

**TOWN OF ESSEX
GATHERING OF FUTURE DEVELOPMENT REVIEW BOARD MEMBERS
REGARDING LAND USE ESSENTIALS TRAINING
DECEMBER 5, 2024**

Note: This meeting was held on Zoom and at 81 Main St Conference Room, Essex, VT.

ATTENDANCE - Sharon Zukowski; Hubie Norton; Nick Martin; Trefor Williams; Ian Carroll; and Stephanie Bixby.

ATTENDING VIRTUALLY: Dustin Bruso

No public was in attendance

OTHERS PRESENT IN ROOM: Katherine Sonnick, Community Development Director; Sharon Kelley, Zoning Administrator; Kent Johnson, Planner; Chittenden County Regional Planning Commission Representatives.

OTHERS VIRTUALLY: None.

Katherine Sonnick started the meeting at 6:30 p.m. and made introductions.

CCRPC provided an overhead slide show on 'Essentials of Land Use Planning and Regulation', which included 1) Planning for a Vibrant Sustainable Community; 2. Roles and Responsibilities; 3. Implement the Plan; and 4) Meetings, Hearings and Due Process.

The discussion covered a wide range of topics related to community development and land use planning, including discussions on town plans, zoning regulations, and the roles of various boards and commissions. Participants explored the adoption process for local regulations, the importance of public engagement, and the procedures for conducting quasi-judicial hearings. The meeting also touched on recent changes to housing requirements, development review processes, and the challenges of implementing fair and effective land use policies.

K. Sonnick informed the group of the next steps, as follows:

- Katherine to send the presentation slides to the board members.
- Taylor/Sarah to get clarification from VLCT on whether minutes can be taken during deliberative sessions.
- DRB to review and potentially update their rules of procedure regarding voting and deliberative sessions.
- Katherine to look into recording the training session for public viewing.
- CCRPC to create a condensed, recorded version of the training for public education.
- DRB members to review the "Zoning for Great Neighborhoods" guide.
- DRB to consider implementing administrative site plan review for certain projects.
- Planning Commission to work with CCRPC between January and May on developing the new regional future land use map.
- Katherine to obtain copies of the Vermont Planning Manual for board members.
- DRB to review and potentially update their conflict-of-interest policies.

The meeting involved a diverse group of community members, including the Community

Development Director, board members, and planning commission members. The discussion revolved around land use planning and regulation, with a focus on the needs and goals of the community. The team discussed the importance of having a town plan, which guides the community's goals and encourages collaboration among community members. They also touched on the need for community engagement and the distribution of environmental benefits and burdens. The team acknowledged the need for a more collaborative approach to decision-making, moving away from traditional forms of public participation. The conversation ended with a discussion on the requirements for a town plan, including sections on land use, transportation, utilities, and education systems.

Housing Targets and Act 250 Changes

The meeting discussed the new requirements for the housing chapter in the town plan, which now needs to include housing targets. The team also discussed the new location-based method of development review under Act 250, which could potentially exempt certain areas from regulation and control. The meeting also touched on the new State Land Use Review Board and the need for the Regional Planning Commission to map specific areas as tier one B for potential exemption from Act 250. The team also discussed the upcoming rulemaking process for defining environmentally sensitive areas under Tier 3. The conversation ended with a discussion on the interim exemptions under Act 250 and the potential for developers to take advantage of these exemptions in the next three years.

Development Review Board and Planning

In the meeting, the speaker discussed the roles and responsibilities of the Development Review Board (DRB) and the Planning Commission in implementing the town plan. They explained the difference between regulatory and non-regulatory implementation, with the latter involving activities like capital budget and programs, tax covenants, and purchasing of development rights. The speaker also highlighted the importance of understanding the limits of local regulation, as per Vermont's Dylan rule state, and the need to ensure fair housing laws are not infringed upon. The discussion then shifted to the process of development review, including the distinction between administrative and quasi-judicial processes, and the different types of developer review, such as permitted use, conditional use, and site plan review. The speaker emphasized the importance of carefully defining exemptions in the zoning bylaw to avoid overly regulating minor types of land development.

Conditional Use and Site Plan Review

In the meeting, the group discussed conditional use, site plan review, waivers in land development. They emphasized the importance of planning ahead and making decisions when writing the rules, rather than relying on subjective interpretations. The community also discussed the use of waivers and variances, noting that waivers are more flexible and can be used for specific situations, while variances are only applicable to structures. They stressed the need for thoughtful decision-making when granting waivers and the importance of documenting decisions with findings of fact and conclusions of law. The conversation ended with a discussion on the use of waivers in specific situations, such as extending driveway lengths.

DRB Responsibilities and Appeal Process

In the meeting, CCRPC discussed the role and responsibilities of the DRB, emphasizing the need for a written decision within 45 days of closing the final public hearing. They also touched on the possibility of reopening a hearing if new evidence comes to light but stressed that this should be a rare occurrence. It was clarified that DRB decisions are appealable to the environmental court,

in which the Court would start with the application anew. It was noted that the town does not have to actively defend a decision during an appeal but can monitor the case through a notice of appearance. Lastly, it was noted that only interested persons, including the applicant, municipality, adjoining municipalities, and immediate neighbors, can appeal a decision.

Adoption Process, Virtual Access, and Guidelines

In the meeting, the group discussed the adoption process for local regulations, emphasizing the importance of due process and the distinction between meetings and hearings. They also discussed the challenges of virtual access and the need for clear guidelines. They also touched on the complexities of hybrid meeting setups and the need for more participation. They discussed the requirements for public notice, including posting agendas at least 48 hours in advance and the need for 30 days' notice for plans. They also discussed the difference between advisory and non-advisory bodies, with non-advisory bodies needing a physical location for decision-making. The group ended the conversation with a discussion on the practice of having an in-person location for advisory bodies.

Quasi-Judicial Hearings and DRB Procedures

The meeting covered the proper flow and procedures for conducting quasi-judicial hearings for the DRB. The discussion focused on ensuring due process, orderly proceedings, and allowing everyone to be heard fairly. Key points included opening the hearing, allowing applicant presentation, board questioning, public comments through the board, deliberations in private for complex cases, issuing a written decision within 45 days, and managing conflicts of interest by using alternates when necessary. The group also discussed guidelines for the board chair's role in facilitating discussions, coaxing motions, and ensuring an orderly process. Additionally, they reviewed the exemption from open meeting laws during deliberative sessions and the option to take minutes during those private sessions.

The training adjourned at 8:43 p.m.