

TOWN OF ESSEX PLANNING COMMISSION
MINUTES
June 8, 2023

PLANNING COMMISSION (PC) PRESENT:

IN PERSON: Dustin Bruso, Chair; Joshua Knox, Vice-Chair; David Raphael; and Georgia Lavigne.

VIRTUAL: John Mangan, Clerk.

OTHERS PRESENT:

IN PERSON: Katherine Sonnick, Community Development Director; Sharon Kelley, Zoning Administrator; Kent Johnson, Planner; Paula Duke; Al Senecal; Irene Wrenner;

VIRTUAL: Sharon Irene; 802-495-1655 (unidentifiable); Bino Cummings; Darry Montague; Gillian Smith; Gina Halpin Barrett; Lorraine Zaloom; Patty Davis; Marc Stannard; Adam ?; Scott Laplant; and Karen Jeffrey.

The meeting was called to order at 6:00 p.m. Chairman Bruso called out the Commissioners who were in the room and who attended virtually.

Agenda Item 1: Public Comments: Chairman Bruso stated that this was the time for the public to provide questions or comments on anything that is not on the Agenda except for the Consent Agenda item, which as a simple-parcel subdivision application. Margaret Smith, _____, noted that there was discussion about the blow up of plastics in Ohio, and wanted to know what is happening in the warehouses on Allen Martin Drive.

AGENDA ITEM 2: Consent Agenda: Earle Mathews-Simple Parcel Subdivision: Proposal to create a 6.6-acre lot from the existing 350± acres located at 272 Chapin Road in the Agricultural & and a portion of the Scenic Resource zones.

Vice-Chair Knox MOVED and Commissioner LaVigne SECONDED a MOTION to approve the Consent Agenda, as warned and subject to the Findings and Conditions in a Draft Approval Letter, as written. The MOTION passed 5-0.

Neil Christianson stated that he misunderstood the instructions as he was present to speak about the simple parcel subdivision. He wanted to know if the new lot was for Johnathan, the landowners son; and if street lighting was included in the proposal. Jonathan Matthews replied the lot was for him and no street lighting was proposed on the project.

AGENDA ITEM 3: BEGINNING PUBLIC DISCUSSION OF RPD-I ZONING DISTRICT

Chairman Bruso stated that this was the first of a few discussions regarding the RPD-I zone (Resource Preservation District-Industrial), and made the following points:

- He informed the audience that Mr. Senecal submitted a letter in 2021, when workshops started on zoning amendments. The letter requested the PC to add additional uses to the permitted and conditional columns.

- He noted that there have been a number of concerns from citizens regarding uses in the Resource Preservation District versus the Industrial portion of lands.
- He informed the audience that now is the time to look at the uses as the PC is currently working on the update to the Town Plan, and the uses should be supported in the Town Plan.
- He informed the audience about the 2016 Settlement Agreement that the Town and Mr. Senecal agreed to as a result of an appeal to the Court on a denied PC application regarding a new sand extraction project. He stated that the aforesaid Settlement Agreement rewrote the RPD-I District, and based on the language in the Agreement, the RPD-I District has a new template. It respects the District but does not have the same restrictions that it did 50 years ago and this is a new starting point.
- He noted that uses, noise, traffic are still valid concerns.
- He stated that the PC is looking for public engagement, including but not limited to economic impact; recognizing that the 'I' portion of land is Industrial. He clarified that the Town has a recreation/conservation portion of lands and an industrial portion of lands. He pointed out that we already have an Industrial zone and would look to the use table. He stated that how the recreation portion of lands would be used is for the citizens and town to decide.
- He repeated that this will not be done in 1 meeting and the PC is looking for public engagement and to address the needs of landowners.
- The PC wants to identify the key points (hot topics) that the community feels needs to be addressed, while noting that the landowner has brought forward a legitimate request to add more uses.

Katherine Sonnick, Community Development Director stated that this meeting was a “great first step.” She noted that a lot of people are talking about the RPD-I zone, however appreciates that it is on the Agenda tonight. Sonnick pointed out that the uses may not come to a resolution before the Town Plan is completed and is not yet sure how it will all work. She noted that the PC could do another round of zoning amendments.

Betsy Dunn, 2 Cindy Lane, Essex, VT, agrees that the Settlement Agreement says “Industrial” however she thought it was ‘Light Industrial’. Chairman Bruso stated that currently Light Industrial is allowed. The PC is looking to define ‘Industrial’ resulting from the 2016 Settlement. Sonnick stated that the PC should be looking at the abutting recreation/conservation lands and how it interfaces with Industrial. Dunn asked the Chair to give highlights of the Agreement. Bruso stated that the Settlement Agreement is on line and people should be looking at the Agreement. Vice-Chair Knox stated that Page 2 of the Settlement Agreement reads, *It is the intention of the parties that all of the lands being retained by Allen Brook, except for the retained buffers, will be classified as 40% developable lands under the RPD-I and that Allen Brook’s retained lands will no longer be subject to a 60/40 split.*

Commissioner Raphael stated that what was then versus what is now, is different. He noted that in the past there was much discussion on what/where the 60/40 split was situated, whereas now we know where the 40% is located.

Margaret Smith, PO Box 8313, Essex, VT, asked how many years the sand extraction was approved. Commissioner Raphael stated that Senecal has gifted 245 acres, with an additional

27-acres after the completion of the sand extraction. Raphael stated that the PC has nothing more to do with the project.

Betsy Dunn stated that now that the Town owns the parcel of land, there needs to be a Management Plan in place, noting that a plan was prepared in 2019, however Covid hit and the Plan was delayed. Chairman Bruso noted that the Management Plan falls to the Recreation Department.

Commissioner Raphael reported that in addition to the gifted land to the Town, Mr. Senecal pays Three Thousand Dollars (\$3,000.00) per year to go towards forest management and maintenance of the trails both out/in the buffers of the RPD-I.

Sharon Ilene referred to Page 2 of the quoted language of the Settlement Agreement, noting that the intent of the Settlement Agreement is to be compatible with the resource area and although the 40% is now a designated area, the uses must still be compatible. Commissioner Raphael does not agree and stated that was mixing apples with oranges. Ilene re-read the Page 2 language as she felt it was important and stated that the industrial uses need to be compatible. Chairman Bruso stated that it was fine to bring all comments forward, however this meeting was not the time. Ilene stated that when you are talking about the law, the intent is important and the 'Light Manufacturing' did not change, just the 40% was changed.

Chairman Bruso stated that there is an economic impact to the community. He noted that the uses have not been looked at since the last Town Plan update or later. He stated that the PC now has a starting point, which is the Settlement Agreement. The PC will start at that point as the interpretation from 30 to 40 years ago does not carry forward unless it is codified. Bruso suggested that the PC needs to determine if they even want to make changes to the uses, or asked if something was missing from the uses. Bruso stated that the PC may not be able to do much but hopes eyes will look forward and not back.

Lorraine Zaloom, stated that the PC asked people to come and speak up at this meeting. She asked if the Industrial zone on Route 2A has buffer requirements. Kelley replied that if the property abuts a residential area, a buffer is required. Zaloom read the 'Purpose' (? Of the RPD-I or II, "in harmony with ..." Zaloom noted that since that description a new sound ordinance has been adopted by the Town. She was not sure why a machine shop was approved in the RPD-I. Zaloom said, "We feel not listened to." She noted that at a previous meeting Senecal stated that he lives on Route 15 and that trucks also wake him up and staff did not refute that statement as they know where he lives.

Chairman Bruso stated that this was not the forum to have details meshed out and asked that she not point accusations. He said the focus was to how to repack the RPD-I District. He noted that the PC was not looking to discuss trucks at this stage in the discussion. He stated that if enforcement is needed then that is a different discussion and he suggested Zaloom's language was somewhat accusatory. Bruso repeated that the PC was trying to be open and wanted to hear what was needed going forward.

Lorraine Zaloom responded that her comments were to correct Mr. Raphael. She stated that she feels she is being cut off as she was responding to inaccurate information by Mr. Raphael.

Chairman Bruso stated that he feels they have been straightforward and frank, noting that the PC has heard from 3 people in the town and wants to get to the whole town. He noted that they

need a broader forum to understand everyone's opinion and what people believe is light manufacturing. Bruso stated that more discussion and a broader perspective is needed. Al Senecal, 60 Upper Main Street, Essex, VT, wanted to clarify that at the last meeting he mentioned that he received a request for a machine shop but had to turn them away, which is one of the reasons he is looking to add more uses to the area. He noted that one of the reasons he was asking for changes is because the 60/40 was clearly defined. 60% was for preservation and 40% was for industrial. He noted that he only has 31½% of remaining industrial acres, with 68½% of the 400 acres. Senecal stated that the RPD-I is now "RP" (Preservation) and "I" (Industrial.)

Senecal explained that the sand extraction involved 20+ acres and they had to put up the same amount of acreage of Industrial that could not be developed upon until the sand extraction was completed, however in the meantime, people can use these acres for recreation. He noted that each cell is 5-acres of land, and the cell must be reclaimed before proceeding with the next cell.

Commissioner Raphael asked if the PC should discuss uses. Chairman Bruso stated that because the Settlement Agreement is not out to all the public yet, we should wait for the next scheduled meeting date. Commissioner Raphael pointed out that 'Massage Therapy' was a conditional use, and the only conditional use for this zone. He thought that was crazy and the PC needs to get to a concrete discussion on uses.

Senecal noted for the record that he only has 1 residential abutter, approximately 400' from the RPD-I zone, noting that other abutters are 800' away, but most are over 1,000 feet away from residences. He pointed out that you won't find that kind of industrial land anywhere in the State, or with any other areas requiring a 200' buffer. He felt the Town did a really good job with this district, however there is no danger with future houses.

Patty Davis, made the following points:

- She felt the best way to persuade people is with ears.
- She had been timing Bruso and Raphael and they have been doing most of the talking and thought it was the time for people to share their thoughts.
- She stated that our built environment determines how we live.
- She stated the RPD-I purpose.
- She noted that South Burlington requires an ANR map for whatever you want to build.
- She said to let the public feel that what they say is legit.
- She noted that her mom said to attract with honey rather than vinegar.

Vice Chair Knox described the Town Plan working group process and felt this was an appropriate method to do with the RPD-I discussion as it gets people involved. Knox supported Commissioner Raphael's statements as the subject was a request for the RPD-I uses. He stated the PC was not giving a blank check to the RPD-I and development will be limited to what the Settlement Agreement says now. He noted that the Town Plan process guides the zoning regulations.

Betsy Dunn stated that it bothers her that a legal document would allow the RPD-I to be opened-up to look like Susie Wilson Road.

Davis noted that people desire more human scale development, services and uses. She noted that people have money to burn and will step up to volunteer and be proud of the community or it the Town didn't have any diesel trucks or if Al decides like SB be forward thinking and to go green, like she said at the Act 250 hearing. She noted that Senecal would have her 100% support if he would spend the money like the towns around Essex to go environmentally green. Davis noted that her husband runs on Allen Martin Drive and is sucking in fumes. Senecal responded that he has a very large solar array on his lands in the RPD-I zone.

Al Senecal clarified that the word 'Light' manufacturing never came into the conversation with the Settlement Agreement. He stated that his request is much simpler as he is asking for 5 or 6 more uses, similar to the I1 zone, to be added as permitted or conditional uses.

Kent Johnson, Planner, noted that 'Light Industrial' is zoning areas that have a general name, and is then defined by a different use. He noted that 'Manufacturing' is not allowed in the Town and the RPD-I zone is defined by different uses. He questioned how the town addresses impacts of uses, noting that typically it is not much use that creates noise. Another question would be how to enforce. Kelley reminded the PC and audience that these commercial uses require an Act 250 approval, which does regulate noise. She also noted the Town recently adopted its own noise ordinance.

Lisa Allen, 5 Whitetail Lane, stated that the VAST trail was moved and now can't be used. When cross country skiing, you need to take off your skis to cross over a stream, and the VAST grooming machine can't pass through the gate. Senecal replied that the trail was on his property and when they starting building, VAST relocated the trail, which was within the buffer. Chairman Bruso noted that VAST is not a town entity and they must have agreements with landowners.

Betsy Dunn asked if Fellowship of the Wheel (FOTW) maintains the trails. Sonnick replied only on the 90-acre school parcel. Senecal stated they are cutting on his lands as well. Chairman Bruso instructed staff to have the Recreation Director be a part of the discussions. Sonnick suggested Conservation/Trails too.

A back and forth discussion continued including topics on phosphorus, environmental impacts, taxes, sound, noise, existing vegetation being in the sky, native species, enhance buffers to break the noise, have Essex be the 1st pollinator.

Chairman Bruso asked Vice Chair Knox if he would take on being the primary point for the designated meetings, similar to the Town Plan groups. He agreed.

AGENDA ITEM 4: Update on Planning Projects:

Katherine Sonnick reported that the Governor signed the S100 Housing bill into law and a lot of different things are coming over by December, 2024, with a couple of items sooner. She noted that there is a VLCT workshop and invited the PC members to attend.

AGENDA ITEM 4: Minutes May 25, 2023

Commissioner Lavigne Moved and Vice-Chair Knox Seconded a Motion to approve the 5/25/2023 minutes as written. The Motion passed 5-0.

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AGENDA ITEM 6: Other Business:

Commissioner Mangan reported that the audio was very bad for this meeting and suggested regular microphones.

The meeting adjourned at 7:34 p.m.

By: 
PLANNING COMMISSION
Dustin R. Brusio, Chair