

TOWN OF ESSEX
PLANNING COMMISSION
MINUTES
November 10, 2022

PLANNING COMMISSION (PC) PRESENT:

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

OTHERS PRESENT:

IN PERSON: Katherine Sonnick, Community Development Director; Sharon Kelley, Zoning Administrator; Peter Edelmann; Bryan Currier; Shawn Cunningham; Sandy Jarvis; Brittany Crucutti; Ben & Christine Gulliam; Jason Decker; Peter Gray; Patrick LeClerc; Michael W. Guernsey; Brian Marcotte and Community Television.

VIRTUAL: Ravi Bidicheadoni; Jill Harvey; Mukus Kumar; Henrietta Browning; Jon & Max (unknown); Debbie (unknown); DdcoryK (unknown); Dan Rusa; Dan Petherbridge; Ken (unknown); iphone (unknown); Dianna LeClerc; Ken Kieft; and K. Peterson.

The meeting was called to order at 6:00 p.m. Chairman Bruso noted that there was a quorum as 4 Commissioners were present for the meeting and were all in the room. Bruso noted that due to only 4 members being present and in order for an approval or denial to move forward, the decision had to be unanimous. Bruso called out the changes to the Agenda.

AGENDA ITEM 1: Public Comments: None.

AGENDA ITEM 2: SITE PLAN AMENDMENT-PUBLIC HEARING: Peter Edelmann, d/b/a Essex Resort Holdings, LLC is proposing to dissolve a .64-acre boundary line with lands owned by Eurowest Retail Partners, LTD and develop a 9,000 sq. ft. Resort Event Center and cottage for property located at 70 Essex Way, in the Mixed-Unit Development Planned Unit Development (MXD-PUD) MXD Subzone. Tax Map 93, Parcel 1.

Katherine Sonnick, CD Director, represented Staff and made the following points on this application:

- The resort center was proposed to be located in front of the parcel and would include dissolving a boundary line between 70 Essex Way and 1 Freeman Woods.
- A small cottage was proposed but since removed from the proposal as it was situated in an area that did not meet the front yard setback.
- With the removal of the cottage, the proposal is now in compliance with the Zoning Regulations and Town Plan.
- More parking could be required if just looking at the total number of spaces, however the regulations have a provision for situations where underuse of parking exists. Staff supported the reduction of parking spaces.
- Landscaping, screening, lighting, water & sewer are all in order, the water & sewer calculations for the cottage should be removed from the condition. Public Works provided its comments but has zero concerns with the proposal. The applicant is agreeable to installing the stormwater pipe.
- The Fire Chief has no hesitations as long as the applicant continues to work with him.
- The boundary adjustment is just to remove a line and there is no issue with a nonconformity.

- Regarding the additional PC Finding in the staff report, she suggested adding language regarding the removal of the cottage and amending the plan.

Shawn Cunningham, O’Leary-Burke, Civil Associates, stated that he was good with the changes to the Staff Report. The proposal is to construct a 9300 sq. ft. building on the vacant portion of the Resort parcel. Changes will include closing the entry loop; bump out an entry portion of the current access; extend the median and widen the lanes; moved the access road in front of the canopy; noted there was plenty of room to work with the parking lot as there is also a service parking area. He confirmed that the existing storm water pipe will be removed underneath the building and parking area, and the remaining portion will be either crushed in place, removed, or filled with flowable fill. He agreed that it is a good idea to try to use native wet soils for the gravel wetland, when possible. He requested that Condition 4, a future traffic analysis of the resort, not use the word “shall” and suggested the word “may.” He felt Condition 4 could be struck with the knowledge that they will need a traffic analysis with future development.

Commissioner Schumacher Moved and Commissioner Raphael Seconded a MOTION to open the Public Hearing. The Motion passed 4-0.

Christine Gillium, 18 Freeman Woods, Unit 4, stated that she lives on Freeman Woods and the road is getting torn up. She did not feel the road was made for as much weight that it currently has travelling over it during-the-course of a day. She asked if the proposal would require the applicant to beef up the road, noting that currently the townhouse units, memory care facility, nursing care facility, are using the road. She asked what the building will look like and asked if any thought was given to the existing residents. Kriss requested if a stop sign could be installed on the service side of the street, while noting there have been many “close-call t-bone accidents and quick stops.”

Chairman Bruso asked the applicant about the “torn up road.” Cunningham stated that Freeman Woods is a public road. A discussion ensued regarding where a stop sign could be placed. Sharon Kelley stated that if the stop sign was placed on the applicant’s property as you come out of the service road entrance/exit, then there should be no issue. Kelley did not believe that the Town would allow a stop sign on the public road as a request was put in a couple of years ago.

Commissioner Schumacher Moved and Commissioner Davis Seconded a Motion to close the Public Hearing. The Motion passed 4-0.

Commissioner Raphael Moved and Commissioner Schumacher Seconded a Motion to approve the Site Plan Amendment application for 70 Essex Way and the Boundary Adjustment between 70 Essex Way and 1 Freeman Woods, subject to the Findings and Conditions of a Report dated November 10, 2022, including the following changes:

Finding 2b, Line 161 (Table): Delete Line reading “Minimum Front Setback.”

Finding 2b, Lines 167-173: Delete the paragraph which reads, “The proposed one-bedroom cottage is located within the required front setback on Freeman woods. The ...”

Finding H, Line 294: Delete line “c. 1 Bedroom Cottage = 140 GPD” and change “700” to “540”;

Finding H, Lines 299-301: Delete sentence “Fees will be ... and sewer systems.”

Finding H2b, Lines 306-309: Delete: “b. One Bedroom Cottage ... Total = \$4,310.00.

Finding H3, Lines 344-345: Delete the sentence, “The plans show ... the pads.”

Line 377: Add, “The plans shall be amended to remove the cottage.
Finding III, Line 380: Add the following: “At the start of the presentation of the application, staff made the Commission aware that the applicant has withdrawn the request to construct the cottage as it did not meet the current zoning setback requirements. The Commission has requested that staff remove references to the cottage from this staff report.
The Planning Commission recognizes the safety concerns as the service road exits onto Freemans Woods and agrees a stop sign is warranted.”
Condition 4, Line 386: Delete Condition.
Condition 5, Line 388: Change to read, “Prior to the issuance of a zoning permit, the applicant shall pay water fees of \$4,303 and sewer fees of \$6,936, or the fees in place at the time of submittal.
Condition 20, Line 426: Add new condition to read, “Applicant shall work with public works to determine the best location and placement for the applicant to install a stop sign from the service entrance onto Freemans Woods.”
Section V, Conditions 1-5: As written.

The Motion passed 4-0.

AGENDA ITEM 3: BOUNDARY ADJUSTMENT BETWEEN LINDA LECERC, 1 LECLERC WOODS & DEALTON & SANDRA JARVIS, 11 LAMORE ROAD & PRELIMINARY & FINAL PLAN-PUBLIC HEARING: Linda Leclerc is proposing an 8-Lot Planned Unit Development-Residential (PUD-R) on a portion of the remaining undeveloped lands known as 1 LeClerc Woods in the AR Zone. Tax Map 73, Parcel 1.

Katherine Sonnick, CD Director, represented Staff and made the following points on this application:

- A Residential Planned Unit Development on Lot 20, consisting of 8 single-unit dwellings on a public cul-de-sac road, with a shared on-site water supply, wastewater disposal and stormwater treatment is proposed on a 4.7-acre parcel, thereby leaving approximately 99-acres of open space. A 20 foot-wide pedestrian path is proposed to be given to the Town.
- A boundary adjustment between the Jarvis parcel is also proposed and will be an even swap of land. The adjustment is to allow for an additional buffer between the new development and the Jarvis parcel.
- The proposed PUD application is a part of the Master Plan, which is nearing the end of what can be built. However, there may be a little more development to be done.
- There are wetlands in the open space parcel.
- Suggested changing the type of street trees and remove one from the cul-de-sac so that it is not on top of the sewer line.
- A new public road, named Kodiak, will service this development. Public Works has requested that they relocate the approach to the bridge. The applicant is amendable.
- A discussion can occur between staff to reduce the road impact fee if improvements were made to the bridge.
- Regarding the proposed footpath in the open space, this was discussed before her time here, but discussions included if it was not feasible, or safe to use, maybe it was not needed, she suggested it may not ever hook-up as there was no real connection to do so.
- The boundary adjustment meets all requirements.

Shawn Cunningham, O'Leary-Burke discussed this application, with Patrick LeClerc in attendance. He stated that an 8-unit PUD, with a 24' wide, 18' circle, one-way public road was proposed, along with a shared water and septic, with a pre-treatment for every 2 units for the septic. There are no issues to replace the street trees. They are amendable to the road re-alignment to better serve the Gentes bridge. He noted that the applicant will continue to own the land however will provide a conservation easement. He noted that the existing wastewater is over Jarvis's lot and he will need Public Works to confirm that will work. Cunningham believed the path was put to rest due to the 60-70 foot cliff. He requested that if the Town wants the easement, they take it when the Town is ready. He reported that the applicant's husband/father is buried on the land and they don't want to bring any more attention to the land than what already exists. He asked that Condition 12 be changed to make the payment be required to the time of Certificate of Occupancy.

Commissioner Schumacher Moved and Commissioner Davis Seconded a Motion to open the Public Hearing. The Motion passed 4-0.

Brittany & Chelsea Crucutti, 19 Discovery Road, stated that they have respect for the rights of the LeClercs as they have been abutters for nearly 40 years. They are not opposed to change, but they have observed degradation to the lands over the years and past agreements. They discussed the land and open space lot, noting that there is no connectivity and questioned how you can use this space, noting that there is a nearby cliff. They questioned how single-family homes can be considered multi-family. They noted that sketch was approved as rental units now footprint lots are proposed and questioned how that can occur and if that change can occur from sketch to the current review. They felt the Table on Page 3 was inaccurate and incomplete. They noted that the 2013 approval granted LeClerc Woods as a private road and only 3 houses were approved to utilize the road. They asked if Act 250 would be reviewing the application. They questioned how the cell tower was able to be situated on the parcel and that it did not meet the setback requirement.

Chairman Bruso stated that an application can propose changes from a sketch review to the next review, which usually happens due to the discussions at sketch review. He continued to state that it does not matter to the PC if a landowner chooses to sell a house as a footprint lot or rent the unit. Bruso stated that no changes were proposed to the Master Plan with the current application.

Katherine Sonnick noted that the Master Plan represented the entire LeClerc parcel. The proposed open space lot for this proposal should be open to residents of the PUD, however, after discussions it was determined that the lands were not suitable for access to the open space parcel due to the difficult terrain and wetlands. It was determined that the town would require an access easement.

Sharon Kelley noted that the cell tower bypassed town zoning as it went through the Public Utility Division, which allows for bypassing local regulations.

Shawn Cunningham replied that Act 250 requires a minimum of 10 residential units, approved all at the same time, to trigger an Act 250 review. Bryan Currier stated either 10 units or lots, but not a combination of both, and either way, the trigger was 10.

Brittany Crucutti asked if the shed was a part of the association land. Currier replied, correct,

196 it is not.

197
198 Chelsea Crucutti stated that they have never run out of well water until now. They have to
199 count how many times they can shower, do washing, water the lawn, hose down the house,
200 etc.. They reported that they have run out of water every summer of late and believes it is
201 because of new development. She asked if there was any way to get this application in front
202 of Act 250. Commissioner Schumacher stated that they have no control over Act 250. He
203 instructed them to take their water issues up with an engineer. He noted that his house is also
204 suffering from the same fate, and there is no new development around his house. Schumacher
205 asked Currier if their best bet was to turn to the state. Currier replied yes, and they will need to
206 get a WW permit.

207
208 Patrick LeClerc stated that he has received an Act 250 exemption letter and he already has a
209 State Water & Wastewater (WW) Permit.

210
211 Brittany Crucutti requested clarity that the road is classified to 3 houses. She noted that the
212 road is on her parcel. Patrick LeClerc stated that he moved the road off their dad's former lot.
213 Chairman Brusco stopped the conversation, noting that is a separate issue from the application
214 at hand.

215
216 Commissioner Raphael wanted to discuss the footprint lots as multi-family. Currier noted that
217 there is flexibility with a PUD. The PC did the same for the Chase development and the recent
218 Pinewood development.

219
220 A discussion ensued on the need for the easement into the open space lot, and possibilities of
221 how to gain access to the parcel. All were in agreement that it should be a conservation
222 easement and not a pedestrian easement open to the public. Chairman Brusco was in favor of
223 obtaining an easement. The PC agreed.

224
225 Ravi Bidichandani, Highview Drive, asked for clarification on the 8-unit PUD and the master
226 plan. He asked if VT Gas would serve the units. He questioned where the existing mailboxes
227 on Lamore Road would be relocated to once construction started. He questioned if the
228 snowmobile access would continue on the parcel. He agreed that the approach to the Gentes
229 bridge has a weird approach. Currier replied that the new units cannot tap into VT Gas, and he
230 assumes the post office will inform where the new location will be for the mailboxes.
231 Regarding the snowmobile trails, Patrick stated that he has allowed it for many years, and it
232 will continue for this year, however it will come to an end.

233
234 In reply to inquiries, Chairman Brusco noted that a Master Plan is non-binding and the Master
235 Plan was not a part of the application currently under review; and he noted that questions
236 regarding the gas line should be made directly to Vermont Gas.

237
238 Bryan Currier replied that the applicants cannot tap into the Vermont Gas line. He also noted
239 that VAST trails are private and VAST will need to continue to seek out permission from
240 landowners to use the property.

241
242 Patrick LeClerc stated that VAST will be allowed to continue to use the trails for this year
243 only.

A discussion ensued on the open space parcel. It was questioned whether the proposed 20-foot-wide pedestrian path easement, that abuts the Circumferential Highway (VT 289), to the conservation open space parcel should be required as the terrain was difficult. Staff noted that recreational activities on this 99.1 acre open space parcel should be limited to avoid a negative impact on the wetlands, core habitats, and wildlife corridors. It was also noted that the terrain to access the open space parcel would be difficult and staff does not anticipate public access to this parcel. Chairman Brusco said, "We are not getting, we are designating 99-acres of open space and we want to establish access to it."

Patrick LeClerc requested that this not be an easement open to the public, noting that he has had vandalism on his property. The PC stated that access to the conserved land would be needed for Town Staff to maintain conserved lot.

Brian Currier stated that not all 99-acres are a part of the conservation easement as some lots are proposed on the Master Plan are within the 99-acres. Chairman Brusco acknowledged that the PC was trying to secure access into the conserved lands to be granted to the Town.

A 5-minute recess was taken and resumed at 8:03 p.m.

Commissioner Schumacher Moved and Chairman Brusco Seconded a Motion to close the Public Hearing. The Motion passed 4-0.

Commissioner Schumacher Moved and Commissioner Davis Seconded a Motion to approve the Preliminary & Final PUD application and the Boundary Adjustment between Leclerc & Dealton & Sandra Jarvis, located at 1 LeClerc Woods and 11 Lamore Road, subject to the following Findings and Conditions:

Preliminary/Final Findings Specific to the PUD element of the application: As written with the following changes:

Finding VII, Line 658: replace with "Employing the flexibility granted under 6.8 (F) of the *Zoning Regulations*, The Planning Commission favors the creation of footprint lots for the proposed dwelling units."

Finding VII, Line 660: Add the following: The Planning Commission agreed to consider eliminating the easement access located along the cliff abutting VT289 in exchange for some other access into the property over the applicant's lands in order to gain access to the conservation parcel.

Conditions specific to Preliminary & Final PUD-R/Subdivision: As written, except to amend Condition 6e: Modify to read, "Draft easement deed for the proposed 20-foot wide conservation easement along the southern boundary line unless the applicant can provide an alternate location for the 20-foot wide conservation easement."

CONDITIONS 1-7 SPECIFIC TO LECLERC & JARVIS BOUNDARY ADJUSTMENT: As written.

The MOTION passed 4-0.

A 5-minute recess was called. The meeting resumed at 8:03 p.m.

AGENDA ITEM 4: CONTINUED SKETCH PLAN-PUBLIC HEARING FROM 8/25/22: Pinewood Holdings, LLC, c/o Brian Marcotte: Proposed 34-Unit Planned Unit Development-Residential (PUD-R located at 18 & 30 Timberland Drive (parcel IDs 2-084-001-000 and 2-085-001-001).

Katherine Sonnick noted that the driveway concerns was one small piece that required the application to be continued therefore she revisit the contents that were already discussed in August. Sonnick reminded the PC that at the August hearing, concerns were voiced regarding private drives that accessed 4 and 5 separate units. Sonnick reported that at that time Public Works was against that proposal as it did not comply with the Regulations. The PC instructed staff to discuss the matter with Public Works. Staff reminded Public Works that the proposed application was a PUD, which allowed for flexibility with the Regulations and with the Public Work's Specifications, specifically Section A.11, which allows for 4 units off from one drive. Public Works is now in agreement with allowing 4 units on one drive, however they would not accept 5 units. Sonnick stated that the PC should be very specific in its decision to note because the application is a PUD, it allows for this flexibility and this is laid out in the Staff notes.

In response to Commissioner Davis's inquiry regarding Public Works allowing 4-units off one drive, Sonnick repeated that Section A.11 was taken from the Public Work's Specifications. Sonnick noted that there were 2 illustrations on Section A.11, one drive showing 2-units off a drive and a second illustration with 2-units off a private drive.

Commission Davis asked who was going to plow and maintain the private drives. Sonnick stated that it would not be the Town and the conditions should be clear on that point. Commissioner Raphael noted that if the Town does not require a shared driveway maintenance agreement among the landowners, the State requires same.

Bryan Currier, P.E., O'Leary-Burke Civil Associates, reminded the PC that the last time they met, discussions were around a revised layout. Currier reported that at great expense, they have taken extensive steps to minimize steep slopes, and the PC was in agreement. However, in his opinion, they chose to take a continuance of the hearing rather than an approval in order to gain clarity on the driveway issue. Currier reported that they have had extensive conversations with Zoning and Public Works, and town staff agrees that the PW standards allow for 4 units off a private drive, in certain areas and certain instances. Currier stated that at this time they are asking for a PUD approval, to include 4 units off a private drive. Currier noted that they will eliminate the 5th lot on the private drive. Currier reiterated that they are asking for sketch approval to allow them to go forward and develop a fully designed set of preliminary plans using 4-units off a private drive, in the R2 District, within the sewer core, to promote conservation and natural features and steep slopes, and to note that it is appropriate for Pinewood.

In response to Commissioner Davis's question regarding development and wetlands, Currier stated that diverting water comes at the preliminary level of review as this is the design phase. Currier noted that steep slopes does not mean that you can't develop. Currier agreed to show more detail to not impact an exorbitant amount of steep slopes. He referred to Plan Sheet 3 and noted it is a 100-acre parcel.

Chairman Bruso stated that the additional PC finding should include the references to the

specific PW Specification and the specific PUD regulation which allows for the driveway flexibility.

Chairman Bruso reminded everyone that the Public Hearing was still open and asked for comments.

M. Kumar, (address) stated that he lived next to the proposed development. He reminded the PC at the previous hearing, neighbors requested the road connect to Timberlane Drive in order to distribute traffic to both sides of the street; for safety reasons in case the main road gets blocked; and if the road extended to Timberlane Drive, some lots on steep slopes could be moved.

Currier stated the steps they have taken with this project was to reduce the impact on steep slopes.

Chairman Bruso noted that the discussion of Timberlane was hashed out in the previous submission. M. Kumar repeated that if you extend Timberlane Drive, you can build on both sides of the road and thereby reduce the impact to steep slopes.

believes the land is already flatter. Chairman Bruso asked about the discussion about impact if the road went past their house. Currier responded that Public Works and the previous Planner felt the applicant was minimizing to the best they could. Moving the road would take a big cut and more houses would be unfeasible, noting that it was a narrow pass.

Commissioner Schumacher Moved and Commissioner Davis Seconded a Motion to close the Public Hearing. The Motion passed 4-0.

Commissioner Schumacher Moved and Commissioner Davis Seconded a Motion to approve the Pinewood application, as warned and subject to the Findings and Conditions of a Staff Report dated August 25, 2022/Amended November 10, 2022, including the following change:

Finding V, Line 596: Add the following, “Based on the recommendations of staff and Public Works and the flexibility granted under 6.8 (F) of the *Zoning Regulations and the Public Works* specifications, The Planning Commission supports up to four dwelling units on each of the two private drives.”

The Motion passed 4-0.

AGENDA ITEM 5: Minutes October 27, 2022

Commissioner Raphael Moved and Commissioner Schumacher Seconded a Motion to approve the 10/27/2022 minutes as written. The Motion passed 4-0.

AGENDA ITEM 6: Other Business:

Katherine Sonnick reported that interviews have started for a replacement planner.

Chairman Brusco noted that with the current staff shortage and with the holidays upon us, he suggested a pivot on the PC's planning initiative to have the primary focus be on the Town Plan. He stated that does not mean the working groups need to completely stop if some groups are active, however he reminded the PC that it was previously stated that they might need to flex. He suggested they kick back into gear in the new year and re-evaluate at that time. He did not believe this was anyone's fault as there have been a lot of outside influences.

The meeting adjourned at 8:38 p.m.

PLANNING COMMISSION

By: _____
Dustin R. Brusco, Chair