

CONCLUSIONS

Note, that some of what is shown in the draft conclusions will be moved to a referenced Findings of Fact.

1. The Applicant has submitted a complete Final Plat application as required per Section 4.2 of the HSR.
2. The master plan conforms to the requirements of Section 4.5.5(3) of the HZR.
3. As required in Sections 3.1 and 3.6 of the HZR, this proposed development with at least 8,000sf of commercial space in Building H, and the additional non-residential space described in Findings of Fact X, will provide a “vibrant mix of commercial, residential and civic activities”.
4. As described in Findings of Fact X, the proposed residential density, which includes a 40% density bonus per Section 5.21.5 of the HZR for providing 20 affordable housing units, is allowable and compatible with the Town Plan for in the area in conformance with Section 5.1.5 of the HSR and Section 2.4.2 of the HZR.
5. The Applicant’s proposal to place the first 10 affordable housing units in Building ‘H’ and the remaining 10-units to be placed in either the multifamily or single-family residences (with a minimum of X being in the single-family residences) would conform to the requirement that the units be integrated with the rest of the development per Section 5.21.4(1) of the HZR.
6. The Applicant’s proposal to ensure that the bedroom mix of the affordable units matches the market rate units / **OR** /The DRB agrees to waive the requirements for X reason, for conformance to Section 5.21.4(2) of the HZR.
7. This project will preserve and protect much of the existing natural features as required per Section 5.1.2 of the HSR. Concerns were raised by the Conservation Commission about possible impacts to the Patrick Brook riparian area located on the southern edge of the property and the adjacent property to the south. This deserved consideration per Sections 5.1.2, 6.6.2(3)(a), and 6.6.2(4) of the HSR. The Applicant’s staking of the level spreader locations helped identify where the areas of concern were located. The Applicant’s offer to provide a ~~(10-25)~~-foot-wide easement along the southern property line to access this area for future conservation work adequately addresses these concerns.
8. The proposed road network has been professionally designed, but with some tight turns, narrow roads and small vertical curves for traffic calming. The road design appears to be in conformance to Section 6.1.10 of the HSR. The Town Manager’s office and Highway Department reviewed the plans and were satisfied with the updated design as described in Findings of Fact X.
9. The proposed list of dimensional waivers listed in Findings of Fact #X are reasonable and approvable per Section 4.5.6(4) of the HZR.
10. The development proposes to place the areas with natural resources that need protection on either separate lots or community owned spaces, and not on developable lots. As such, the proposed building envelopes are based on setbacks, some of which require waivers, which are reasonable and in conformance to Section 6.10.7 of the HSR.
11. The proposed development’s water and sewer allocations are in conformance with Sections 5.1.8, 5.1.9, 6.7 and 6.8 of the HSR. In the preliminary plat application, this development was going to

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- be phased. However, the Applicant was able to get a full allocation with current water and sewer availability in conformance with the above Sections.
12. The three proposed access points (north to Shelburne Falls Road, east to VT Route 116, and south to the Hinesburg Center neighborhood) will provide safe, adequate and convenient access in conformance with Section 5.1.6 of the HSR. Both the northerly and easterly access points are necessary to meet this standard, and need to be constructed with the initial construction and should be available prior to a certificate of occupancy is issued for either Building H or J, or a similar number of units. It is understood that construction of the southerly access would come later, in conjunction with development of the adjacent Hinesburg Center 2 (HC2) project. The Applicant has submitted a memorandum of intent agreement with the developers of the HC2 project to share the cost of the proposed southerly access with the Patrick Brook crossing. The number of access points to the existing road network is not excessive and conforms to Section 6.1.12 of the HSR. Also, the access points and proposed roads, sidewalks, and trails accommodate and help implement the future community facilities shown on the Official Map. **Proposed public roads include Shubael Street as the east-west connector from Riggs Road to the recreation fields), Haystack Crossing (as part of the official map identification of north-south alternates to Rte 116), Patrick Road (as part of the North-south connections depicted in the Official Map)**
 13. The entire phase 1 development has overall good interconnectivity and limited dead end areas. The areas of concern are the east end of Hailey Lane and the southern end of Patrick (Center) Road. The Applicant has provided easements on lots 68 and 8 to provide areas for vehicles to turn around. The lot 68 easement will not be needed when phase 2 is constructed. The lot 8 easement will not be needed when the Patrick Brook connector is constructed ~~ion~~. With these easements to provide turnarounds, this project would be in conformance with Section 6.1.5 of the HSR. CHECK THIS
 14. At preliminary plat review, the Applicant provided a traffic review that used average queue lengths. The Applicant provided, as required in the preliminary plat review, an updated traffic review based on the 95th percentile standard queue. This review centered around the Shelburne Falls, CVU Road intersection with VT Route 116. The Board agreed with the Applicant at preliminary plat that no additional traffic review to the south of Riggs Road is required. The data showed a condition that was marginally acceptable. The Applicant's agreed to a condition for post construction monitoring either 2-years after construction or prior to phase 2 of the development, whichever comes first, for conformance to Section 5.1.6(1) of the HSR.
 15. The proposed development provides more than adequate pedestrian access, as described in Findings of Fact #X, is in conformance with Sections 5.1.6, 6.2.2 and 6.2.3 of the HSR.
 16. The proposed parking, as described in Findings of Fact #X, appears to be sufficient for the proposed development in conformance to Section 5.5 of the HSR.
 17. This project is in conformance with the 2020 Official Map requirements with the inclusion of an agreement with the Hinesburg Center 2 development to build a connector over Patrick Brook is essential for conformance with Section 3.6 of HSR, and Sections 5.1.6 and 6.1.12 of the HSR.
 18. The project appears to be in general conformance with the recharge, water quality, channel protection, overbank flood protection (Q10) and LID stormwater standards of Section 6.6.2 of the HSR as described in Findings of Fact X. However, the Applicant has not been able to provide stormwater modeling that does not have a significant error to show conformance to the extreme flood protection standard (Q100).
 19. The most relevant error in the Q100 modeling involves peak pipe flows with elevations that are above the obvert of the pipe. Rather than fix the modeling, to conform to this standard of Section

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- 6.6.2 of the HSR, the Applicant's Engineer, David Marshall, has proposed to have a minimum floor elevation ~~for any livable space above elevation XXX.00, (in location)~~, which will generally be at least 3-feet above the curb, and will certify that the design will adequately convey the discharge of the Q100 storm event around the proposed buildings, which appears to be reasonable.
20. The Applicant's Engineer's testimony that there will not be significant bypass stormwater discharge from CB #60 located at Station 1+83.7 on the west side of Patrick (Center) Road is sufficient for conformance to Section 6.6.2 of the HSR. Should significant bypass discharge occur, then the Applicant should return to the DRB with a plan to ensure that CB#60 fully collects the stormwater discharge.
 21. The future phase two design of this development stormwater discharge to CB# (Which CB?) should not exceed XX.XX cfs. Should the discharge exceed this amount, then the entire stormwater system would need to be reviewed in phase two.
 22. The concerns about flooding on proposed lot #20, which is proposed to be dedicated to the Town, have been addressed with the proposed filling of the southern portion of the lot northerly to elevation 330 and up to an elevation above the 100-year peak elevation of the main gravel wetland, and the proposed placement of a catch basin on the north side of the proposed extension of Shubael Street to the athletic field parking lot instead of an open pipe and end section. The plans shall be revised to reflect this proposed change.
 23. The plans provided appear to show adequate proposed erosion control required per Section 6.6.1 of the HSR. This project will need to obtain a State CGP approval.
 24. (Finding of Fact describing the collaboration between the Town Manager's office and the Applicant.) The revised plans show an amount of streetscape greenspace that conforms to Section 5.1.11 of the HSR.
 25. The Applicant's proposal to commence development on a 50 unit Senior Independent Living Facility which includes at least 8,000sf of senior support and commercial uses of building H at the beginning of the development. This shall be triggered by the issuance of a zoning permit for building H and shall give the Applicant the right to commence construction of and complete 40 residential dwelling units. The remainder of the proposed non-residential development would be built either simultaneously with, or sequentially following, the 40 residential dwelling units. The remaining nonresidential should be constructed in conjunction with planned Phase 1 Multifamily buildings, prior to any development in phase 2. This phasing plan is sufficient for conformance to the construction sequencing standard found Section 3.6 of the HZR. This 8,000sf of area has to be true commercial uses (e.g., café, physical therapy center) and non-residential residential apartment building senior support service spaces (e.g., staff office, medical support space, etc.), and not typical amenities for a residential apartment building (e.g., exercise room, lounge area, etc.).
 26. As described in Findings of Fact #X, in conformance to the standards of Section 3.6 of the HZR and Section 5.1.12 of the HSR, the Applicant is proposing to have rooftop solar on the larger buildings, provide all single-family residential buildings with the wiring and conduit for rooftop solar (aka 'solar ready'), and all garages will be equipped to support the installation of electric vehicle chargers. Additionally, a ground mounted solar array is shown in the vicinity of the new well, and may be used to provide renewable energy to either multi-family or single family units. The majority of proposed structure are oriented with a primary façade within 15-degrees of solar south to take advantage of passive solar gain. Only 12 single-family units do not have a primary façade with 15-degrees. . (Edit with quotes from or references to the Applicant's energy narrative prepared by T.J. Boyle Associates (revised 6/17/22)).

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27. The proposed three-story buildings (H and J) being required to have adequate sprinkler systems, and the resolution of concerns regarding streetscape/snow-storage issue and central green improvements indicates that there will not to be an unreasonable burden on municipal services for conformance to Section 5.1.11 of the HSR.

28. (Findings of Fact to describe the agreement between the Applicant and the Selectboard, and the green space areas to be provided with amenities, those dedicated to the Town, and the funds provided to develop the greenspaces.) The proposed green space areas and plan to protect fragile features (riparian areas) as described by Findings of Fact #X and #Y, which has the approval of the Hinesburg Selectboard, satisfy the Public open space requirements of Sections 4.5.7(2) and 5.22.5 of the HZR for both phase 1 and phase 2 of this proposed development.

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29. The Applicant has agreed to provide to Planning and Zoning a signed letter describing the findings of the archaeological study from the Division of Historic Preservation, which is required for ACT250 review, when it is available, and satisfying any requirements in such letter, would provide conformance to Section 5.1.3 of the HSR.
30. As described in Findings of Fact #X, the school district can accommodate the student population growth from the first phase of the proposed development. This will need to be reevaluated for phase 2 of this development.
31. The Applicant has submitted bylaws and declarations, which with some minor naming edits, would provide a mechanism to maintain the shared features of this proposed development.
32. The lighting plans, as described in Findings of Fact #X, with the exception of a 21-foot-high light pole for a parking area that the Applicant has agreed to modify to a 20-foot-high light pole for a parking area, satisfies the lighting standards of Section 5.29 of the HZR.
33. As described in Findings of Fact #X, the Applicant has provided landscaping plans that conform to Section 6.5 of the HSR. The Applicant's landscape architect will continue to coordinate with Staff on possible revisions to the species mix in the Patrick Brook and Riggs Brook riparian areas as necessary, which the Applicant is agreeable to having as a condition of approval.
34. As described in Findings of Fact #x the proposed landscaping cost of \$350,835 exceeds the minimum required landscaping budget of \$227,900 in conformance to Section 6.5 of the HSR.
35. The Applicant provided plans for proposed lighting, water & sewer lines, underground gas & electric lines, and signing & striping. Placing the utilities underground conforms to Section 6.9.1 of the HSR.
36. The Applicant's change in the plans to not build the Patrick (Center) Road in the flood hazard area, eliminates the need to obtain an approval for development in a flood hazard area.
37. Additional approvals as described in Findings of Fact #X are required for this development to be able to function.
38. Pursuant to section 4.2.2 #3 of the Subdivision Regulations, the establishment of a performance bond, an escrow or a 3-party agreement is needed to secure the completion of critical project infrastructure (public and private) listed below. Formal drafting of this legal agreement with the Selectboard will occur subsequent to this approval, and before any site work begins. It is appropriate to allow the details of this legally binding financial surety to be worked out with the Selectboard after final plat approval since additional permits (e.g., Act 250) may be required, and since construction costs cannot be fairly estimated until after all permits are obtained and the construction timeline and sequencing can be formalized. The 3-party financial surety agreement shall cover, at minimum, the following:
 - a. Roads, sidewalks and related infrastructure in the road rights of way – e.g., street trees, street lighting.
 - b. Water distribution lines, wastewater collection lines, fire hydrants, and related items – e.g., wastewater pump stations

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39. As of the morning of September 6, 2022, payment for the application fee based on the updated fee schedule has not been received, the application is still technically incomplete. **Done**

ORDER

Based on the Findings of Fact and Conclusions set forth above, the Hinesburg DRB grants final plat approval to the proposed (70)-lot and 176-unit Haystack Crossing subdivision and PUD subject to the conditions listed below.

1. Irrevocable offers of dedication and related property and easement deeds (as noted in Finding of Fact #x and Conclusion #x) shall be finalized with the Selectboard prior to submission and recording of the final plat mylar. The irrevocable offers of dedication shall be submitted to the Town Clerk for recording within 30 days of the subdivision survey mylar being recorded. *To cover: land dedications to the Town; proposed Town roads, sidewalks, trails (deeds, and easements to cover public use while these elements remain in private ownership; water and wastewater distribution lines; easements necessary for development of the new Town well; etc.*
2. Prior to any land development the Applicant shall 1.) record the survey in the land records; and 2). finalize the land transfers between the Town and the owner of the KB Realty property.
3. In accordance with State statute, the survey mylar, containing a date and signature of approval of the Development Review Board, of this subdivision shall be recorded in the Hinesburg Land Records within 180 days (or 270 days if permitted by the Zoning Administrator pursuant to the Subdivision regulations, section 7.5) of this approval and before any property is transferred.
4. The required performance bond, escrow or 3-party agreement (see Conclusion 38) shall be finalized with the Selectboard, and be fully in place (e.g., with 3rd party lending or bonding institution) prior to the commencement of any site preparation and manipulation, including but not limited to, earth moving, tree clearing, etc.
5. Maintenance of project roads and sidewalks shall include winter snow removal and related treatment to ensure year-round vehicular, bicycle, and pedestrian access.
6. The DRB approves the dimensional waivers from Section 2.4 of the HZR described in Findings of Fact #X.
7. The proposed affordable housing units shall conform to all the requirements, including bedroom mix, of Section 5.21 of the HZR. Ten affordable housing units shall be located in the senior housing building (building 'H'). The remaining ten affordable housing units shall be integrated throughout the project with at least five being ownership units.
8. The Applicant shall provide a (~~40-25~~)-foot easement along the southern boundary to allow for access to the Patrick Brook riparian area to allow for conservation restoration. The Applicant shall collaborate with the adjacent landowner to the south to address existing erosion (i.e., gullies) near any proposed stormwater system discharge points.
9. After Patrick Road in both Haystack and Hinesburg Center 2 is constructed, the Applicant shall in coordination with the developer of Hinesburg Center 2, build the Patrick Brook crossing within X years, or prior to the issuance of a certificate of occupancy for the last structure/dwelling in this phase of the project. Note that Patrick Road is labeled as Center Road in some of the Haystack

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- plans and as Road 'C' in the Hinesburg Center 2 plans. **The plans shall be revised to correct this.**
10. Documents for the access on to lots to allow for turnarounds on Hailey Lane and Patrick Road shall be recorded in the Town's land records.
 11. The Applicant shall provide a post construction traffic monitoring either 2-years after construction or prior to phase 2 of the development, whichever comes first. Should this monitoring show a decrease in level of service (or other criterion), then the Applicant shall return to the DRB with a proposal to address the traffic concern.
 12. **Prior to the placement of each building foundation, the surveyor of record shall certify that the building foundation is not located within the required setback and sidewalks are located within the right-of-way (where designed as such), this certification sheet shall be presented to the Zoning administrator prior to the request for a certificate of occupancy/use for each building.**
 13. Prior to the issuance of certificates of occupancy for each building, a qualified and licensed professional shall submit a letter to the Zoning Administrator certifying/documenting the following:
 - a. The structure location is within in the approved location, and that the necessary site improvements for the structure (e.g., stormwater/erosion control, landscaping, sidewalks, etc.) have been installed per the plan and this approval.
 - b. The first-floor elevation (lowest at-grade elevation) is three or more feet above the top of the curb elevation **or the identified stormwater overflow path** (or a specific elevation) so as to protect the structure from flooding during a 100-year storm event.
 14. Should significant bypass discharge occur past CB#60, then the Applicant should return to the DRB with a plan to ensure that CB#60 fully collects the stormwater discharge discharging to it.
 15. Prior to site work and the issuance of any zoning permits, the Applicant shall have placed any required erosion control measures either as shown on the submitted plans or in conformance with a State CGP.
 16. The use of building 'H' shall conform to the definition of congregate housing found in Section 10.1n of the HZR.
 17. The Applicant shall construct building 'H' prior to the certificate of occupancy of the 40th dwelling unit.
 18. Building 'H' shall have a minimum of **8,000 sf** of non-residential commercial/office floor area as described in Findings of Fact #X.
 19. The project's Route 116 access shall be constructed prior to the issuance of a certificate of occupancy for building 'H'.

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20. The Applicant shall provide rooftop solar, ground mounted solar and EV access as described in Conclusion #26. (Edit with quotes from or references to the Applicant's energy narrative prepared by T.J. Boyle Associates (revised 6/17/22)).
21. The Applicant shall build the proposed amenities on lot #45 prior to a permit being issued for the 41st residential unit.
22. Pursuant to section 3.6 of the HZR construction of non-residential or mixed-use buildings shall occur prior to or concurrent with residential buildings. The Applicant shall work with Planning & Zoning Department staff to develop a formula to help guide this, which is consistent with the Applicant's testimony. The Zoning Administrator shall ensure compliance with this standard, while providing the Applicant with some flexibility.
23. The Applicant shall work with Town staff to clarify shared responsibility for maintenance of the stormwater system **and payment of State stormwater operating fees and permit renewals**, if/when the Town takes ownership of various lands and project elements – e.g., roads, sidewalks, development on lot 70. **The prorated costs shall be based on impervious surface areas controlled by each party.**
24. The Applicant shall provide to Planning and Zoning a signed letter describing the findings of the archaeological study from the Division of Historic Preservation, which is required for ACT250 review, when it is available.
25. The lighting shall comply with the outdoor lighting provisions in section 5.29 of the HZR, and be built per the plans and as modified per Conclusion #32.
26. The Applicant shall confer with Planning and Zoning Staff prior to revisions to species mix as described in Conclusion #33.
27. All proposed structures shall be located in the building envelopes as shown on the survey plat.
28. Utility service shall be provided with underground lines as described on the plans. The proposed utility locations may be modified slightly when installed, due to unforeseen site constraints.
29. No further subdivision of this property shall occur without review and approval of the Hinesburg DRB.
30. All blasting shall be done by a licensed, insured contractor, utilizing all current industry safety standards. Any blasting or pounding shall occur only between the hours of 7:00 a.m. to 7:00 p.m. Monday through Saturday and not on holidays. Neighbors of any blasting and pounding to take place shall be given as much notice as possible.
31. The hours of construction shall be from 7:00am to 6:00pm, Mondays through Saturdays. **Once a building has been enclosed, work can continue inside the buildings beyond the listed hours of construction.**
32. 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