

TOWN OF ESSEX
DRAFT PLANNING COMMISSION MINUTES
NOVEMBER 14, 2024

Note: This meeting was held on Zoom and at 81 Main St Conference Room, Essex, VT. This is a pre-draft document and will be updated prior to the meeting.

PLANNING COMMISSION (PC) PRESENT IN ROOM: Dustin Bruso, Chair; Georgia Lavigne, Clerk; Johnathan Schumacher; Ian Carroll; and Stephanie Bixby.

PC ATTENDING VIRTUALLY: Trefor Williams.

PC ABSENT: Joshua Knox, Vice-Chair; and Paula Duke.

OTHERS PRESENT IN ROOM: Katherine Sonnick, Community Development Director; Sharon Kelley, Zoning Administrator; Kent Johnson, Planner; Hubie Norton; Ken Robie; Aaron Martin; J. Forand; JH Stuart; Brendan Withall; Brian Marcotte; Niels Giddens; Hubert Norton; Dianne Perry; Joe Perry; Bryan Currier; Peter Lyon; Brad Jackson; Brian Clifford; Chris Lundberg; Gabe Mannarino; Andrew Seaver; Natalee Braun; David Skopin; and Community Television.

OTHERS VIRTUALLY: Sharon Zukowski; Ken Signorello; Brenda Morris; Essex Guest (unidentified); Tabrena Kerish; MJSS-Margaret Smith; Chris Coderre; Zoe Zimmerman; Mukesh Jumar; Peter Thomas; 426-John Craig; Marybeth Redmond; Jean White; CBut (guest-unidentified); and fldwory@sover.net (unidentified).

AGENDA ITEM 1: CALL TO ORDER: Chairman Bruso called the meeting to order at 6:32 p.m.

AGENDA ITEM 2: AGENDA ADDITIONS/ CHANGES: None.

AGENDA ITEM 3: APPROVE AGENDA: Commissioner Schumacher Moved and Commissioner Lavigne Seconded a Motion to approve the agenda as warned. The Motion passed 6-0.

AGENDA ITEM 4: PUBLIC TO BE HEARD:

Chris Lundberg, 135 Chapin Road, Essex, Vermont, thanked the PC for the opportunity to speak. He read the following statement:

To be clear, I strongly oppose the proposal to build a Prison in our town. I spoke at the last public discussion on this topic. I believe the impact on public safety, quality of life and property values is so obvious that I don't think it's necessary to repeat that argument today. I do, however, think it's important to analyze the arguments we heard in favor of the prison.

There were basically three arguments offered:

1. *"The Prison will be Good for our Town and Your Business. You should be grateful the prison is coming. It will bring jobs & prosperity for the town. Your life will be better."*

This argument is so absurd that it's almost shocking anyone would try to make it. But it's not entirely false. While it's true that a prison will be harmful to the vast majority of families in our town, there are a few very specific interest groups who will benefit.

Of course the Department of Corrections wants a new prison. By all accounts the facility in South Burlington was poorly designed, managed and maintained. A new facility would be great for those in the DOC. A shiny, sunny Scandinavian style facility sounds great to them. I understand why they would want it. I would also mention that I respect the work they do and I don't think they're bad people for doing it or wanting a new facility to do it in. I just think it's an obviously horrible idea to put that facility in one of the most populous and rapidly growing towns in the state.

We also heard from a former legislator who has devoted much of her professional life to working with incarcerated women. She likes the prison idea also. This is logical as the construction of this facility would be an enormous professional achievement for her. It would raise her professional status and likely be personally fulfilling. Her husband works with an at risk population struggling with addiction and general function in society. Prisons are disproportionately full of people who suffer from addiction, mental health issues, impulse control and a propensity for violence. That's not a value judgement, it's simply true. These are exactly the type of people who need rehabilitative and re-entry services. Prisoners, former prisoners who remain in the community and their families will need those services. His professional status will also increase. It's likely that financial benefit would eventually follow as well.

So although the argument that the prison will somehow be good for you and your family seems ridiculous, it's important to remember that for many of those arguing most aggressively for its construction, there will be a host of benefits. Those benefits will simply come at the expense of their neighbors.

2. *The second argument we heard was "It will be Fine. You won't even notice." This second argument, on the surface is a little more plausible. It says, sure maybe the prison won't make your life better, but everything will be fine. We're going to put it back in the woods, you won't see it from the road. It won't be near your house or your kids. You won't even know it's there.*

It's very important to note here that the state is asking for rezoning of all of its land in the area. Not just the two sites that have been proposed for the prison. It hasn't been clearly explained why that is so but it is incredibly important. If rezoning is approved does that mean that the state could later construct additional facilities? When it becomes clear that the prison and its population needs additional support could the state then perhaps construct re-entry facilities, halfway houses, methadone clinics, needle exchange facilities? It hasn't been discussed but if rezoning for all of these lands occurs that door has been opened.

This argument that you won't notice is false. You will feel the impact. It will change the nature of our town. How do we know? Well, this isn't the first prison that's ever been constructed in a town. Prisons are built and when they are the

results are consistently predictable. It happens the same way every time: The families of incarcerated people tend to follow them. When someone goes to prison it's logical that their family wants to be close to them so families of prisoners tend to move close to the prison. Those families tend to be plagued by dysfunction in the form of addiction, mental illness and histories of violence. That's not a value judgement it's simply a fact that anyone who works with the incarcerated would acknowledge. Prisoners are eventually released and many of them then stay near the facility. The DOC struggled to give us the exact percentage of prisoners who would be incarcerated for violent crimes at the proposed facility but the number they gave was about 20%. Recidivism is astronomically high. Many of those released will re-offend. That's not my opinion; it's an unfortunate fact. That will happen in our town and innocent people will be hurt. When there are crimes there are victims.

So how do residents in prison towns react to these things? Well, those who can leave the area eventually will. Some residents will move their families and businesses away. It's not an easy thing to uproot your family and business but when quality of life and safety are at risk many will do so. I will.

So, it's a false argument to suggest that we won't notice any changes if a prison comes to town. We absolutely will. The nature of the town will be profoundly changed.

The third argument we heard in favor of the prison was the most disturbing. This was the argument that said if you are not enthusiastically in favor of the prison you are somehow a bad person. This is the moral argument that if you don't want a prison in your town you are somehow ignorant and cowardly. You are consumed by misplaced fear. You're a NIMBY (not in my backyard) elitist who lacks compassion. This is a cynical, but very effective tactic for those who want this project to happen. Nobody wants to be judged as morally inferior.

I spoke in opposition to this project at the public forum a few weeks ago. The argument I made was that although I understood why some wanted the prison, it was potentially harmful to the citizens of our town and there were better uses for the land and money. A few days after the meeting I received a letter. The letter was sent to my job, the office where I work. The author of the letter was in favor of the prison. He said he was standing behind me at the last meeting. He said he disagreed with everything I had said and that I lacked maturity and intelligence. He went on to say he would be attending all of the future meetings and would be watching my behavior. I'm not sure if he's in attendance this evening. Should I feel unsafe? This kind of effort to intimidate and suppress opposing opinions is disgusting, but it's also effective. I was upset by the letter and it made me understand why a lot of my neighbors who are opposed to the prison have told me they just don't want to get involved. Nobody wants to be personally attacked, have their family potentially threatened or their business cancelled.

I would emphasize that this debate should be civil. I understand why some folks want the prison. I understand how they will benefit from its construction and I don't think they're crazy or bad people for trying to make it happen. But the rest of us have a right to oppose this project. It is OK to want to protect the safety of your family, to want to maintain a healthy quality of life in your community, to want to preserve the value of your home.

It's my understanding that the Planning Commission will be debating the re-zoning for this project later this evening. Please understand the magnitude of the decision you are making and the impact that decision will have on the families of your neighbors. Please do what is best for our people and our town.

Dustin Brusco stated, for the record, he did not find these comments inappropriate.

Niels Giddens, 14 Whitcomb Meadow Lane, Essex, Vermont, is concerned and confused with the process of approving a prison. He reported that he attended the last public session and left feeling unsatisfied, noting that the State did not answer most of the questions. He noted that neither location will not have a public transit route as the Colchester Road route is scheduled to be cancelled. He was not sure if he should attend this meeting, noting that the agenda item was buried in the Agenda.

Chairman Brusco reminded the audience that at the last meeting he announced that the public had knowledge that there would be another meeting and instructed staff to put the item on the next Agenda so that the PC could determine what the next steps should be with regards to the request. He reported that all the information requested from the State still needs to be retrieved and that nothing has been hidden to the public. He further stated that no decision point on the request is being made and said, "You are not missing a thing."

Commissioner Carroll informed the audience that the Planning Commission can't talk about agenda items unless they are in a session.

Brad Jackson, 14 Rustic Drive, Essex, VT, said he was gathering signatures to stop the Planning Commission from working on the prison application and asked the people in the room to sign the petition.

Brendan Witherall, 28 Hagan Drive, Essex, VT, read his statement into the record, as follows:

Thank you for the opportunity to share my thoughts on the proposed correctional facility being considered for our town. I understand the need for appropriate, humane facilities to house those in our justice system, and I want to be very clear in my belief that this responsibility is shared by all Vermonters. When a person's liberties are taken away, we, as a society, have a moral and constitutional duty to ensure they are treated with dignity and respect.

However, while the need to house incarcerated individuals is shared equally among Vermont's 650,000 residents, the practical burden of hosting this facility will fall solely on the 11,000 residents of Essex. This concentration of responsibility brings with it potential risks and challenges that could impact our community for decades to come.

187 *With this in mind, I want to reiterate an important question that has yet to receive a clear*
188 *answer: How will Essex be fairly compensated for hosting this facility on behalf of the state?*

189 *Many residents, including myself, feel that the current conversations around compensation—*
190 *primarily through PILOT (Payment in Lieu of Taxes) payments—are not adequate. While the*
191 *state and our House delegation have indicated that we'd be eligible for PILOT payments,*
192 *these payments are notoriously subject to the legislature's discretion and are grossly*
193 *insufficient, especially for correctional facilities. For instance, this fiscal year, the state*
194 *allocated only \$40,000 for PILOT payments across all of Vermont's correctional facilities.*
195 *The South Burlington Correctional Facility, which was assessed at over \$16 million,*
196 *received only \$5,797 in PILOT funding (see [https://tax.vermont.gov/document/fy25-building-](https://tax.vermont.gov/document/fy25-building-pilot)*
197 *[pilot](https://tax.vermont.gov/document/fy25-building-pilot)).*

198 *If the state expects Essex to take on the immense burden of hosting this facility in exchange*
199 *for such minimal PILOT payments, we should end these discussions immediately. It would be*
200 *deeply unfair to impose high tax burdens on other community assets, such as our golf course,*
201 *hotel, or apartment complexes, which provide a net positive benefit, while a facility that*
202 *could negatively impact our community isn't required to pay its fair share.*

203 *The sentiment that Essex should “step up” or allow this facility simply because “it's the right*
204 *thing to do” ignores the reality that the rest of the state also has an obligation to contribute*
205 *meaningfully. If Essex is expected to bear the possible long-term negative effects on property*
206 *values, safety, community perception, and infrastructure, it is entirely reasonable and fair for*
207 *our community to receive a substantial financial benefit in exchange for taking on this*
208 *burden, which should be shared equally by all Vermonters.*

209 *I urge this commission to protect the interests of Essex and ensure that we receive*
210 *guaranteed, meaningful financial support from the state in exchange for hosting this facility.*
211 *A fair starting point would be for the state to contribute \$1 or \$2 per Vermonter each year to*
212 *our General Fund as compensation to our community. Since our town is being asked to carry*
213 *the burden for every resident in this state for the next 50 or 60 years, a few dollars per*
214 *person annually seems both reasonable and just. An annual contribution of \$650,000-\$1.3M*
215 *provides our community with the resources to effectively mitigate any negative effects that*
216 *this facility might bring and ensure this facility doesn't have an overall negative impact on*
217 *Essex.*

218 *I hope that the state and our local leaders will take this suggestion seriously and prioritize*
219 *discussions about adequate compensation. Essex is willing to do its part, but that willingness*
220 *must come with fair and tangible support from the rest of Vermont.*

221 *Thank you for considering my perspective, and I look forward to a thoughtful response as*
222 *discussions continue.*

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224 Andrew Seaver, 14 Hillside Circle, Essex, Vermont, stated that information on this project is on the
225 town website PC Page, however he asked about the process location on the website.
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227 **AGENDA ITEM 5: PRESENTATION: SUSIE WILSON ROAD CORRIDOR SCOPING**
228 **PREFERRED ALTERNATIVES:**

Aaron Martin, Public Works Director, and Ken Robie, VTrans, provided a slide presentation to review the Susie Wilson Road and Kellogg Road alternatives for improvements on the Susie Wilson Road/Route 15 intersection and Susie Wilson Road/Kellogg Road intersection. A discussion ensued.

Aaron Martin supported the alternative plan showing two left hand turns and two right hand turns at the Susie Wilson/Route 15 intersection. Ken Robie noted the State was leaning towards this alternative plan. A lengthy discussion took place regarding the Susie Wilson/Kellogg Road intersection as this intersection is not squared and is difficult for truck access to navigate. A few options were discussed, one being that the road would be closed off for residents coming off the Old Susie Wilson Road/____ intersections and residents would need to drive through the neighborhood to land on Pinecrest Drive. It was noted that an existing truck business is located on Old Susie Wilson Road and questioned if they would be allowed to navigate through residential neighborhoods. The State and Town are continuing with discussions on this intersection and both believe there will be a solution so that the project moves forward to approval.

AGENDA ITEM 6: SKETCH PLAN-PUBLIC HEARING-KENAN HECO PROPOSED A 4-LOT SUBDIVISION LOCATED AT 9 COLONIAL PAGE ROAD.

Kent Johnson represented Staff. He summarized the proposal to be to create 4 new residential lots and shows the location on the overhead projector. He reported that there are no red flags with the project; noted the property is located in the Scenic Resource Preservation Overlay District and the houses were in a suitable location. He noted that there is opportunity for future lots within a narrow easement into Alderbrook, which will be kept open as a wildlife corridor. He reported that the Conservation/Trails Committee noted for a potential easement for multiuse along Colonial Page Road; asked what preventative measures will be taken for the Alderbrook wetland areas; to keep open the wildlife connectivity; and keep the trees.

Chairman Bruso asked the Planner what conditions were placed on this lot resulting from the abutting Brad Morse subdivision as he wants to make sure there are no contrary issues resulting from that approval.

John Stuart and Ken Heco represented the application. Stuart stated that he did not have much to add. He reported Lots 2 & 3 are 3-4 acres respectively; the houses were placed along the back of the lot treeline and the treeline will be preserved; pointed out a shared driveway is proposed; and the Master Plan shows a concept of what could be proposed, but nothing is planned at this time.

Chairman Bruso asked John Stuart if he looked at Brad Morse's abutting approval as he wants to know how it compares with the proposed Staff Report. Commissioner Schumacher asked Stuart if he had any concerns with Public Work's comments. Stuart stated that all was fine.

Commissioner Carroll Moved and Commissioner Lavigne Seconded a Motion to open the Public Hearing. The Motion passed 6-0.

There was no public comment.

Commissioner Schumacher Moved and Commissioner Carroll Seconded a Motion to close the Public Hearing. The Motion passed 6-0.

Commissioner Lavigne Moved and Commissioner Carroll Seconded a Motion to approve the application as warned subject to the Findings and Conditions of a Staff Report dated 11/14/2024, including a Friendly Amendment to add Condition 6 to read, “A verification that there are no outstanding conditions from the abutting Morse subdivision approval affecting this application shall be provided at the next hearing.”

AGENDA ITEM 7: PRELIMINARY PLAN: CONTINUED FROM 2/8/24, 4/11/24 & 7/25/24 : Pinewood Holdings, LLC, c/o Brian Marcotte, proposed a 32-Unit Planned Unit Development-Residential (PUD-R), consisting of 17 single-family homes on individual lots; 15-triplex units on footprint lots and an approximate 88-acre open space lot for property located at 18 & 30 Timberlane Drive (parcel IDs 2-084-001-000 and 2-085-001-001) and consists of 117-acres in the Medium Density Residential (R2) Zone.

Kent Johnson, Planner, stated that new specific numbers were provided on the steep slopes and are reflected on Lines 27-33 of the Staff Report. He reported that the Conservation and Trails committee concur with the proposed conditions and they were concerned that there was not a proposal for open space management.

Brian Currier, P.E., O’Leary-Burke Civil Associates, stated that back in July, they went through the reasons for a waiver; he pointed out the 3 access points as being Stonebrook Circle, Timberlane Drive and Rustic Drive. He noted the State Legislature’s Home Act wants to see 24,000 to 36,000 homes in the next 5 years. He reported that they are proposing a mixture of single family homes and triplexes. He believed that they received positive feedback from the last hearing after they made further design changes, with the biggest change spending a lot of time and effort to address Hamlin’s and Public Work’s comments. He described the specific proposed cures to address Public Work’s concerns with the steep slopes, such as providing over 1-acre of rip-rap on the slopes. The applicant agreed to have a 3rd party erosion control inspector on site during construction as requested by Public Works. He continued to report that they had to hire a third-party Geo Tech engineer who had no issues with the project nor suggested additional measures. Currier referred to the Master Plan that was approved in the 1970’s, and they are now working on Section I. The previous submittals were far more aggressive than what the PC is looking at now. He reported that a State General Construction Permit was issued one year ago, noting that it was approved as moderate risk (allowing disruption of 5-acres at one time.) He reported that his firm has done a ton of work in Essex and all plans have his stamp of approval. He continued to report that they provided additional numerical data on the slope, they facilitated shading on the plans to show the steep slopes. He repeated that at the last meeting they had positive feedback and outlook from the comments offered; they addressed Public Work’s concern in totality, they offered up triplex homes and elevations; they shaded the plans and feel that they lived up to a set of plans that are set for final review.

Commissioner Schumacher asked what they were asking the PC to do with a waiver. Currier

replied that the base zone was R2, Medium Density Residential, the property is located in the sewer core, shows parcel on a previously approved Master Plan, the State is asking for higher density in these areas. In reply to Commission Schumacher, Currier stated that steep slopes were discouraged, and a PUD was meant to cluster units and leave open space. He reported that roughly 80-acres are being kept open, they have proposed triplexes, private driveways serving 4 unit.

The discussion of slopes and benefits of a waiver continued. The applicant emphasized that the project would have minimal impact on the environment and would be developed with the least impact possible while still meeting the town's zoning regulations.

Commissioner Carroll Moved and Commissioner Schumacher Seconded a Motion to open the Public Hearing. The Motion passed 6-0.

David Skopin, 11 Skyline Drive, Essex, VT, thanked those who responded to his recommended Ted Talk on climate change. He suggested that we should expect a new norm for the 100-year floods; these will eventually have an impact on sandy soils; smart growth calls for affordable housing; the proposed location of this development does not have easy access to a grocery store; the proposal will destroy the echo system that the community does not deserve to bear; trees should not be cut down, noting that one 75-year old tree has more carbon than a new tree and cutting 5-10 acres is not smart growth. He believes the application should be denied.

Ken Signorello, Chair of the Conservation Committee concurs with Staff recommendations. He called out roads that washed out in the last 5 or so years.

Margaret Smith, noted that Richmond has issues as houses are located on top of mountains. She wants to be sure emergency vehicles are able to reach the homes. She is guessing the houses will not be affordable. Cutting trees breaks her heart

Natalie Braun, 11 Skyline Drive, Essex, VT, is opposed to significant woodland removal. She stated that in light of the recent election, we will see a slow down of housing. She is concerned with the rain and preservation of the woodlands, especially mature trees. She noted that cutting mature trees is doubly harmful as it releases carbon into the soil.

Sharon Zukowski, Essex, VT, does not see a benefit to override the regulations. She pointed out that Act 47 was to provide affordable housing and she stated that is not happening. She pointed out that the looping water main is needed from a prior development.

Mukesh Jamar, 8 Evergreen Drive, Essex, VT stated that Lots 8, 10, and 12 looks steep and if there are rules and regulations they should be followed.

Brian Marcotte, landowner, stated that only 1 public road is proposed, the others are private which is less of a cost to the Town. He noted that housing will bring in more tax payers. He

noted that affordable housing is touch in Chittenden County. He made an effort to depart from single-family homes and is proposing triplexes, which is a big departure from the housing they usually build. He is creating a large area to remain untouched and available to the neighborhood. He noted that he generously allowed folks from Section I to generously use the lands. He stated it was a benefit to the town to provide housing in a great development.

Bryan Currier stated that no conditions were proposed and he brought some for the PC to consider.

Commissioner Carroll Moved and Commissioner Lavigne Seconded a Motion to close the Public Hearing. The Motion passed 6-0.

Chairman Bruso Moved and Commissioner Bixby Seconded a Motion to schedule a closed Deliberative Session, with Staff on December 12, 2024, to discuss the waiver request and proposed conditions. The MOTION passed 6-0.

AGENDA ITEM 8: INTERNAL DISCUSSION-STATE OF VERMONT CORRECTIONAL FACILITY ZONING AMENDMENT REQUEST:

Chairman Bruso asked the PC if they were ready to take a stand on the State's request for a zoning change. The PC determined that they do not have enough information.

Commissioner Bixby felt that the State was not prepared as nothing came out of the session with them.

Commissioner Carroll concurs with Bixby and repeated that no answers to the public's questions were answered.

Commissioner Schumacher stated they need clarity.

Commissioner Lavigne felt the State does whatever they want to go with its projects.

In response to Chairman Bruso's questions, Commissioner Lavigne agreed to be the PC representative to work with Staff on getting answers to the questions that were asked of the State.

AGENDA ITEM 9: APPROVAL OF MINUTES 10/10/2024 & 10/24/2024:

Commissioner Carroll Moved and Commissioner Schumacher Seconded a Motion to approve the 10/10/24 minutes as written. The Motion passed 6-0.

Commissioner Lavigne Moved and Commissioner Carroll Seconded a Motion to approve the 10/24/24 minutes as written. The Motion passed 6-0.

The meeting adjourned at 8:43 p.m.

PLANNING COMMISSION

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By: _____
Dustin R. Brusio, Chair