

TOWN OF ESSEX
PLANNING COMMISSION
MINUTES
August 25, 2022

PLANNING COMMISSION (PC) PRESENT:

IN PERSON: Dustin Bruso, PC Chair; Jonathan Schumacher; and Patty Davis.

VIRTUAL: Josh Knox, Vice-Chair; John Mangan, Clerk; David Raphael; and Tom Furland.

OTHERS PRESENT:

IN PERSON: Katherine Sonnick, Community Development Director; Sharon Kelley, Zoning Administrator; Darren Schibler; Michael & Judith Guernsey; Bryan Currier; Phil March; Natalie Brown; David Skopin; Natalee Skopin; Brian Marcotte; Peter Guay; Marcel LeClair; David Burke; Deb Wright; Bruce Cowan; Irene Wrenner and Paula Duke.

VIRTUAL: Peter Thomas; Jill Harua; Dawn Hill Fleury; Emily Crabral Hoag; Essex Retorter (KS); Henrietta Browning; Jon Zimmerman; Ken Kieft; Tom (?); Alan Botula; 802-338-5774 (unidentified); 802-879-2633 (unidentified); and Community TV.

The meeting was called to order at 6:03 p.m.

AGENDA ITEM 1: Election of Officers:

Community Development Director, Katherine Sonnick, asked the PC if they would like to offer discussion on the election or offer a motion. There was no discussion.

Commissioner Schumacher Moved and Commissioner Furland Seconded a Motion to re-appoint the same slate: Dustin Bruso, Chair; Josh Knox, Vice-Chair; and John Mangan, Clerk. The Motion passed 7-0.

Chairman Bruso provided the oath to those in attendance and again to all the late arrivers.

AGENDA ITEM 2: Public Comments: None.

AGENDA ITEM 3: Consent Agenda:

- **MINOR SITE PLAN AMENDMENT:** Marcel LeClair is proposing to add one 15'x100' storage building to accommodate 40 storage units to the existing storage buildings located at 220 Colchester Road in the Industrial (I1) Zone. Tax Map 9, Parcel 15.

Vice-Chair Knox Moved and Commissioner Davis Seconded a Motion to approve the Consent Agenda. The MOTION passed 7-0.

AGENDA ITEM 4: SKETCH: Pinewood Holdings, LLC, c/o Brian Marcotte: PUBLIC HEARING: Proposed 34-Unit Planned Unit Development-Residential (PUD-R), consisting of 19 single-family building lots and 5 triplex buildings (totaling 15 units). The property is located at 18 & 30 Timberland Drive (parcel IDs 2-084-001-000 and 2-085-001-001) and

consists of 100.2 acres in the Medium Density Residential (R2) Zone; One new public roadway approximately 870 LF terminating in a cul-de-sac and two private roadways totaling approximately 1,120 LF. Two 16' wide private roadways will serve 4 and 5 single family lots which will be proposed with residential sprinkler systems for fire protection. Density is concentrated to the flattest areas contained within the project limits to reduce the impact of steep slopes. Continued conservation of the approximate 24 acres of wetlands and river corridor associated with Allen Brook and another 24-acre conservation buffer established by previous Act 250 decisions. Lots will be served by municipal water and sewer services, including a watermain loop to the Timberlane right-of-way on the south/eastern end of the parcel; stormwater will be treated on site.

Darren Schibler, Town Planner, reminded the PC that the applicant withdrew its last application, noting that staff recommended denial of that iteration because of significant impact to steep slopes and potential concern over erosion and stormwater issues based on the previous development of Section H. Schibler noted that staff and the applicant met prior to the submittal of this application and this what is before the PC for review. He noted that it significantly reduces the impact to steep slopes; and the application is more in line with what they would recommend for an approval. Schibler noted that there are still some minor impacts to steep slopes, but the understanding that they will minimize and mitigate any disturbances and provide documentation that any erosion and stormwater would not be created, staff is willing to accept this proposal and recommend that the applicant proceed to preliminary review. Schibler noted that there was also discussion on the prohibition of development on steep slopes greater than 20%, however the property is located in the R2 Zone and they are trying to find a compromise so that the development still meets the intent of the Town Plan and Zoning Regulations. Schibler noted that Public Works does not support the current layout of the shared driveways and, the regulations only allow for one driveway to serve two units. He reported that Public Works is sticking to that requirement. Schibler stated that the applicant has consolidated the unit to avoid further erosion and steep slopes. Schibler noted that this would require a waiver and potentially a waiver from the Selectboard. Schibler would look for additional fire protection with this waiver. Schibler reported that the roadways should never become a public roadway and the maintenance of the drives will be maintained by the homeowners. Staff was asking for a trail easement on the remaining lands that connect to Freeman Woods, which is noted in Town Plan Map 7. Schibler stated that this path should be surveyed. The applicant is agreeable to this trail easement. Schibler called out corrections to the staff report.

Bryan Currier, David Burke, and Brian Marcotte provided comments on this application. Currier provided some history on the parcel and how they believe the current proposal before the PC has minimized the impact to the steep slopes. He referred to the 2003 Phase H Master Plan and pointed out on the overhead plan where the recreation paths were located noting the trail would end up connecting to Timberlane Drive. He discussed a recent Act 250 decision showing where a conservation buffer is now located along the Circ Highway, as well as this parcel having 96 EUs of sewer allocation dedicated to this parcel. Currier called up the 2021, Section I plan that was previously reviewed and approved by the PC for 49 units. He called out the light green areas on the plan which showed steep slopes greater than 20%. Currier noted that although they received Sketch Plan approval for this iteration, they still did not have Town departments support and they decided to withdraw that application and present a lesser impact plan. He noted that they kept the public roadway connecting the two private drives as it was more in line with a traditional subdivision as the lots were truncated to avoid impacts to steep slopes.

Currier discussed the current proposal, noting that the slopes greater than 20% are now shown in blue on the plan. They are now proposing a private driveway instead of a private cul-de-sac; less impacts now serving 3 single family lots. The white space on the plan represents flat areas and should be developed or a wetland. He points out the location of the Class II wetlands and notes that the driveway follows the area that was left over from the Master Plan and will serve the 3 lots. He pointed out on the plan where the cul-de-sac was proposed would now serve 5 lots. The public road will continue to be off from Stonebrook but will no longer connect to Timberlane Drive, rather it will be 870 linear feet of public roadway with single-family lots on both sides, however they will be 5 triplexes, totally 15 triplex units, which has not been done in Pinewood. He noted the soils and area is suitable for this development, and they would be staying out of the Class II wetlands. He stated that they have taken considerable steps to stay away from classic and traditional development in Pinewood, as well as a lessened PUD that was approved last year for this parcel. Currier noted that they are about one-half of what the current PUD density layout allows and this proposal includes 34 units. It could allow for 62 PUD units once you take out steep slopes and floodplains, and public roadways. He reiterated that they are proposing 1 public roadway, 2 private drives, and avoidance of steep slopes and wetlands. He noted the conservation buffer was an agreement with Act 250.

Currier referred to Condition 2a and noted that he has taken considerable time and steps to show how the proposal avoids, minimizes and mitigates potential erosion and stormwater impacts. He noted that the next step is together a set of erosion control and prevention plans and would be amenable to obtaining a permit to construct from the State of Vermont, noting that the PW Specs defer to the State for erosion control permit for lands over 1 acre. He noted Section H was approved in the early 2000s yet was built 15 years later and there has been considerable change since then. He noted they would be limiting disturbance 5-acres at a time and would only clear for roadways. They would not be clearing everything and constructing all at once. They also would be agreeable to do more work between now and preliminary review, such as changing a building envelope, or an approved driveway design. At that point the PC can decide if it is an adequate lot or not. Currier stated what they can't do is not impact any slopes that is greater than 20%. He noted there is plenty of precedent in Essex for disturbance of greater than 20% slopes. Currier asked for feedback from the PC on Condition 2a.

Chairman Brusco noted that sketch is meant to capture the intent and concerns the PC, applicant, staff and the public in order to allow the application to go forward. He asked the PC for comments.

Commissioner Furland inquired about sites 10, 13-17, noting it has a very steep slope from the driveway to the lots. Currier replied that the structure will likely be a walk-out unit with 10' of grade and the basement floor will be at grade level (approx.. 3-4 feet.) Furland asked about the driveway. Currier expects it to be the same as the house. Currier noted that a previous plan showed lots on the north (high) side and now they are only proposing lots on the low side. A picture was shown of a walk-out basement. Commissioner Furland asked about Lot 14, noting it does not look flat. Currier stated that grading is not required at sketch, however noted the lot line and envelope could be moved.

Commissioners Mangan, Raphael, Davis had no comments. Vice-Chair Knox had no comments, however appreciated Furland's deep dive questions. Commissioner Schumacher asked if an Environmental Prevention & Sediment Control (EPSC) permit was required before preliminary. Currier said yes.

Commissioner Schumacher Moved and Vice-Chair Knox Seconded a Motion to open the Public Hearing. The MOTION passed. 7-0.

Schibler reported that he provided the PC with an email regarding this project, which was sent from the following residents, some who were unable to attend the meeting: Mukesh Kumar & Anupam Gerg, 8 Evergreen; Ron & Kristie LaFountain, 72 Stonebrook Circle; Sandra McGowan, Doninic Abbondanza, 10 Stonebrook Circle; and Patty Kleppinger, 7 Stonebrook Circle.

The following persons provided comments on this application:

Michael Guensey, 9 Evergreen Drive, made the following comments:

- He was on the NW Regional Planning Commission for 22 years and is familiar with the process.
- He reported that a Homeowner's Association was recently formed for Nature's Way, which includes 39 houses. He asked if the project under review was approved, would it join this Association or form a new one.
- His parcel is located on the corner of Evergreen & Stonebrook. There is a retention pond on his property and was concerned about the addition of "a lot of new roadway to contribute to the stormwater." Chairman Bruso noted that those details come at the next level of review, which is Preliminary Review. Brian Marcotte noted that Section H was under the old Stormwater rules and that the current proposal is proposed to have its own pond and would not be likely to ask to use Mr. Guensey's pond.
- He questioned what kind of sidewalks would be installed. Chairman Bruso stated that would be the standard requirements from Public Works.
- He questioned if any kind of walking trail or path would connect to the end of Timberlane Drive. Schibler stated that it was not proposed with this application and that public trails are shown along the triplex buildings however those can be intrusive. Chairman Bruso noted that people should be aware of the current proposed trail, however it may stay as a requirement.
- He questioned snow removal. Chairman Bruso stated that if it was a public road, this would be deferred to Public Works.
- He asked if Timberlane Drive would be extended to #23 or if his driveway cuts through Lot 24, noting that it seems like there is a frontage requirement issue. Schibler noted the regulation requirements on a public road however because this is a Planned Unit Development (PUD), there is some flexibility.
- He asked if the covenants would state that all 4 houses will be responsible for the private drive.

Alan Boutula, noted that he is on the Essex Conservation and Trails Committee and made the following concerns:

- The parcel is unsuitable for development as a lot of excavation will be required into the steep slopes; roads, etc.; and asked if the burden transfers to the landowner.
- He noted the prime forest land and stated the topography is unsuitable for a housing development. Concern over wildlife, trees, plants, etc.
- The construction needs to adhere to Act 171, forest blocks.

- Concern over aesthetics as the forest is used as a sound buffer for the houses that abut the Circ Highway.
- He reported that the Conservation Committee supports smart development on suitable lands.
- He asked that the PC think about the quality of life for its citizens.

David Skopin, 11 Skyline Drive, agrees with Alan and thanked him for his comments. He noted that he is on the Energy Committee. Skopin noted that the steep slopes are a small portion of the problem. He asked the PC if they have considered climate change. Chairman Bruso stated that if the Regulations allow for the proposal and if applicants meet the rules, he is not sure there is much the PC can do about the situation. Skopin asked if he could bring up this topic at the next level of review. Bruso said, no and that climate change needs to be regulated so that there is enabling language in the document when an application is reviewed. Skopin asked what the PC's attitude is on climate change and he is looking to the PC for leadership. He noted there is concern to a growing number of people when you get 15 inches of rain; and this is putting all the residents in the crosshairs. Chairman Bruso repeated that climate change needs to be regulated with enabling language. He noted that it is not present for this application. Bruso hears what is being said, but they can't review climate change at this time.

John Sama, 26 Windridge Road, has no opposition to the proposal and is psyched for affordable housing. He asked if there was going to be a connection to Timberlane Drive as the proposal is doubling the traffic, noting 4 bus stops every day. He noted that there is only one-way into for fire and rescue. If the road washes out, there is no other way to exit the development.

Natalee Skopin, 11 Skyline Drive, noted that she is on the Essex Energy Committee. She stated that she was "here as a citizen of the world." She stated that humans are bad at responding to slow moving disasters, and that climate change has accelerated. It is no longer a slow-moving disaster. She stated that nature-based strategies are significant and asked that no development be granted at all. She stated that the applicant's would be removing a "tremendous amount of trees and moving earth." Chairman Bruso stated that he appreciated her compassion to the issue and heard that she is not supporting the application.

Debbie & Peter Thomas, 79 Stonebrook Circle, echo Sama's concerns. There are a lot of new houses and only one-way out. They appreciate the efforts taken on steep slopes, etc., but access they strongly prefer an access connection back to Timberlane for both emergency and daily traffic.

Emily Cabral, 74 Stonebrook Circle, echo's sentiment on traffic flow; and safety with the amount of traffic. She fully supports development; all are aware more housing is coming; she is not here to hinder, but to make a safe development to raise kids.

Jon Zimmerman, 42 Stonebrook Circle, asked what happens to the land not owned by the lots. Schibler replied that the project is a part of a PUD so that the open space will be kept by the Homeowners Association and maintained jointly by everyone in that HOA. However, it will be up to the developer as to how they decide to proceed with the lands. Zimmerman was concerned for erosion control on the open space. Schibler noted that a maintenance plan would be required. David Burke noted that typically each person would have 1/34th ownership of the land, which includes maintenance and ownership. This is a way to keep the project viable. Bryan Currier noted that the Town of Essex owns an abutting lot.

Joe Harvey asked what type of soil is in the new development and how it will handle rain. Bryan Currier stated the soil composition consists of a layer of sand but underneath is silt. Harvey asked if the runoff is into a wetland. David Burke noted that the application will require a State Stormwater Permit, noting that if you want to keep a wetland, then you need to keep wetlands going to it.

A discussion ensued regarding 4 units on one private drive and 5 units on another. Bryan Currier read Condition 2b) as follows: *Revisions to the design of private roadways that meet the requirements of the Standard Specifications for Construction*. Currier acknowledged that only 2 unit/lots are allowed on a private drive, except for the Resource Preservation Overlay District which allow for 4 units on a private drive to preserve the natural resources. Currier stated that Public Works would not be taking over the private drive, the landowner has offered sprinklers in specific houses; sufficient access for a fire truck and suggested that they are preserving many of the natural resources by asking to waive the number of units on a private drive. Schibler replied that the Fire Chief stated that sprinklers would go a long way to ease his concerns; and that Public Works seems to support five however it would be a deviation to the letter of the law. Schibler suggested a waiver may be required of the PC and the Selectboard. Sharon Kelley stated that the PC does not have the authority to waive the Public Works Specifications. David Burke disagreed with Kelley. Schibler recommended deleting Condition 2b.

Vice-Chair Knox Moved and Commissioner Davis Seconded a Motion to close the Public Hearing. The Motion passed 6-0.

Chairman Bruso stated the concerns to be:

- Driveways and potential mitigation on driveways;
- Impact on slopes; and
- Erosion;

At 8:05 p.m., Commissioner Raphael Moved and Commissioner Schumacher Seconded a Motion to go into Deliberative Session. The Motion passed 7-0.

At 8:50 p.m., Commissioner Schumacher Moved and Commissioner Raphael Seconded a Motion to come out of Deliberative Session. The Motion passed 7-0.

Chairman Bruso Moved and Commissioner Schumacher Seconded a Motion to Continue the application to the next available date as determined by Staff. The Motion passed 7-0.

AGENDA ITEM 5: Approval of PC Operating Procedures: Continued to next meeting.

AGENDA ITEM 6: Minutes 8/11/2022:

Commissioner Schumacher MOVED and Commissioner Davis SECONDED a MOTION to approve the 7/28/2022 minutes as written. The MOTION passed 5-0.

AGENDA ITEM 7: Other Business

Sharon Kelley informed the PC of an upcoming Zoning Board of Adjustment hearing regarding a Short-Term Rental at 24 Forest Road, Essex, VT. The PC had no comments.

Kelley reported that the landowner's of 51 Center Road, Pomerleau, recently received ZBA approval for the allowance of the daycare expansion. The Zoning Administrator received a request for the allowance of removing the rotting siding and replace it with vinyl siding of a color as close to match the existing color of the building (white with a red trim). Kelley noted that the parcel is located in the Business Design Control Overlay District and this triggered a minor site plan approval. Kelley suggested the request was de minimis since the colors were the same. Kelley asked the PC to allow her to issue the permit administratively.

Commissioner Schumacher Moved and Chairman Bruso Seconded a Motion for the Zoning Administrator to approve the request for vinyl siding with the issuance of a Zoning Permit. The Motion passed 7-0.

Commissioner Raphael was disappointed to learn of the unveiling of the sign for Dennis Lutz's as a memorial to his work with Essex and on his retirement. In addition, he was unaware that the Administrative Assistant no longer worked for Essex. Kelley apologized to the PC regarding Lutz's retirement celebrations and stated she would pass the word onto management. Kelley noted that the Administrative Assistant still worked for Essex however switched departments for a full-time job.

The meeting adjourned at 9:02 p.m.

PLANNING COMMISSION

By: _____
Dustin R. Bruso, Chair