REPORT 3**

<b>Applicant:</b> Martin’s Foods of South Burlington LLC c/o Tyler Sterling and David White P.O. Box 1000 Hinesburg, VT 05461	<b>Land Owners:</b> Trusts of Bernard Giroux, June Giroux, Victor Giroux and Ramona Giroux 9318 VT Route 116 Hinesburg, VT 05461
<b>Property Location, Tax Map # &amp; Area:</b> 138 Commerce Street (Lot 15) 20-50-02.100 4.86 Acres	<b>Surveyor/Engineer:</b> O’Leary Burke Civil Associates PLC 1 Corporate Drive Suite #1 Essex Junction, VT 05452

**BACKGROUND** - The Development Review Board (DRB) met to review this application on April 17, 2018, on May 15, 2018 and on June 5, 2018. The meeting was also continued to July 3, 2018, but at the request of the Applicant, was continued to the August 7, 2018 meeting. Staff provided an initial review in a staff report dated April 4, 2018. Supplemental Staff reports, in this format, have been provided on May 10, 2018 and May 31, 2018. Additional background information, prior submittals and reviews are available for review on the following dropbox link: <https://www.dropbox.com/sh/vak23u3g8bgg0a5/AACQrzcecfKZbbMhK6cmeXbwa?dl=0> or via a link on the Town website. The Public should contact the Planning & Zoning Department if assistance is needed to review any of these submissions. Past meetings can also be viewed online on the Vermont Community Access Media website: <https://www.vermontcam.org/series/hinesburg-development-review-board>.

The Subdivision Revision application has been introduced and discussed. At the May 15 and June 5 meetings, the DRB requested more information related to the Site Plan application. At the June 5 meeting, the Board specifically requested updated traffic data, specific proposed actions to be taken should the traffic be greater than predicted, an understanding why the modeling for the current situation does not match what people observe, a stormwater design analysis to the current regulations and easement language for the farmer’s market. The DRB clarified that submittals for the previous review (2012 decision) will not be included in the review of the current application unless these are resubmitted. The Applicant responded with the additional submittals listed below.

**ADDITIONAL SUBMITTALS**

1. Hannaford supplemental materials received on July 25, 2018 including:
  - a. Email dated July 25, 2018 from David White regarding the supplemental traffic analysis, proposed post construction traffic monitoring conditions, and proposed improvements to the Route 116, Mechanicsville Road intersection.
  - b. Supplemental traffic analysis by Roger Dickinson dated June 19, 2018.
  - c. Proposed post construction traffic monitoring conditions dated July 19, 2018.
  - d. Email dated July 25, 2018 from David White regarding concurrence between Hannaford, VTrans, and the Hinesburg Select Board on proposed improvements to the Route 116, Mechanicsville Road intersection.
  - e. Memo dated July 25, 2018 from David White regarding the number of parking spaces proposed by Hannaford.

2. Hannaford supplemental materials described in a memo dated July 6, 2018 from David White, including:
  - a. Letter dated June 13, 2018 from Paul O’Leary (project engineer) addressing compliance with stormwater regulations in section 5.27.2 of the Zoning Regulations.
  - b. LEED checklist for new retail construction.
  - c. A document dated May21, 2012 outlining how the Hannaford building would meet the requirements of the Core Performance Guide (VT edition).
  - d. Landscaping cost estimate for the project dated April 26, 2012 by the SE Group.
  - e. Proposed easement deed for the Farmers Market area dated May 25, 2012.
  - f. Proposed easement deed for the canal park area dated April 26, 2012.
3. Renderings of the proposed Hannaford building and site photos with the building simulation inserted into the photos. Renderings dated May 2012. Photos undated, but presented as part of the previous review (2011-2012), and re-presented at the June 5, 2018 DRB meeting.
4. Letter of concern from Bob Thiefels received on June 4, 2018 regarding traffic, the canal setback and size of the store.
5. Regulation list from Jean Kiedaisch received on June 5, 2018.
6. Letter of concern from Jean Kiedaisch received on June 5, 2018 on interpretation of the regulations.
7. Letter of concern from Peter Erb received on June 5, 2018 regarding stormwater treatment and wetland maintenance.
8. Letter of concern from Mr. Stout received on June 5, 2018 regarding the canal setback.
9. Photos of Catherine Goldsmith’s model of the project in H.O. scale
10. Memorandum from the Planning Commission dated June 13, 2018.

*We ask all interested parties to let us know if there are any other submittals not listed in the various staff reports.*

**STAFF COMMENTS** – In an attempt to help reach closure on this review, we provide the following summary of the issues discussed to date. There are few concerns regarding internal vehicular circulation, sufficient parking and loading facilities, refuse storage and disposal, snow storage and removal, emergency access, hours of operation, the landscaping plan, exterior lighting, sewer and water, grading, erosion control and generation of hazardous wastes. The subdivision revision to change of property line setback distances from 30 feet to 10 feet is not being contested.

Major issues raised by various parties are summarized below. As noted, we feel some of these remain potential compliance issues, while others have been adequately addressed by the Applicant.

- Subdivision revision changing the canal setback from 75-feet to 25-feet.
- Building size in regard to achieving maximum compatibility with adjacent properties and with the neighborhood.
- Adequacy of stormwater control and treatment.
- Compliance with the Official Map.
- Preservation of significant natural resources.

- Master Plan requirement.
- Traffic control.

Canal Setback – This was thoroughly discussed at the April 17 meeting. The Applicant is asking to change the lot 15 building envelope to match the setbacks outlined in the current Zoning Regulations, including reducing the canal setback from 75 feet to 25 feet. Attorney Dumont and his expert witnesses presented a variety of evidence and arguments against reducing the canal setback. With respect, we continue to feel that the Applicant’s request is reasonable and consistent with the Zoning Regulations and the planning and design standards in Article 5 & 6 of the Subdivision Regulations.

Building Design/Size (section 4.3.4 #3, Zoning) – The Applicant argues that the building design, position, and landscaping makes the project compatible with the adjacent properties and with the character of the neighborhood. The Applicant points out that the proposed building conforms to the 35-foot building height requirement, is smaller than both the Cheese Plant building and NRG building. The Applicant notes that unlike adjacent zoning districts, there is no size limit for retail uses in the Commercial Zoning District. The Applicant contends that existing buildings in the surrounding area have a wide variety of sizes and forms. Attorney Dumont and other interested parties point out that the proposed Hannaford building is larger than any other building in the Commercial Zoning District, and will impact the view various vantage points, especially the canal pathway. We feel both sides make salient points. This is a commercial zoning district where limits on building size are not proscribed. Furthermore, the Applicant has proposed a robust landscaping plan. However, the overall size and mass of this building greatly exceeds any other building in the immediate neighborhood. We don’t consider the NRG building and the Cheese Plant building to be part of the Commerce Street neighborhood. Furthermore, the standard of “achieving maximum compatibility” is clearly a high bar. It doesn’t necessarily prohibit buildings that are substantially larger than surrounding structures, but it requires careful consideration in this case given the size, height, and the fact that the building will be placed on 5-7 feet of fill. Compliance with this standard will need to be discussed and debated by the Board as part of their deliberations.

Adequacy of stormwater control and treatment (section 4.3.4 #6; section 5.27 Zoning) – The Applicant has submitted testimony from a Licensed Engineer that the proposed stormwater system was designed for the State’s 2002 standards, would also meet the State’s 2017 standards. The Applicant claims an exemption from infiltration due to the low infiltrating soils on the property and that the proposed system would mimic the existing system. The Applicant has stated that the underground ADS units are sufficient and now allowable as a water quality treatment. Attorney Dumont and his expert witnesses contend that the designed system does not meet water quality standards (particularly reliance on grass channel treatment), that the post-development peak discharges are greater than the pre-development peak discharges and that the proposed system has not accounted for groundwater. Staff has stated that since the storage system utilized voids in stone that are below the invert, the effective storage area is reduced by about 5.5% and 8.8% respectively for the two retention systems. Also that the storage area is further compromised by groundwater. The Applicant has not addressed section 5.27.2(5) of the Zoning Regulations, Low Impact Development (LID). For these reasons, and others detailed in the April 4 staff report, we feel the project remains out of compliance with the regulations.

Compliance with the Official Map – The Applicant contends that the requirements of the Official Map on this property are unenforceable in a court of law. Regardless, the Official Map is a duly adopted regulatory tool that must be complied with as part of the DRB review. The Applicant is proposing an easement for a farmers market. This proposal, unlike typical public dedications, has a time limit. State statute requires accommodation of future community facilities shown on the Official map, and this accommodation should not expire. The easement language limits the market to a 3½-hour period, one day a week, between Monday and Thursday, limited to the four months between June and September. The easement limits the vendors to 25 and requires the vendors to register with the manager of the Hannaford store. Limitations of the number of vendors selling certain products are also detailed. In addition to these restrictions, the easement could easily be revoked by the Grantor at their own discretion. These are highly constrained provisions written directly into the easement language rather than in an accompanying document that can be modified from time to time as was the case during the 2012 DRB review of this project.

Beyond the easement terms, duration, and revocability, the Applicant locates the proposed farmers market venue in a corner of the site that is ill-suited for a community facility. The Official Map highlights the entire parcel for the future community facility. This certainly gives the Applicant flexibility to accommodate a facility in a variety of locations. However, just as the site must work for a properly functioning supermarket, it must also work for a properly functioning community space. As detailed in the Planning Commission’s June 13, 2018 memo, pedestrian access, connectivity to other public spaces, incompatible surrounding uses, and small size are all factors that make the proposed farmers market venue problematic.

The proposed canal park easement is very similar to that proposed during the 2012 review. We feel this area in no way addresses or accommodates the community facilities identified on the Official Map, for the same reasons outlined in the 2012 DRB decision (Conclusion #4). “The proposed Canal Park area between that path and the supermarket and parking lot is small and linear, making the creation of future community facilities difficult. Portions of this area are also extremely limited by wetlands which would limit or prevent the uses envisioned on the Official Map. Furthermore, the Applicant has proposed substantial landscaping in the Canal Park area in order to comply with the landscaping and screening provisions outlined in section 4.3 (Zoning). In particular, the landscaping near the south face of the building serves an important function given the building's close proximity to adjacent residential uses, the canal path, and Mechanicsville Road. Of the entire Canal Park area, this portion contains the most usable land; however, its use for future community facilities identified on the Official Map is minimal due to the proposed and necessary landscaping.”

Preservation of significant natural resources (section 4.3.4 #7, Zoning) – Attorney Dumont and his expert witnesses raised concerns about impact to substantial wetland areas on the site. These wetlands have been deemed class three by the State of Vermont, which means a State wetland permit is not necessary for the proposed impacts. As such, the Applicant stated that the wetland impacts are not significant. Attorney Dumont contends that lowering of the water table will eliminate the wetlands shown on the plans, including the wetland areas to be retained. He also stated that the Canal itself is a resource and that the placement of a large building so close to the Canal will significantly change the experience of using the Canal walk. Section 4.3.4 #7 refers

to consistency with the Town Plan with regard to the preservation of significant natural and cultural resources. The Town Plan clearly advocates for the preservation of wetlands (see goal 5.8). Town Plan action item 5.8.4 says, “Avoid impacts to wetland areas whenever possible. When impacts are unavoidable, minimize disturbance and adverse effects on the wetland function and values.” Wetland impacts on this lot do appear to be unavoidable given the proposed use; however, it’s not clear that the application minimizes these impacts in order to preserve this natural resource. This is tempered by the nature of these wetlands (not deemed significant by the State), the location of the project (in a previously approved commercial park), and previous approvals with similar wetland impacts (e.g., National Bank of Middlebury).

Master Plan requirement (section 3.1.1, Zoning) – Attorney Dumont and his expert witnesses suggest that a master plan for the property should be provided pursuant to section 3.1.1 (Zoning). We feel the Applicant’s site plan proposal is in fact a detailed and comprehensive plan for the build out of the property. As such, the application satisfies and goes well beyond the conceptual-level master plan requirement in section 3.1.1.

Traffic (section 4.3.4 #1) – The June 19, 2018 supplemental traffic analyses provided by the Applicant appear to address the additional information and clarifications requested by the DRB. The complete Applicant’s traffic analysis (by Roger Dickinson) is detailed. It is also conservative with regard to net traffic – i.e., trips generated by the new Hannaford use, forecasting of background traffic growth, future trips generated by a new use of the Busier property once Lantmans Market closes. In other words, it tends to use higher trip generation when faced with a range of options. Although refined from earlier reviews, the core analysis and recommendations remain largely the same. During earlier reviews, the core analysis was reviewed by multiple independent traffic experts engaged by the Town (i.e., separate consultants hired by the DRB and the Select Board). The Applicant has agreed to make improvements to the Route 116, Mechanicsville Road intersection in keeping with the option supported by the Select Board and apparently by VTrans – i.e., Option #8 from the January 19, 2018 VTrans memo (a no left-turn illuminated sign during peak hours). Most importantly, the Applicant has also agreed to post construction traffic monitoring at the significant intersections, and an obligation to correct unforeseen delay, queuing, and safety issues that may arise due to traffic generated by Hannaford. Given all of this, it seems a positive finding is warranted on this site plan standard.

Respectfully submitted,

Mitchel Cypes, P.E., Hinesburg Development Review Coordinator  
Alex Weinhagen, Hinesburg Director of Planning and Zoning