

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

**Haystack Crossing LLC & Town of Hinesburg
Conditional Use Approval for Flood Hazard Area Development
Parcel Number 16-20-56.500**

This matter came before the Hinesburg Development Review Board (DRB) on the conditional use application of Haystack Crossing LLC and the Town of Hinesburg, hereafter referred to as the Applicant, for development in a flood hazard area located on the west side of Route 116, south of Shelburne Falls Road, and north of Patrick Brook. The DRB held a public hearing on November 18 and December 2, 2014. Trevor Lashua (Town Administrator), representing the Applicant, was in attendance at 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 conditional use approval development in a flood hazard area in the Agricultural Zoning District. The Applicant proposes regrading and exchange of soil material to create recreation fields in a new municipal recreation area. The subdivision to create the 8.11-acre municipal recreation area lot was reviewed and approved concurrently with this conditional use review. The subject property is located on the west side of Route 116, south of Shelburne Falls Road and north of Patrick Brook; parcel # 16-20-56.500.
2. The project proposes very limited site work and no structures in the mapped flood hazard area. As shown on the plan sheet 3 (grading plan – south), the far western end of the two multi-use fields will be located in the 100-year floodplain. The impact to the fields is minimal given that the overlap is largely in the outer 20’ border beyond the end line of the fields. This area is not in the floodway (area of “rushing” water) needed for discharge of floodwaters, but is rather in the inundation area that simply sees water slowly rise and then fall again. The project engineer stated at the November 18, 2014 hearing that there will be no net fill added in the flood hazard area – rather existing soil will be replaced, and existing grades will largely be maintained.
3. This decision is for one of four specific applications reviewed simultaneously for the municipal recreation area project. The four applications included:
 - a. Subdivision Final Plat for a two-lot subdivision.
 - b. Site Plan for the municipal recreation area.
 - c. Conditional Use for development in a flood hazard area.
 - d. Conditional Use for development in a stream buffer area.
4. Early stages of the subdivision review included discussions about the flood hazard area, even though the formal conditional use application was made recently with the final subdivision application. The DRB reviewed the Applicant’s subdivision sketch plan on November 20, 2012, and granted sketch plan approval on December 18, 2012. The DRB reviewed the subdivision preliminary plat application on March 19, 2013, and granted preliminary plat approval on April 16, 2013. Preparation of the subdivision final plat application was delayed, and the DRB approved a 6-month extension to the preliminary plat approval on April 1, 2014.
5. The combined final application was received on September 22, 2014 and deemed complete on October 14, 2014. This application included a variety of survey, engineering, and related

documents. The final version of the plans reviewed by the DRB were as follows: 1) Final plat by Scott Taylor (Trudell Consulting Engineers) dated February 8, 2010 and last revised on December 1, 2014 (stamped received 12/2/2014); 2) Engineering sheets 1-8 by Doug Henson (Lamoureux & Dickinson) dated June 2014 and last revised on December 2014 (stamped received 12/2/2014); 3) Landscaping and overall project cost estimates by Doug Henson (Lamoureux & Dickinson); 4) Project narrative by Alex Weinhagen (Town of Hinesburg) dated November 4, 2014; 5) Draft deed language prepared by Roger Kohn (prepared on behalf of the Town with review by other interested parties); 6) Draft irrevocable offer of dedication and temporary trail easement language prepared by Joe Fallon (on behalf of the landowner). 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 correspondence from other parties that were discussed during the review and are part of the record.

6. The following members of the DRB were present for the final plat hearing on November 18, 2014, constituting a quorum: Zoe Wainer, Dennis Place, Ted Bloomhardt, Greg Waples, Dick Jordan, Sarah Murphy, Andrea Bayer. The following members of the DRB were present for the final plat hearing on December 2, 2014, constituting a quorum: Zoe Wainer, Ted Bloomhardt, Greg Waples, Dick Jordan, Sarah Murphy, Andrea Bayer. See the official meeting minutes for a list of others present at the meeting(s).
7. The November 18, 2014 public hearing was warned in *The Citizen* on October 30.
8. This application was forwarded to the State River Corridor and Floodplain Management Section (VT ANR, Dept. of Environmental Conservation). Comments were received from Rebecca Pfeiffer in an email dated June 27, 2013. She noted that the before and after construction grades will be similar, and that if completed as proposed the project would appear to meet the National Flood Insurance Program standards. She noted that there does not appear to be a new encroachment into the floodplain since the post construction grades are not significantly different from existing grades.

CONCLUSIONS

1. There will be no impact to the flood storage capacity because the project does not propose to place net fill in the floodplain. Instead, the project will remove material to construct the fields and then place material back in the excavated area. As shown on sheet 3, the final grading will result in a ground surface that is at or below the existing ground. As such, there will be no adverse impacts on upstream and downstream properties, infrastructure, or water quality.

ORDER

Based on the Findings of Fact and Conclusions set forth above, the Hinesburg DRB approves the proposed conditional use for encroachment into the stream buffer subject to the conditions listed below.

1. Areas exposed during construction shall be treated consistent with the submitted plans and the procedures contained in the Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites.
2. This project shall be completed, operated, and maintained as set forth in the plans and exhibits as approved by the DRB and on file in the Town Office, and in accordance with the conditions of this approval. Deviations may be made from these plans if they are:
 - a. Approved by the designer, or equivalent, and

- b. In conformance with the intent of this decision, and
- c. Determined by the Zoning Administrator that they are not significant enough to require a formal revision to the DRB decision.

Development Review Board

December 2, 2014
Date

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

Vote to approve: 6-0 (see December 2, 2014 meeting minutes)

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.

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.