

TOWN OF ESSEX
PLANNING COMMISSION
APPROVED MINUTES
December 8, 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; Kent Johnson, Planner; John Stuart; Doug Goulette; Jill Vespa; Kirk Lord; Susan Alexander; David S. Albright; Julie Albright; Paul Davis; Julia Di Chiaro; Paula Duke; Nancy Johnson; Les Johnson; Juanita & Negesse Gutema; Ken Heco; Lyla Meirna and Community Television.

VIRTUAL: Gala (unknown); and Samsung SM 699OU2 (unknown);

The meeting was called to order at 6:04 p.m. Chairman Bruso welcomed Planner Kent Johnson; noted the Commissioners in the room and on Zoom; called out the changes to the Agenda; and provided the oath to the public.

AGENDA ITEM 1: Public Comments: None.

AGENDA ITEM 2: SKETCH PLAN: CONTINUED PUBLIC HEARING FROM 9/8/22: KENAN HECO, AGENT FOR LANDOWNER ALAN FRENCH, IS PROPOSING A CONVENTIONAL 9-UNIT RESIDENTIAL SUBDIVISION LOCATED AT 60 COLONEL PAGE ROAD, TAX MAP 010/071/000, IN THE LOW DENSITY RESIDENTIAL (R1) ZONE.

Katherine Sonnick provided comments on behalf of Staff. Sonnick reminded the attendees that the Sketch review was heard in September and was continued to the next available date; She noted that the PC, staff and some neighbors attended a site visit on the property in late September due to some concerns expressed regarding the layout of the proposal during the initial sketch review. Sonnick reported that an alternate proposal was provided to the attendees during the site visit. Some of the changes included that the access would now be off Chapin Road, which affectively eliminates the need to pave a portion of Colonel Page Road, the parcels were more clustered around the road; stormwater would be collected in the middle of the cul-de-sac; and the lots would now hook up to town water versus private wells. Sonnick noted that Public Works has reviewed and approved the water connection changes. Sonnick noted that another concern expressed at the original hearing and at the site visit was the boundaries of the flood areas. The applicant plans to submit a Letter of Map Amendment (LOMA) with Fema to correct the issue. Sonnick noted that some of the outstanding issues will be addressed at the preliminary review, which is the appropriate time. Sonnick concluded by noting corrections to the Staff Report.

John Stuart and Ken Heco spoke on this application.

Stuart noted that they are now accessing the lot from Chapin Road and the drive will be shorter than what was previously reviewed off Colonel Page Road. The proposed drive will be approximately 565' to the beginning of the cul-de-sac and will be a one-way around the cul-de-sac. Stuart confirmed that the wetlands have been fully delineated and confirmed. The current

Approved

plan shows the final areas where wetlands are located. He reported that they added building envelopes; and the LOMR is expected to be received by December 16th. Stuart called out the trail on the southern property line, noting that it parallels Alderbrook. This change resulted from comments received by the site visit. He concluded that the project will now be served by municipal water.

Chairman Brusco reminded the rooms that the Public Hearing was still open and asked for comments.

Paul Davis, 62 Chapin Road, Essex, VT, stated that he would prefer to have the open space on the south side of the lot. He asked what protections would be in place to prevent future development as he does not want to see the parcel anymore dense in the Scenic Resource area. Sharon Kelley responded that if there was still acreage to allow for more density, then they could request an amendment to the final plan approval and submit another application. The process would be similar to what is currently under review. Chairman Brusco stated that the approval is “not fixed in stone.”

John Stuart stated that more development would be unlikely due to the wetlands and buffer restrictions. He noted that the current proposal was to meet the needs of the current landowner.

David Albright, 75 Chapin Road, noted that he lives across from the proposed development and appreciates all the work done so far, but thought more could be done to the sensitivity of the scenic corridor. He asked, “Why are we pretending to protect the scenic corridor when we are not? We are dancing around and patting ourselves on the back.” Albright suggested that a future application may come in, and it may not be in our lifetime. He was curious if the PC had any thoughts.

Chairman Brusco stated that the PC is required to deal with application(s) before them. He noted that the PC and landowners walked the parcel; and a farmer came to the initial meeting to talk specifically about this lot. Brusco stated that the PC has looked at all the elements of the application. He noted that the applicants did not come in with a Planned Unit Development and the PC cannot block the type of application to be submitted and if an application fits the Regulations, then that is how it is reviewed. Brusco noted that regulations can be modified as time goes on, however all of it is a balancing act.

Commissioner Davis stated that the PC has been very involved with this application; they inspected the site; they looked at the Town Plan and Regulations. She looked up the site on Bio Finder, a tool that calls out where the wetlands and steep slopes are located. Davis feels that the revised plan condensed and improved the development area away from wetlands and sediments; and has better stormwater design. Davis stated that she was much happier with the revised application and feels the proposal shows the way to preserve the scenic area.

Julie Albright, 75 Chapin Road, stated that her initial understanding was that there would be an open area, and is now finding out that that area could change if a future application were presented. Albright described the area where she grew up, noting that the Strike Zone on Colchester Road, now occupies the area where she lived. She stated that people come, Essex is exploding, and asked that just a little area that holds what Essex used be stays preserved.

Chairman Brusco requested that the plan be brought up on the screen. John Stuart showed and described the areas of change from the initial sketch review as follows:

- The road is shorter. One of the primary reasons to change the location is to avoid paving after listening to comments from the public.
- Lot 5 is a 15.8-acre lot that has a small part showing a building envelope – the rest of the lot will be an open area.
- The crosshatched area has significant areas of limitations for more development; and
- He reported that they are not looking to come back in with more development on the parcel.

Chairman Bruso noted that there will be no intrusion or paving on Colonel Page Road. Bruso stated that he appreciated the efforts of staff, the applicants and the landowner, noting a lot of review has gone into this sketch level of review.

Mr. Davis asked if it can be written into the approval that the intention is to keep the parcel “in stone as proposed” in order to keep the lot open for scenic views and preservation.

Ken Heco, applicant, stated that in 100 years, things could change 100 times. Heco felt that people are more focused on the intent at the moment versus who owns and occupies the premises. Heco noted that they will be passing the lands onto future generations and that is what matters. Heco felt it is important to acknowledge what the intent is in the moment. They care about who their neighbors are and about people’s characters. Heco stated that they have been trying to put people at ease. Their intent is not to make money on this land, they want to bring families together, make them a part of the land. They want the lands to be kept open, which is why they have worked hard on the revised plan.

Commissioner Schumacher MOVED and Vice-Chair Knox SECONDED a Motion to close the Public Hearing. The MOTION passed 7-0.

The PC had no concerns with the application. They noted that the applicant heard the public’s comments and, they can take those into consideration going forward. The PC noted that the applicants did not propose a PUD and they have not requested any waivers. The PC had no issues with the application.

Katherine Sonnick noted that the PC should approve the phasing for this project at sketch. She suggested that they approve 5 units in the first year, and the remaining units following.

Chairman Bruso MOVED and Commissioner Schumacher SECONDED a MOTION to approve the application as warned, subject to the Findings and Conditions of the Staff Report, including the Phasing for 5 units in the first build year, with the remaining units in the next year. The MOTION passed 7-0.

AGENDA ITEM 3: PRELIMINARY PLAN: PUBLIC HEARING: 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) & SCENIC RESOURCE PROTECTION OVERLAY (SRPO) ZONES. TAX MAP 14, PARCEL 39-11.

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

- She informed the PC that five (5) new lots, with 8 units were proposed. One of the 5 lots includes the existing lot with a single-family home (SFH) situated on same.
- The 3 SFH's will share a driveway, which was approved at Sketch review.
- Not much has changed since sketch approval, however much more detail has been submitted regarding site water and septic.
- The existing trees will be taken advantage of as street trees, where possible.
- The easement for a multi-use trail along Towers Road was not shown on the plan.
- In reviewing previous meeting minutes, she gathered that the PC seemed lukewarm to the idea of a sidewalk along the private road.
- She reported that Public Work's has concern with the capacity of wells in the area due to the previous problem with a development on Douglas Road. Sonnick reported that the applicant checked the State data on wells, and in the end, it is ANR who grants approval, and the applicant relayed that they feel good about the proposed wells. Sonnick reported that Public Works would like a letter from the engineer stating that there is not a concern with the proposed wells.
- She suggested that the PC may wish to further discuss the buffer between the applicant's parcel and the Johnsons.
- She noted that Final Plan application will have more details on the shared amenities, wells and open space.

Commissioner Davis asked to be shown where the wastewater areas were located on the map. Davis asked if the center of the round-about serves as a catch basin. Doug Goulette replied, "Yes. It is a depressed area with stormwater."

Doug Goulette spoke on this application and made the following comments:

- This parcel has gone through 3 sketch plan hearings; and a site visit was done with former staff. He noted that the application started with a conventional subdivision but ended up with a clustered PUD application.
- He reported that they are conserving two thirds of the land, noting that most all of Lot 5 is conserved. He reported that they were asked to make the development have more of a community feel.
- He called out Plan Sheet LA-01, 'Landscape' and showed the amenities, including the stormwater areas, 400' walking path on the east side; native species, dogwood plants to promote birds, large benches, shade trees, and the view of Mt. Mansfield.
- The two duplex buildings is proposed to have a 20'x20' patio, pergola, picnic tables, bed gardens could be built, grasses, and shrubs as they tried to develop a community sense with the diversity of housing.
- A large community system is located to the west; individual wells are on the lots;
- The stormwater system will have grass lined swales to the catch basin or culverts.
- They are aware of the neighbor (Johnsons) concerns regarding the row of trees as you enter into the site.
- Other improvements to react to concern of the Johnson's is that the existing driveway will be paved to meet the Specifications and have deep swales, and two catch basins.
- Regarding the row of trees to the back right and the concern with the roots, he stated there is a swale on the right side of the road and will be approximately 15' from the

property line and they have offset the road as much as they can away from the Johnson property line and there are wetland constraints on the other side of the road. They may encounter some roots, but they can't do any better with the drive and have offset it as much as possible away from the Johnson house.

- He noted that the Gutema's are not contracting a builder to build the houses; they don't know who will buy the lots or how they want to build the homes, which is why building elevations were not shown. He stated that they have an photo renderings they could provide as the Gutema's found a duplex style in Colchester that they like. He asked for leniency with this request and suggested Condition 3a be changed to provide building photo "likeness" for duplexes only.
- They were fine with providing an easement on Towers Road however, they do not believe a sidewalk is needed on the private drive as it is 24' wide and that should be safe width.
- He requested that Condition 5 be deleted. He noted that the ANR Atlas maps all wells and when you click on a site it provides you with the report, sometimes stating "how deep it went." He noted that there is no commentary for anybody to state issues as they rely on the well driller's logs. He stated that in his expert opinion he feels those records are good. He offered to provide a letter summarizing his opinions.

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

Les Johnson, 131 Towers Road, Essex, VT, made the following comments:

- He did not understand how the proposed driveway, which would allow for 16-20 vehicles to come in and out, was being permitted with this proposal. His concern would be the abundance of traffic as the proposed drive is 100 feet from their driveway.
- He asked if 15 feet of the open space area would allow for walking and biking.
- He requested that the proposed 4 units that are located closer to his property line be switched out with a single-family dwelling.
- He noted his concern that all the proposed units could have dogs and currently there are no dogs are on the premises. He was not opposed to dogs but noted that a lot of barking would occur with this development.
- He is concerned with run-off and stated that everything currently goes onto his property and then to Alderbrook. In addition, he noted that if they widen the paved driveway, that would create more runoff.
- He asked what the life expectancy would be on the trees that the applicant plants.
- He noted that there is consistently 6-8 deer on the property at all times, and he has had a moose on the lands. He asked how that will be addressed.
- He questioned if all 8 units would be in the Home Owners Association, and how it would be maintained.
- He questioned the timeline of the build out, noting that they could have 5 different contractors. He also asked if there was any focus on the style of the homes.
- He questioned who would be responsible if his well is affected by the development, noting that the Town paid for improvements in the past.

A lengthy discussion ensued regarding the need for Condition 5 wherein a letter was requested from the engineer stating that ANR reviewed the documentation and that there was no concern

over well yields. Chairman Bruso stated that he wanted to make it very clear that the State Wastewater Division was the governing agency for wells. The Planning Commission does not regulate wells. The Commission agreed this condition should not be required.

Commissioner Raphael noted that if either well for the duplex were to overshadow his lot, Mr. Johnson would get a notification from the state and he could express his concern to the state prior to them issuing the wastewater approval.

Goulette stated that the duplex is approximately 150' from the Johnson house and moving the duplexes was not an option due to wetland restrictions. He also advised that the former staff inspected the site and felt the placement was a good location in the spirit of a PUD. He noted that the soils are wet which is why a mound system is proposed. He noted the roads will have underdrains therefore the proposal will not worsen the existing conditions. He noted that there are several acres as open space to be held in perpetuity, where the deer can roam. He noted that there will be at least 1 HOA, but he is not sure about the duplexes. They will provide a legal document for final approval.

Nancy Johnson, 131 Towers Road, Essex, VT, noted that they were required to put in the trees located by the proposed driveway and asked what happens if something happened to them. She also noted that they were not allowed to pave their driveway. She noted that their well is 525' deep and yields 1½ gallon per minute.

Doug Goulette described well yields for the Gutema project to be 50 gallons per minute.

Commissioner Raphael noted that the PC can require an envelope for a "typical building elevation", and the PC can restrict height. However, the project can't be seen from the road and typical elevations would satisfy him in this case.

Vice-Chair Knox noted that proposed Condition 5 speaks to well yields, and that satisfies his concerns.

Commissioner Schumacher asked about the timeline for the project. Goulette responded that once all town and state approvals were secured they planned to sell the project.

Negesse Gutema stated that their intention is to get their approvals and work with a real estate agent. How long this will take depends on the market. They plan to move out of state as they are getting old. They have owned the parcel since 1994 and built their home in 1999. They have enjoyed the property, have done nothing to impact the land, rather preserved the lot. They have enjoyed their neighbors, the Johnsons, the Brunos, etc., and it is not their intention to harm anyone. They don't want to make anyone unhappy, but they purchased the lands with the intent to develop in the future and they have tried to balance both sides.

Commissioner Davis noted that the Gutema lands will still have a deer travel corridor and the proposal will prevent water from going onto the Johnson's lands. Davis wants the neighbors to enjoy the scenic views.

Negesse Gutema stated that they plan to follow all the regulations.

Chairman Bruso would like the final submission to include how the project meets the PUD

design points (“identify why”); and confirm what steps for well verification are taken.

Goulette responding by stating that maybe nothing is required if the wells are 200’ apart as the state does not consider interference, rather “a per-minute” yield. The state may ask for impacts however he does not think that will happen. He will be required to submit a set of plans for the state to look at and approve. The State will then issue a permit if all is in order. Chairman Bruso asked for a confirmation from the engineer. Commissioner Raphael noted that the applicant has no way to certify the wastewater approval. It is out of the hands of the Planning Commission and Public Works and is only up to the State to issue the approval.

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

Commissioner Davis Moved and Commissioner Mangan Seconded a Motion to approve the Preliminary Application for an 8-unit 5-lot Planned Unit Development, including a Friendly Amendment, subject to the Findings and Conditions of a Staff Report dated 12/8/2022, including the following changes:

Finding IV, Line 572, add the following:

“The public raised concerns over the wells in the area and the PC acknowledged that the State of Vermont is responsible for permitting all potable water and wastewater.”

Condition 3a. Delete.

Condition 3f. After “C4-01” add, “& C8-05.”

Condition 5: Delete.

The MOTION passed 7-0.

AGENDA ITEM 5: Minutes November 10, 2022

Commissioner Raphael Moved and Commissioner Schumacher Seconded a Motion to approve the 11/10/2022 minutes as written. The Motion passed 7-0.

AGENDA ITEM 6: Other Business:

- Brief Discussion on Bylaw Modernization Grant Project. Sonnick stated that Staff is working with the Chittenden County Regional Planning Commission (CCRPC) and updated the PC on the direction it is taking on the project. Sonnick asked the PC to confirm if they found the approach that is being taken is acceptable to them. She described a couple of areas for increased development located in the sewer core, but outside of the ETC|NEXT locations. Commissioner Raphael asked if they are taking into account the existing and potential need for new infrastructure. Sonnick replied yes. Sonnick stated the idea is to think about infill development as older homes may not stay.
- Katherine Sonnick – Town Charter. Sonnick reported that the Charter Committee make recommended changes, one was to eliminate the PC & ZBA and create a PC and DRB. In addition, a recommendation was to reduce the PC & DRB to 5-members for each group. Sonnick requested that the Selectboard (SB) reconsider its decision and enter language that the SB would consider a change rather than make it firm that it would happen.

Vice Chair Knox provided a brief update on the working groups for the update to the 2024

330 Town Plan. There will be 5 or so community vision meetings starting in early January at
331 various locations around Town. They plan to send out postcards to all Town residents.
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333 The meeting adjourned at 8.23 p.m.
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PLANNING COMMISSION

335 By: _____
336 Dustin R. Bruso, Chair