

Third Conservation Commission Statement Opposing Hinesburg Town Center Phase II Development

December 19, 2022

The Hinesburg Conservation Commission (HCC) advises the DRB to exercise caution and due diligence with respect to the Hinesburg Town Center II development proposal as currently designed. The Applicant has not yet demonstrated necessary “no undue adverse impact” on the LaPlatte River flood hazard area and river corridor, nor specified the use of the floodplain areas on the western portion of the parcel. The DRB should deny approval until such demonstration and articulation is conclusively made.

The Applicant originally designed the Hinesburg Town Center development over 10 years ago. Since that time, risk from serious flooding has increased, government regulation of flood hazard areas has strengthened, and public awareness of flood hazards has grown. The development design currently before the DRB is based on old, outdated hydrology studies performed in 2012 and 2013 that do not include updates for as-built portions of the project. Vermont revised its flood hazard and river corridor regulations in 2015, and in response, the State updated its permitting process to become more rigorous and more protective. Act 250 now requires that the Hinesburg Town Center II Project receive a Flood Hazard and River Corridor Permit as a condition of development. The HCC notes that the Applicant does not yet have this permit.

The Regional Floodplain Manager, Kyle Medash (contact information: [802-490-6154](tel:802-490-6154) kyle.medash@vermont.gov) has reviewed this development and has expressed concern over its present design (in a memo to the DRB dated 11/15/22) which the HCC, in its advisory capacity, would like to emphasize for the DRB. Section 6.12 of the Town Zoning Regulations (development standards in flood hazard areas) requires that proposals for new development or new fill demonstrate that there will be “no undue adverse impact” on upstream and downstream properties, upstream and downstream public and private infrastructure, and water quality. The Applicant has, to date, provided information to the DRB showing a rise in the base flood water surface elevation that does not meet this standard or the Rivers Program’s current, updated standards. The situation is likely even more out of compliance than the Applicant indicates because the Applicant is relying on outdated hydrology studies that do not accurately reflect present conditions. First, the base flood levels used in the original 2012/2013 study do not consider the completed construction in the area, including Hinesburg Town Center Phase I and Phase II Part 1. Second, Mr. Medash warns that this area of Town is known to have a high water table and poorly draining soil. Further, new hydrologic methodology, updated in 2014, suggests that Patrick Brook may experience larger base flood discharges than is modeled in the old studies used by the Applicant. While the Applicant continues to gloss over these discrepancies in its response to questioning, the HCC advises the DRB that approval of this project without addressing these statute-based requirements threatens to create harmful stormwater, flooding, and water quality consequences that new residents and the Town will be left to deal with for decades to come. Mr. Medash,

recommends that “in order for the project to meet the No Undue Adverse Impact criteria and other criteria (Sections 6.2, 6.5.1) for the municipal review, the Town request that the Applicant provide a hydraulic model that includes the site at full build out accounting for anticipated site conditions that demonstrates no more than 0.1’ increase throughout the regulated floodplain under base flood conditions. The model should encompass any proposed new infrastructure, culverts, abutments, pedestrian bridge, stormwater treatment, fill areas, etc. to ensure that at full build out under the anticipated site conditions, new or existing development will not be adversely impacted by base flood flows.” The HCC strongly encourages the DRB to make this request as advised and ensure updated flood models demonstrate design conditions that meet the No Undue Adverse Impact criteria as stipulated by Town statute.

To ensure the long-term success of the effort above, the HCC would also like to draw the DRB’s attention to the western portion of the project site which has so far been left unassigned and undescribed by the Applicant. The HCC strongly recommends that this area be designated conservation land and required to be left undeveloped in perpetuity. Leaving this area undeveloped will allow for a floodplain buffer to help absorb future unforeseen consequences of development. Functioning wetlands and floodplains increase resiliency and provide space for green infrastructure to mitigate damage from flood events, and would allow space for river restoration work that would further minimize the impacts of flooding on town infrastructure such as upstream and downstream roads and the wastewater treatment plant across the river. The HCC further strongly suggests that the DRB require such a conservation designation as a condition of development. Either the Vermont Land Trust or the Vermont River Conservancy could be recruited to hold such an easement on this portion of the property. If the DRB allows this undeveloped area to remain within the control of the developer, it leaves open the possibility for future changes resulting in harmful impacts on flooding and water quality.

While development is limited by regulatory controls within the Patrick Brook corridor, the HCC recommends the DRB consider a second condition of approval to include an easement/access for restoration work in the Patrick Brook corridor per results of the assessment by Mike Kline (River Ecologist, 2020), attached to this e-mail. Restoration of floodplain function on the western portion of the property and along Patrick Brook will benefit water quality and habitat, and reduce flooding risk both up and downstream of the site as well.

In summary, the Applicant has at this time, failed to demonstrate “no undue adverse impact”. The HCC advises the DRB to request further hydraulic studies based on current and proposed conditions, and encourages an easement on the western and Patrick Brook portion of the property, to allow for river restoration work to further protect town infrastructure.

Meg Handler & Kate Kelly, on behalf of the Conservation Commission