

TOWN OF ESSEX
PLANNING COMMISSION
MINUTES
DECEMBER 9, 2021

Note: This meeting was in-person and virtual on Teams.

PLANNING COMMISSION (PC) PRESENT:

IN PERSON: Dustin Bruso; PC Chair; Ned Daly.

VIRTUAL: John Mangan, Clerk; and Tom Furland.

OTHERS PRESENT:

IN PERSON: Owiso Makuku, Community Development Director; Darren Schibler, Planner; Ashely & Mike Wager; Doug Goulette; Mike & Amy Smith; Dan & Tracy Reed; Dan Heil; Hank & Sharon Hayes; James Badger; Glenn Cummings; Roxanne Pike; Joann McVeigh; David Burke; Andy Rowe; Negesse Gutema and CCTV.

VIRTUAL: David Bruno; Paula Rose; Don & Linda Cook; Laura Pearce; Mia Watson; Nguyen Song; Tim Piette; Nancy & Les Johnson; Margaret Smith; Michele (Guest); Jill Lampron; Paul R. Morgan; Kristine (Guest); and Katie Ballard.

Chairman Bruso called the meeting to order at 6:30 p.m.; called out the Commissioners who were in attendance virtually and in person; noted the added items under 'Other Business'; explained how to participate virtually; and provided the public oath and, repeated the oath to late arrivers.

AGENDA ITEM 1: PUBLIC COMMENTS: None.

AGENDA ITEM 2: DISCUSSION/PRESENTATION RE: INCLUSIONARY ZONING: Mia Watson of the Housing Commission spoke on this presentation. Commission Member Mark Redmond had a conflict with his schedule and was not able to attend.

Mia Watson walked through an overhead presentation on inclusionary zoning. She noted that a similar presentation was provided to the Selectboard and Board of Trustees, who indicated their support for the Housing Commission to begin research on this topic in order-to determine if it is a viable option for Essex. She noted that Town Planning Commissioner Ned Daly and Village Planning Commissioner Pat Scheld have been involved with the meetings/research. Discussion surrounded the following points noted in the power-point presentation:

- 'What is inclusionary zoning:
 - Increasing pressures on both home and rental prices which is making it challenging for the average resident to afford to live in Essex. This is true throughout all of Vermont;
 - Inclusionary Zoning incentivizes developers to sell a certain person of new units in a housing project below market rate levels;
 - Research shows that this is an effective way to develop affordable housing;
 - Developer incentives to offset costs:
 - Inclusionary Zoning can be voluntary, however 80% of the programs nationwide are mandatory for projects above a certain threshold (10+ homes);

- The Essex Housing Needs Assessment and the Town Plan recommended exploration of Inclusionary Zoning;
- Essex already has density bonuses, however inclusionary zoning incorporates density bonuses into its structure;
- Discussion on developer incentives to offset costs;
- Can inclusionary zoning work in Essex?
 - The concern is if the Town develops many requirements for inclusionary zoning, developers may decide to not develop in Town and will build elsewhere;
 - Inclusionary zoning has been implemented in Burlington and South Burlington. Based on building permits, Essex had more development than those towns. Separately, Essex town issued 313 permits and the Village issued 431 permits;
 - Demographic data showed that Essex had the highest population growth than any other town in the State, and much of the growth was in and around the Burlington Metro area;
 - Watson said the question for Essex is, “Can we do something to ensure that at least some of those homes that are built are affordable to people in our community?”
- Anticipated policy for Essex:
 - The working group has considered the following as the basis framework of what an inclusionary policy is likely to include for Essex:
 - Mandatory for all new housing development projects above a certain size;
 - Inclusionary units must be perpetually affordable;
 - Applies to both new rental and new homes for sale;
 - Ordinance applies throughout the Town and Village.
 - The group said this was not set in stone and they are open to changing their minds if something should convenience them otherwise. However, they believe inclusionary zoning should be mandatory for all new development projects that are above a certain size.
- Anticipated income targeting;
 - Rental Units 50-100% AMI. Example at 60% AMI: \$1,295 maximum rent for 2-bedroom unit; \$57,500 income limit for household of 4;
 - Example at 80% AMI: \$252,500 maximum sale price for 2-bedroom house; \$76,700 income limit for household of 4.
- Inclusionary zoning features to be determined:
 - What is the number of units for a project above which IZ will apply?
 - What percentage of units must be inclusionary;
 - Narrowing income targeting limits;
 - Should we allow developers to make a payment in lieu of complying with IZ?
 - How will we incorporate IZ into existing zoning and manage compliance?
- Inclusionary zoning implementation process:
 - Research; Create IZ Plan; Outreach; Adoption; Review Ordinance; Draft Ordinance.

Watson noted that the Commission is still at stage one with Inclusionary Zoning. They are still reviewing the literature and case studies. They have done work with staff and are now meeting with the Planning Commissions. They would like to have a round-table with developers. Once all the reach is completed, they would like to create a plan, not the draft ordinance. Watson said her hope of coming before the PC was to answer questions about inclusionary zoning and to provide an understanding about how the PC wants to be incorporated in the implementation process and where the PC would like to be consulted.

Commissioner Furland stated that if developers were allowed to pay a fee, would the Housing Commissioner consider applying this to any new development, even a duplex where the fees scale down below the cost of one unit? That way a bunch of applications won't come in if there are 9 units instead of 10. Watson replied that "it was definitely something to consider." She reported that Darren suggested some sort of housing impact fee in order to capture the lower level developments. Watson stated that the risk of inclusionary zoning is that you don't want to place unintended loopholes.

Furland questioned what would happen when a families income starts to grow and exceeds the limit, and is that limit indexed to inflation? Watson's understanding is that the income limits are updated every year that are set by HUD, and that would grow with household income. She stated that there is usually a "hold harmless" amount between a certain percentage that allows you to stay if you exceed the threshold, usually for a year.

Mike Wager, Essex Resident, noted that the presentation started off by saying this was one way possibly to help growth for lower incomes. He asked what the other possibilities the Commission was looking into on this matter. Watson stated that the Commission is developing some outreach, in general, and stated she would connect him with the Board Chair so that they could learn more about the residents are facing. She noted that housing quality is a huge concern. Another issue is the consideration of a housing trust fund, which would be a pool of money that can be used for affordable housing initiatives. Sometimes that money goes to a developers who are building a subsidized development. Grants are being considered for down payment assistance or improving homes. Watson noted that there are not "a ton of things the Town can do." She noted that municipalities do not offer a voucher program in Vermont.

Wager noted that the hope was to do this before any separation of Essex Town and Essex Junction and asked if this process was not put in place, would the Housing Commission abort inclusionary zoning? Watson, said, "no, I don't think so. It obviously makes it more complicated because the Housing Commission is a joint commission." Watson said her plan is to get the policy as far along as they can, with hopes of getting it enacted before separation.

Katie Ballard, Chair Housing Commission, wanted to be clear that the current work includes both the Town and Junction so that if separation happens, the work can continue without much delay and they would not abort the plan.

Owisio Makuku, CD Director, requested that any Commissioners that was not present could review the recording and get questions to staff.

Chairman Bruso asked that they be kept up to date with the progress of inclusionary zoning. Watson replied that she welcomes questions and is willing to come back before the PC with updates. Bruso replied that they will discuss when they have a full commission in attendance and get back to them.

AGENDA ITEM 3: CONTINUED PUBLIC HEARING FROM 3/11/21 & 5/13/21-SKETCH Plan: Negesse & Juanita Gutema: Proposal for an 8-unit, 5-lot Planned Unit Development-Residential (PUD-R) on a 37.8-acre parcel located at 137 Towers Road in the Agricultural-Residential (AR) & Low Density Residential (R1) zones. Tax Map 14, Parcel 39-11.

Chairman Bruso noted the Public Hearing remained open.

Darren Schibler, Planner provided staff comments. He noted that the previous meetings had a lot of discussion on whether the application qualified as a PUD; whether it met the standards or whether it was more like a conventional subdivision being represented as a PUD. There was a lot of discussion as to how many units could be on one driveway and the overall design of the roadway. The following application resulted from meetings with the applicant/engineer and staff to work out the PUD issues. Schibler made the following points on the latest submission:

- He described the location of the parcel, noting it was an approximately 37-acre parcel with a large open space lot, including both wetlands and floodplains located between Old Stage Road and Chapin Road.
- The landowners live on the parcel in an existing single-family house.
- The proposal includes a total of 8-units, including the existing house, 4 of the homes would be on separate lots; and 4 units would be duplexes on footprint lots.
- Changes from the last plan are: 3 of the units were shifted and are located more in relation to each other, with common land in the center of the units, which lie outside the wetland buffer; the duplex units are proposed to be located in the meadow, closer to Tower Road. Access to these units would be on a private road, with separate driveways, built to town standards, and maintained by the Homeowner's Association. This area also has common area between this cluster.

Staff believes this is a more cohesive element and not just conventional lots. It shows some connection between the units; it meets the PUD standards; maximizes efficiencies; create new housing opportunities; and is a more diverse than just single unit lots. He noted that there are still some engineering issues to work out at the preliminary stage, which include:

- Making sure fire access is appropriate, especially for units 1-4 and that the driveway is at least 20' wide all the way to the back and not narrowing;
- Concern about water capacity, which includes wells and septic systems; and yields and contamination;
- A buffer is required between units 5-8 and the adjoining Johnson property. Staff withdraws its previous recommendation for a 50' buffer between these parcels and it is excessive. He recommends some amount of landscaping between the new units and the abutting house.

The applicant's engineer, Doug Goulette of Lamoureux & Dickinson, provided comments on this application. Goulette stated that staff's overview covered most of his remarks. He noted that the 4 duplex units would be on common land and would be on the large open space common land lot which is 25-acres. As a result of this plan, 2/3 of the acreage will be common/open space land that will contain 2 duplexes, with the remaining open space available to all the homeowners within the project. He noted that following comments on the staff report:

- Page 7, Section 7, Line 293, talks about the need for sidewalks. He noted a Type A rural road, which is proposed for at least the first 250'+/- to the cul-de-sac, does not include a sidewalk in the Public Works Specification, in its standard cross section. He noted that no other roads in the general area does not have sidewalks. The Scenic Resource Protection Overlay (SRPO) Zone, where this property lies, specifically discusses the

reduction of road widths, impervious surfaces, etc., to reduce the visual impacts in this area. It is their opinion that a sidewalk would not be appropriate in this area and contradicts the SRPO goals. He asked for PC feedback on whether they support no sidewalks.

- Page 9, Section 9, Line 310, he agrees with staff in that the 50' landscaped buffer is not a regulatory requirement as they are not proposing a multi-family building with 3 or more units.
- Page 10, Section 11, regarding Public Works concerns over the aquifer quality in this area. They will need to look at that issue. He noted that they strongly recommend that they bring in an 8" waterline from Douglas Road, which is about 1,000 feet away, and will only get the line to the entrance. They would need to run an additional 1,000 feet all the way to the ends of the units. Goulette believes this could be cost prohibitive, and a project killer. They plan to pursue the drilled well option. He noted the Gutema's well has a 20-gallon per minute well-drillers yield which could provide the whole project with water.
- Page 15, Condition 3b), regarding 8-inch municipal water line, he asked that condition be struck until they know more about the options that are appropriate for this project.

Commissioner Daly is confused about what staff wrote and what Goulette was saying about the water line as he believes they contradict each other. He asked Goulette if he was comfortable with the Town's consultant evaluation of the water supply in that area? Goulette stated that he did not interpret the staff report to state that the Town would have a consultant. Goulette was not sure that the town had the legal right to dictate that they extend the water as they are not in an area currently served by a water line. Goulette is opposes a mandate requiring the applicant to put in this water line.

Chairman Bruso asked Schibler for confirmation that the State would mandate the water supply. Schibler said, "correct." Schibler stated that Public Works strongly recommends municipal water given the history of well issues nearby. Schibler stated that he agrees with Goulette to strike at this stage of the review however, it may be required between preliminary and final review.

Commissioner Mangan asked for confirmation that the only two issues in the staff report are width of drive and the water issue. Schibler stated that at this stage, yes, however at a future application the PC will also need to make a determination on the sidewalk.

Chairman Bruso noted that Line 291 of the staff report is requesting an easement. Schibler stated that are 2 separate easement elements 1) an easement along Tower's Road for future path and/or sidewalk, unbuilt; and 2) the Subdivision Regulations require that all new subdivisions have a sidewalk on new streets, and because this proposal meets the definition of 'street' versus 'driveway', it was recommended to include the sidewalk. He noted that the applicant is correct that a Type A Rural Road does not include sidewalks and that is in the Public Work's Specs. The PC has the authority to require a sidewalk. Chairman Bruso confirmed that the discussion was about a private road and not a public road. Schibler said, "correct."

Chairman Bruso asked about the Chase development and the Prior development on Route 15 and if sidewalks were required. Schibler said yes but those properties were located in a higher density R2 zone versus Gutema's lands in the AR zone. Schibler stated that the PC could require an easement for a future sidewalk to be built by the Homeowner's Association.

Chairman Bruso asked for public comments.

Nancy & Les Johnson, Tower Road. Les Johnson stated they are concerned about the 4 units closer to Tower's Road and the closeness to their property line, and concern with the number of cars coming in and out everyday, noting that most households are going to have two cars. He noted that with the 4-units so close to his property, that will be about 8-10 cars. He stated that this felt excessive, along with the fact that the town wants to reduce the buffer. He noted when he developed his property, they were required to have 100' of buffer between themselves and the neighbors, with no houses. They are concerned about the impact on their well. Les said, "they were well over 1,000 feet from a neighbor at the time, and they had to go through a 72-hour pump test to prove that we would not affect the neighbor's well on the other side of Douglas Road, who apparently did not have any water to begin with." He noted that when they developed their property they asked to put their driveway closer to Old Stage Road and was told that there was a rise in the road and the line of sight was too close. He noted that when Gutema's developed their lot, the driveway is closer to the rise in the road than theirs. He repeated, how there will be 16-20 cars going in and out of the same location on a daily basis.

David Bruno, has concerns for Lot 3 and the house placement. He noted that there is a huge tree and if it fell, it would go onto the house. He is hoping the Gutema's will work with him to get rid of the tree before they start anything or move the house closer to their driveway. Schibler confirmed that the tree is on Mr. Bruno's lands. Bruno replied yes, but he did not feel it was fair for him to remove this tree when no house exists in this location. Mr. Gutema replied that they do not have a problem with that request.

Margaret Smith, stated that a sidewalk may not be required, but asked if children would be living in the units who may have to walk down to Tower's Road to be picked up by the bus – something to think about.

Chairman Bruso wanted to discuss the landscape buffer and if it was appropriate to waive the buffer. Goulette stated the PC would not be waiving it as it does not exist because a multi-family housing project is not proposed, therefore it defaults back to the standard requirements. Bruso stated that discussion of a buffer is a "red herring at this stage." Schibler read Section 6.8(H) into the record, as follows,

Where multiple family dwellings are proposed in a location which is adjacent to existing single-family dwellings, a buffer area of fifty feet (50') in width shall be provided along the peripheral boundary of the project. Said buffer shall be planted with trees, evergreens or landforms as approved by the Planning Commission and said buffer may be required separate and apart from any setback requirements.

Schibler stated that this is a PUD requirement, but only for multi-family dwellings. Schibler stated that multi-family is 3 or more units and the proposal is for duplexes. However, he noted that are proposing footprint lots which are allowed for multi-family developments. Schibler said, "you could argue that it sort of meets the feel of a multi-family development, however we are proposing a compromise that we are looking to see some landscaping in the preliminary plan, not for a full 50-foot buffer, which would be excessive perhaps, and as Doug mentioned, would impact the placement of the units and the ability to actually use that space."

Goulette added that they are sensitive to the Johnson's concerns. They have wetland constraints and there is not a huge amount of north/south flexibility to put a duplex. He noted that PUD's encourage the diversity of housing and that is why staff and the applicant are excited about provided same. Goulette noted that the Johnson's is not a single-family house. It is a duplex with an accessory apartment.

Chairman Brusco acknowledged that the PC will look to the next version of the application to see what staff and the applicant have agreed to with the landscaping. Goulette stated that they will try to be respectful, but a 50-foot buffer would take out the entire driveway down to lower two units.

Commissioner Furland stated that he was good without a sidewalk on the internal road. Commissioner Mangan was all set.

Chairman Brusco was concerned about the sidewalk, noting that it was a private road. They could require an easement but it would be private and nothing on the town to put the sidewalk in, and if an easement, the HOA would need to put the sidewalk in place. He questioned if the easement would even provide any benefit to this project. Brusco sees the need for a town easement along Towers Road.

Goulette stated that the private road could be wide enough so that if the HOA wanted to install a sidewalk in the future, there would be adequate space.

Nancy Johnson, wants to be protective of the trees that they were required to put in when they developed their lot. We don't want the driveway to be widened to impact the root system on those trees. She asked if the new driveway would be asphalt or stone.

Schibler stated the private road, 24' width, would be paved and was not sure about the individual driveways, but believes they would be paved. Also, the staff report notes that he Johnson's landscaping should try to be preserved and will be discussed again at the next level of review.

Nancy Johnson stated that she is restricted about putting in an asphalt driveway, but noted that other people can. Schibler stated he was not aware of any restrictions on an asphalt driveway for the Johnson lot.

Chairman Brusco noted that the road will be constructed to Public Work's Specifications.

Negesse Gutema, trees were planted were on the property line. He notes there is no buffer. The trees are protruding over to their property and it will be difficult to preserve. They are soft white pines, they break easy and fall. We cannot guarantee roots of trees that are already on their property will not be harmed.

Nancy Johnson stated that they were required to place the trees where the PC required.

Commissioner Daly MOVED and Commissioner Mangan SECONDED a MOTION to close the Public Hearing. The MOTION passed 4-0.

Commissioner Furland MOVED and Commissioner Daly SECONDED a MOTION, including Friendly Amendments, to approve the application as warned, subject to the Findings and Conditions of a Staff Report dated December 9, 2021, including the following changes

Finding 9, Lines 308-315: Delete.

Finding 11, Lines 331-341: Delete.

Finding V, Line 503, add a bullet to read, “The items covered at this meeting are expected to be covered in preliminary review, including the road, line of site traffic assessment, fire chief’s concerns, landscape buffer, and the internal sidewalk.”

Finding B5, Lines 445-450: Delete and replace with, “Under Zoning Regulations, Section 6.8H, A 50-foot landscape buffer is required between multi-unit dwellings and existing single-unit dwellings. In this proposal, all structures include fewer than 3 dwelling units and meet the PUD setbacks required for single-unit dwellings in the R1 District, both between themselves and the single-unit dwellings on adjacent properties. Therefore, Community Development staff does not recommend a 50’ buffer in addition to the required setback. However, it is recommended that the landscaping plan include retention of existing vegetation along the exterior boundaries of the parcel to the extent possible as well as additional landscaping enhancement of individual units.”

Condition 3b&c, Lines 510-513: Delete.

The MOTION passed 4-0.

AGENDA ITEM 4: SITE PLAN-PUBLIC HEARING: Forestdale Heights, Inc/G & R Cummings: Proposal for multiple self-storage unit buildings located at 23 & 24 Corporate Drive in the Resource Preservation District-Industrial (RPD-I) zone. Tax Map 72, Parcels 3-23 & 3-24.

Darren Schibler, Planner provided staff comments. He noted that the proposal included two separate lots, proposed to be combined, at the end of the cul-de-sac on Corporate Drive, in the RPD-I zone. The proposal is for seven mini-storage buildings, enclosed by a chain-link fence; internal lighting; no water or sewer, and will have on-site storm water treatment. The staff report Summary mentions concerns with lighting. The Police Chief was unaware the project was enclosed by a fence, and therefore does not need additional lighting. Staff has no concerns with the proposal.

The applicant’s engineer, Andy Rowe of Lamoureux & Dickinson Consulting Engineers and Glen Cummings were present for this application. Rowe did not have anything to add to staff comments on the application unless the Commissioners had questions about the proposal. They have no issues with the proposed conditions.

Commissioner Daly MOVED and Commissioner Furland SECONDED a MOTION to Open the Public Hearing. The MOTION passed 4-0.

There were no public comments.

Commissioner Furland MOVED and Commissioner Mangan SECONDED a MOTION to Close the Public Hearing. The MOTION passed 4-0.

Commissioner Mangan MOVED and Commissioner Daly SECONDED a MOTION to approve the application, as warned. The MOTION passed 4-0.

AGENDA ITEM 5: SKETCH PLAN-PUBLIC HEARING: Don Weston d/b/a JMW Investments, LLC: Proposal for a 32-unit Planned Unit Development-Residential (PUD-R) located at 87 Pinecrest Drive in the Medium Density Residential (R2) District. Tax Map 48, Parcel 4-1.

Darren Schibler, Planner provided the following comments:

- The proposal was for a 32-unit PUD-R in the Medium Density Residential (R2) Zoning district;
- There is an existing single-family home on the property on the approximate 21-acre lot and would be retained by a separate lot. All other new units would be on footprint lots as duplexes, except for one unit;
- The proposal generally stays out of wetland and flood plain areas, except for a small area near the road. The wetlands were addressed by the state;
- The longer road would be a public road, with the shorter road as a private road, built to town standards;
- The parcel does not have sewer allocation and will need to obtain approval from the Selectboard;
- They will need to find a route, possibly through Shillingford Crossing, for public lines are Public Works will not approve on Pinecrest Drive due to recent repaving;
- Applicant' request a 25% density bonus for 2 permanent affordable owner occupied housing units;
- Will need a connection to the existing sidewalk connection across the street on Pinecrest Drive. A crossing will be required; and
- A community garden is proposed, however not sure if water will be provided for same;
- Staff supports the Sketch Plan.

David Burke and Dan Heil of O'Leary-Burke Civil Associates, and Jeff Weston provided comments on this application.

Burke made the following points:

- Thorough staff notes;
- It is a 20+ acre parcel, with approximately 80' of frontage on Pinecrest Drive. There is an existing driveway that goes back to the existing home;
- The single-family home will be retained on its own lot;
- The application requires Act 250 review. They have already had all the state agencies review the proposal. There will be some archeological testing required;
- The parcel is in the sewer core and it is not unusual that the parcel does not have sewer allocation before its developed;
- Municipal water, natural gas and all other utilities are on Pinecrest Drive;
- Have had discussions with Dept. of Public Works (DPW), understands issues to work out. If the sewer has to go to Pinecrest, the manhole would need to be upsized;
- The based density, after taking out all the elements required, allows for 27 units;
- Section 6.4(K) is an inherent bonus and the PC does not need to weigh in on it provided at least 25% of the additional units are perpetually affordable. He noted that in this case, the density would bump up to 34 units; 32 units are proposed of which one unit is existing and two of the 32 would need to be perpetually affordable;

- Staff notes, Line 41, which reads, in part, “all new dwellings will be duplexes”, but there will be 1 new single-family unit, in addition to the existing single-family unit;
- Footprint carriage units are proposed; everything outside the public roadways and the footprints, would be common land.
- The commonland, is shown in green on the plan and is 40.9% of the parcel. He noted that there is more common land than that, however this is the contiguous area;
- He described the divide of the wetlands on the parcel and the direction to which it ran, which creates two plateaus on the parcel. The side road closer to Shillingford, it relatively a flat area;
- A 20’-front and a 10’-side yard setback, and a 25-rear yard setback are proposed. Behind units 1-10, a 30’ rear setback is proposed. The spur road on units 9-12 were placed parallel to the property line as possible so that it did not create “backyard to backyard” situation. Behind unit 10 is approximately 90’ to the nearest house (Smith property).
- Single-family and duplexes are permitted uses, even outside a PUD proposal, and feels this is important to note. Multi-family units (3 units and up) are permitted in a PUD;
- They have elected to go with more setback distance than required to provide more space from the neighboring lots;
- He requested feedback from the PC that if they remove the right-of-way, which would allow them to do a bit more clustering and get more setback from the common line with Shillingford Crossing. The initial conversation with DPW was positive, but wanted to get some PC feedback;
- They would like PC feedback on the main road that ends with a cul-de-sac, which is longer than 900’. The rationale is in the staff report. He repeated the two plateau areas has a thin band of wetland areas and the required 50-buffer. To pull the road back to 900’ would create wetland buffer and wetland impacts. They will re-look to see if it can be pulled back a little as DPW said they would consider the request, but the closer to 900’, the better. He reported that they jumped through hoops with the State regarding the wetlands to get where they are with the proposal;
- They have done a lot of homework ahead of the time compared to some of the project seen because of the time of the year;

Burke referred to the following in the staff report:

- Lines 169-172, discusses the side road, and because there is no right-of-way, they won’t push the issue as they believe they could with a public road. He believes the proposal benefits all parties, including Shillingford Crossing for increased setbacks to them;
- Lines 190-205 discusses the reasoning for proposing a 1,088 linear road versus the required 900’ road;
- Lines 241-245, states that it meets the parking. He noted that there will be garages for the units; and
- No issues with Conditions 1-8, with comment on Condition 6, that they were okay with working with DPW, but would like PC feedback.

The PC discussed the comments on the short road as he felt if the road could be pulled further away from Shillingford Crossing, then that was good. Burke stated that an easement would still be required as the Town will still take over the water main, and Fire wants to have legal access.

Chairman Bruso suggested that they could entertain, at Sketch, a lesser easement if it can create a greater buffer with Shillingford properties.

Commissioner Furland asked if the proposal was to eliminate the need for a sidewalk. Burke replied, “no, it is to do a private road instead of a public road.” Bruso said, “for the short road.” Burke stated that right now, they are showing a sidewalk, and he would like to have that be a part of the conversation with DPW on whether a sidewalk is necessary. He noted the easement would be wide enough if he feels the road is wide enough. Whatever the standard is, they would still provide enough room for a sidewalk. Schibler stated that it is important to have a sidewalk, and they can workout the legal remedies best for the road.

Commissioner Daly MOVED and Commissioner Furland SECONDED a MOTION to Open the Public Hearing. The MOTION passed 4-0.

Kristen Erickson, wanted to point out that the school bus may not have enough room to loop into the area and currently kids come in from certain streets to pick-up points. Sidewalk would allow kids to get out to where the bus stops.

Nguyen Song read the following statement,

I am a resident of Shillingford Crossing, along with my husband Matt and my 2-year old. We currently live on an abutting property of the proposed project of 87 Pinecrest Drive. Our family has strong concerns about this proposal. Just four months ago my husband and I bought our current home. We are excited to grow our roots in this beautiful peaceful neighborhood. Born and raised in Essex and having spent about 10 years in the City of Washington D.C., we were excited to call the lush landscapes, the wooded backyards, the surrounding wildlife of Shillingford Crossing, our home. You can imagine the disappointment we felt upon learning about the proposal. With the proposal of such scale and within proximity to our homes there will be adverse impacts on not only our forest health but also on human health. From the construction alone, there will be carcinogens and building materials that will infiltrate our air, our soil, our water, but more importantly we are concerned about two key areas as it relates to this Planning Commission. First, the confined usability of town designated recreation parcel, and two, the lack of buffers in addition to setbacks established between property lines. So, to my first point, community recreation parcel, Shillingford Crossing currently owns, or currently has a town owned rec parcel. This parcel is reserved for residents and is a quality of our neighborhood that our community, especially our children, will continue to benefit from. Development of the project, specifically units 1-16 would undoubtedly restrict access and usability of the space for families who currently live here. My second point regarding setbacks. I know this has already been discussed but I just wanted to share that in the proposal there was not a recommended 50-foot buffer in addition to the required setbacks. Between the proposed and the existing dwellings. However, we strongly disagree with this notion and instead we strongly encourage at least a 50’ buffer between the proposed dwellings and existing dwellings, if not more. This would significantly impact the proposed development of units 1-16. It is inevitable that our quality of life, as well as the scenic and natural beauty of the residential area will be negatively impacted by the proposed project, but we believe that this Planning Commission has the best interest of our community to minimize adverse effects as much as possible. For these reasons, I strongly recommend the Commission to reconsider the

development of the units abutting properties of Shillingford Crossing, specifically units 1-16. With that, I thank you Planning Commission for the opportunity to speak.

Henry Hayes, 14 Hampshire Court, has resided with his wife for 27 years and stated that they have been Essex residents for 33 years. They have been looking at the single-family house, the brown house, for many years. Mr. Hayes advised that mature trees were cut down a number of years ago, and the house has become quite visible. He stated that they knew for many years the land was private and would be developed some day. They felt fortunate to have had so many years “as is”. Mr. Hayes never imagined that 32-units would be proposed for development. He referred to the spur, which he called Road B; and he noted how units 3-16 coming vertically to within 25 feet of the property line. Mr. Hayes said, “Shillingford is a wonderful single-home development.” He has read the regulations and understands that developments should retain the character of the neighborhoods and its surroundings. He believes the proposal is completely out of character with the homes within Shillingford and the homes located on Pinecrest Drive. Mr. Hayes believes the proposal needs a minimum 50’ buffer from the property line and was disappointed that there was no discussion on what kind of screening would be provided for the project. Mr. Hayes believes the project needs an 8’ fence or a berm and mature evergreen trees that create a buffer and, the landscaping should be guaranteed so that it will remain in place. Mr. Hayes noted that when you look at the cul-de-sac (private road), you are going to have cars turning down and traffic lights will be shining into people’s homes all evening. Mr. Hayes does not take issue with the units that are proposed at the end of the 900’ or so roadway. He said, *We live in a country where people should be allowed to make a dollar, there is nothing wrong with that. What people shouldn’t be allowed to do is to make a dollar while devaluing the property of other people who have been longtime residents. That seems inherently wrong to me. It is not the way things are supposed to work. So, I’m not an anti-development guy, but I am against development that is going to have a material impact on my property value and the values of my neighbors on Shillingford Crossing and Hampshire Court.* Mr. Hayes does not understand the sewer issue however, it felt like it was “putting the cart before the horse.” Mr. Hayes was not sure how they would connect the sewer to Shillingford Crossing and questioned if the intent was to cut across someone’s property to tie into to the existing sewer line. Mr. Hayes stated that the development needs to be scaled back to a more manageable way that offers a 50’ buffer and robust adequate screening to maintain the character of his neighborhood.

Colleen Dwyer, 85 Pinecrest Drive, participated via telephone. She doesn’t feel like there is any more to add than what her neighbors at Shillingford Crossing have already stated. Dwyer is very concerned about the amount of traffic the proposal will create, particularly because Pinecrest is a road that has speeding cars and many safety concerns, has no speed bumps or speed tables. Dwyer said, “Speed has always been a problem on the road. The increase in traffic as a result of these units is going to risk people’s safety.” She believes the project needs to be scaled back and no additional roads created.

James Badger, 89 Pinecrest Drive, stated that the road going into the proposed development is *right tight to my house, and I am going to have a lot of cars going in and out of there, with all kinds of noise and headlights.* Badger stated that the land is “a farmer’s dump”, noting that Fleming owned the lands in the 1960’s, and Fleming had a contract with the Village of Essex Junction to pick up the garbage. Badger said, *“They also had a pig farm on the back of Tiller’s house, and he buried the pigs in that area. The garbage pit is where the cul-de-sac area is proposed. There are 5 garbage pits there, buried. I lived there for 70 years, I should know. You may have to get the EPA involved in this.* Badger reported that Tom Tiller tried to build his

house on the lot band when he started to dig, he hit the pit, covered it and moved the location to behind his house. He reported that the land is full of underground springs and, they are going to have a lot of water problems. Badger concluded by informing the PC that the project will bring too many cars onto Pinecrest and that there are already too many speeders.

Mike Smith, 10 Hampshire Court, stated that he would like to see the private road gone or moved closer to the proposed road. Smith said, *The houses are too close to the property lines and he would not do that to anybody.* Smith invited the PC over to his house to stand in his backyard for a visual. Smith was not impressed and asked if they could do anything to move the units and cluster them. Smith asked where the snow was going to be placed as he currently blows water out of his basement.

Mr. Morgan, Hampshire Court, echoed what the neighbors have said about the Shillingford Crossing neighborhood. He understands it is private property and that it is their right to develop, but he thinks there is something to say about this project. He has 4 french doors on the back of his house. Light pollution is a concern as headlights will be in his windows all night. Those disturbances are what disappoints him about the project. He understands development but feels there are ways to avoid these issues. He requested that if there are other options, he wants them strongly considered because it has a huge impact on the lifestyle and living of people who have been living in this location for 27 and more years.

Mike and Ashley Wager, purchased home 7 years ago. He is a lifelong Essex resident. He echos many concerns, the cars, the traffic, the light pollution, and noise pollution. He asked what is involved with archeological tests; the environmental impact study that was done ; and the Agency of Natural Resources inspections on this projects given the proximity of the wetlands. His daughter has allergies, especially during the pandemic, and she cannot return to school until she is 24 hours clear of any symptoms. This impacts there work and their pay. He is worried about the proximity of the development impacts that will affect their situation even more than it does today. He stated his wife was pregnant and is concerned that he will likely have some of the same ailments.

Ashely Wager echoed the statements that have already been stated to the PC. She understands the need for development and more affordable housing options, but the concern is the proximity to their property as well as their neighbors. They live on the cul-de-sac and understands they have been lucky to have all the land to use but asked to increase the distance of the setbacks. She did not see the type of screening when she read the proposal and currently there is not much “meaningful screening” in place due to a windstorm and the landowner removing trees. She is interested in that level of detail.

Chairman Bruso stated that sketch review identifies concerns, and the next step of review would discuss the issues that have been identified.

Laura Pierce, has lived in Shillingford Crossing for almost 23 years. She echos the same concerns and supports her neighbors with their concerns. She won’t repeat them, but noted that many residents are present with the same concerns. Her first choice is not to go forward with the project, otherwise it would be to increase the setbacks where the new development would run up against the neighbors. She asked that the PC give good thought to the screening, suggesting a tall solid fence and hedges going the entire length of where the development abuts Shillingford Crossing.

Dean and Tracy Reed, have lived on Pinecrest Drive for 35 years. Dean stated that the garbage pits are going to be a big problem. He noted it was a dump, and the cul-de-sac is proposed right where a pit was located. A house was going to be build, holes were punched into the ground and methane started coming out of the ground, which is why the house was not built in that location. He questioned if the ground was upset, would this run down and into Indian Brook. He noted that “Jim” worked for the dump and knows exactly where the pits are located on the property.

Tracy Reed stated that they were mostly concerned about the water. Tracy was concerned about the headlights hitting her house and windows on Pinecrest, noting that would be 64 sets of headlights going into her living room. She asked for consideration on this point. She asked if they considered exiting onto Route 2A or through the back of the Fairgrounds where it would not affect Pinecrest Drive. She stated that she has always worked from home and her office overlooks Pinecrest Drive. She noted that speeding occurs all through the day and night and it is getting worse and worse, noting that there are no speed bumps or nothing to deter people from “hightailing it through there.” They are enjoying the sidewalk on Pinecrest Drive and there are a lot of kids and people using and enjoying the sidewalk, however a driver recently jumped the sidewalk and hit their flagpole. She stated the traffic is “craziness.”

Dean Reed noted that their used to be a pig farm on the parcel. Due to a cholera outbreak and all the pigs were killed and buried on the site. He asked if the genealogist would need to be contacted on this matter.

Chairman Brusco noted the issue on the dump was new information to them from this meeting, therefore they cannot comment until they have more information.

Sharon Hayes, 14 Hampshire Court. She acknowledged that Essex may be lacking housing, but not along Pinecrest Road. She noted there are 87 duplex or multi-family situations; 100 units in senior housing; 24 senior housing units under construction; 61 homes in Shillingford Crossing; and more than 100 homes in the Pioneer Street, Jackson Heights neighborhoods. She asked at what point does the road become over developed. She noted this was the last open parcel on Pinecrest Drive, which contains a wetlands and is frequented by deer, owls, hawks, woodpeckers and many other animals. She asked if it was responsible planning to pack 31 additional units and a single-family unit on a 12-acre parcel, with wetlands, onto Pinecrest Drive given the housing density that already exists on this road. She is curious about all the ill effects on this wetland and, the animals and humans are being considered. She questioned that given the existing density along Pinecrest Drive, if it would be more responsible to scale down the density for this project to a single road (Road A) that features .5 or .7 acre lots with single-family homes as Shillingford Crossing exists, or .8 acre lots like the lots along Pinecrest Drive, and the single-family home that exists on 87 Pinecrest Drive. She asked that the reconsider the project.

Commissioner Daly stated that they way he reads the Regulations, something is going to be built on this parcel. Daly stated that he has to roll that into the fact that Essex needs housing, needs reasonably priced housing, or the entire State is going to be strangled. Daly noted that some good points have been made, especially if the units are going to be built in people’s backyards. Traffic onto Pinecrest is an issue that will need to be addressed. The PC cannot do anything about whether the police can enforce the speed limit. Daly acknowledged that if/when construction starts, it will be tough for a certain amount of time. Daly did not think it would be a bad thing if the spacing was shrunk to create a larger buffer. Daly, as one Commissioner, would be open to

suggestions on that issue. He is not too concerned about the right-of-way issue and feels it is “almost immaterial and should not be a major stumbling block.”

Commissioner Furland would like to hear from Darren that it meets the PUD and Regulation requirements, as it seems like it does.

Schibler confirmed that the project fits with PUD standards, fits with the normal district standards for the R2 zone. He noted that if only single-family homes were proposed, it would look similar to what exists in Shillingford Crossing. The increase density from the Bean’ duplex should have some review of traffic impacts. Schibler stated that the increase of this density helps avoid the need to build elsewhere and is sensitive to disturbance elsewhere where we want to keep things open and undisturbed.

Commissioner Furland is open to more of a solid fence to help reduce the lighting glare. Furland stated that it felt like a large impact to the Reeds across Pinecrest Drive. He asked if anybody had any ideas on how to mitigate that issue. Owiso Makuku stated that landscaping the front yard could help the issue.

Chairman Bruso asked the Reeds if the front of their house is the one that is all driveway. Schibler brought the Reed property up on the overhead screen. Bruso asked Burke what the elevations were on both sides of Pinecrest Drive. Burke stated that they would have to get that information, however he knows that they are higher, but he does not know how much higher. Burke noted that there was an existing utility pole to the west side of the proposed entrance and there is some wiggle room because the frontage is 80’ and 60’ is needed for the right-of-way. However, you need the radii to work. Burke noted that they don’t want to extend the radius to the edge of Mr. Badger’s driveway, and there are geometry concerns. Burke called out some possibilities, such as a hump in the driveway, but needs to make sure that will work with other concerns, such as stormwater. Burke stated that the next review they will have elevation information.

Commissioner Mangan has heard all the good concerns, such as increased setbacks, if possible; different methods of screening to mitigate the light issues. There are still a lot of questions such as the traffic impact; trash mound; and water issues in that area. Mangan stated that in reading the staff report, it looks like it adheres to the Regulations, but it seems like there is still a lot of little works to be done to address the other concerns that are being stated over and over again.

Chairman Bruso stated that from a regulatory point of view “this is solid.” He understands the questions of “Why do we allow development to occur when there is already a lot?” Bruso stated it is because that is what the Zoning Districts and the Zoning and Subdivision Regulations are there for as they establish what can go where. Because there is other development in the area, the PC can’t necessarily say that you can’t put something there. What the PC is required to look at is how they can mitigate the issues that present at the hearings and ask what are the things that are going to be detrimental to the project. Bruso discussed light mitigation, noting that he can remember two applications where the PC required a berm and natural vegetation instead of fencing. He believes that has a longer life span generally than installing a fence. Bruso noted the fence along Shillingford was in disrepair for quite a while before it was removed.

Owiso Makuku suggested a combination of both might be good in the short run. Chairman Bruso agreed and said the PC should not be dictating a certain method at this time. He noted that light pollution and mitigation is a must for him so that it is addressed at the next level of review.

Bruso noted that the engineer stated that they might be able to increase the setback. Combine that with light mitigation features, then the proposal is more in line with the requirements of meeting the Regulations so that the PC can go forward with the review process.

Chairman Bruso is concerned about the impact to Mr. Badger and to the Dwyer parcels. He would be looking for some kind of mitigation on these points.

Burke said they will show more details for preliminary review as well as a traffic study and other elements. Burke stated that they are trying not to put the 60' ROW up against either property in order to give them a little more space.

Chairman Bruso noted that Indian Brook is an impaired waterway and the PC can't do anything that will impact that waterway.

Owiso Makuku suggested the applicant talk to the school bus company about where the school bus stop would be located for the children. Burke stated that the road was designed for a school bus to come in and turn around with no problems. Burke noted that the staff report already noted that they need to work on a road crossing on Pinecrest Drive. Burke stated that he believes the garbage issue has anything to do with the local process. He noted that this was an Act 250 project. He stated that it may have been an animal farm, but 60 years later everything is decomposed. Burke reported that they did test digs behind the house and it came back as clean soil, three backhoe test pits – just this week. Burke noted a couple test pits were done down near the cul-de-sac or just past it and those were clean. Burke stated he wasn't looking for a dump and was just doing random test digs as they were related to the stormwater areas. Burke said they will do additional testing to satisfy their own curiosity. If there was an issue, the State would likely have them remove the material. If it is a concern, then it is already a concern. Burke stated that anything they do will improve the area as the concern will be removed.

Dan Heil stated that given the high ground water, if there is something still in the ground, it is already going into the waterway. Burke stated that they agree with the comments regarding the groundwater table on portions of this site. He noted that in his overview the side setback was 10 feet and they are going to 27 and 37 feet, which shows they are already trying to allow for a greater setback distance. He stated they will continue to look and see if they can do more, but they are trying not to have backyard to backyard. Making the one road into a private road will make the situation a little bit better. Burke noted that lighting and landscaping is not a part of sketch plan and know that these issues will need to be addresses. Burke stated that he agrees that likely a fence is going to be needed, opposite the end of the cul-de-sac and maybe landscaping in other areas. He has no issues with those requests. Burke said they will do even better than what they have already done with the minimum regulations.

Schibler stated that they will look at the stub road again as it appears it will likely change; staff supports increased clustering and reduce impacts to abutting properties. Staff agrees that trash is a state level issue, noting that there are grants available to help mediation.

Mr. Wager asked if the applicants were aware of the trash pits or the farm on the parcel. Dan Heil replied that it came to their attention a couple of weeks ago through staff, and after sketch plan was submitted.

Commissioner Furland MOVED and Commissioner Daly SECONDED a MOTION to Close the Public Hearing. The MOTION passed 4-0.

The PC is looking for screening, entertaining changes to the private road, increased clustering; allow greater setback to Shillingford; designs to eliminate light pollution to Shillingford on the private road, and to the Reeds, Dwyers and Mr. Badger on Pinecrest Drive; as well as possibly shifting the driveway entrance into the lot away from Mr. Badger. Trash pits were brought up however the PC is looking for a State assessment on this issue.

Bruso questioned the habitat as it looks like it has connectivity. Burke agrees there is wildlife along the river. All the state agencies fishery, wildlife, non-game natural heritage, historic preservation, Agriculture are all okay with the proposal at this point. Burke stated that this isn't the proposal that they started with and there has been modifications. Burke noted the main thing for the corridor is a lot of what is shading in green, minus where the garden area is located. He noted that the riparian corridor, along the brook, is the most important concern. Burke noted that you are either restricted by the 50' wetland buffer or by the limits of the riparian buffer. Burke noted they had a site visit by the person in charge of riparian buffers, and that is when they eliminated the last duplex and made it a single. She was one of three persons from the State at that site walk. The earlier concern about archeology has not been flushed out at this time and will occur in 2022.

Schibler noted that the earlier request to have an exit on Route 2A, would impact the river corridor, wetlands, and wildlife habitat.

Chairman Bruso stated there were discussion on provided water for the community gardens however he did not want that to be an official recommendation. Burke stated that they likely will not provide that service because there is an existing walkway across the wetland that can stay, but there would be impact within the 50' wetland buffer as it overlaps the walkway. The walkway is wide enough if the person has a cart.

Chairman Bruso MOVED and Commissioner Daly SECONDED a MOTION to approve the application as warned, subject to the Findings and Conditions of a Staff Report dated December 9, 2021, including the following:

Finding V, Line 431, delete the bullet and add, "The PC is looking for screening, entertaining changes to the private road, increased clustering; allow greater setbacks to the Shillingford lots; designs to eliminate light pollution to Shillingford on the private road, and to the Reeds, Dwyers and Mr. Badger on Pinecrest Drive; as well as possibly shifting the driveway entrance into the lot away from Mr. Badger. Trash pits were brought up however the PC is looking for a State assessment on this issue.

The MOTION passed 4-0.

AGENDA ITEM 5: MINUTES 10/18/2021:

Commissioner Daly stated that his name appears on Lines 348 & 357 and he was not speaking as a Commissioner.

Commissioner Daly MOVED and Chairman Bruso SECONDED a MOTION to approve the 10/18/2021 minutes with the following changes:

Line 357 & 360, change “Commissioner Daly with “Mr. Daly”.

The MOTION passed 4-0.

ITEM 6: OTHER BUSINESS:

Commissioner Daly commented on the storage unit proposal as it is not adding any employment or anything positive in that zone. It probably is not our problem, but if the Town is going to look forward, then you don’t use our limited industrial space for storage, with no jobs or employees.

Chairman Bruso postponed the following business items to the next meeting.

- Letter from Brian Bertsch, P.E. re: RPD-I uses.
- Housing

The meeting adjourned at 9:26 p.m.

PLANNING COMMISSION

By: _____
Dustin R. Bruso, Chair