

1 TOWN OF ESSEX
2 PLANNING COMMISSION
3 MINUTES
4 OCTOBER 14, 2021
5

6 **These are preliminary draft minutes and will be replaced prior to the next meeting.**

7
8 **Note: This meeting was in-person and virtual on Teams.**

9
10 **PLANNING COMMISSION (PC) PRESENT:**

11 **IN PERSON:** Dustin Brusco, Chair; David Raphael; and Ned Daly.

12 **VIRTUAL:** Josh Knox, Vice-Chair; John Mangan, Clerk; and Jonathan Schumacher.

13
14 **OTHERS PRESENT:**

15 **IN PERSON:** Owiso Makuku, Community Development Director; Sharon Kelley, Zoning
16 Administrator; Darren Schibler, Planner; David Burke; Colleen Nesto; Jean Ashe; Karen Danaher;
17 Michael Dugan; John Lang; Nancy Lang and Community T.V.

18
19 **VIRTUAL:** Doug Henson, P.E.; John Stuart, P.E.; Jim Barch; Renee Lafountain; John Egan; Blair
20 Haxel; Will Dodge; Peter Mutolo; Walt Lange; and Ken Signorello.

21
22 Chairman Brusco called the meeting to order at 6:31 p.m.; called out the Commissioners who were
23 in attendance virtually and in person; and noted the changes to the Agenda being postponement of
24 the Consent Agenda item; and Other Business items, including notification of a Zoning Board of
25 Adjustment AirBnB application; and PC Operating Procedures.

26
27 **AGENDA ITEM 1: PUBLIC COMMENTS:** None.

28
29 **AGENDA ITEM 2: PLAN-PUBLIC HEARING: WHY NOT, LLC & ESSEX RESCUE,**
30 **INC.: PROPOSAL FOR AN EMERGENCY SERVICES BUILDING LOCATED AT 35**
31 **ESSEX WAY IN THE MIXED-USE PLANNED UNIT DEVELOPMENT (MXD-PUD)**
32 **ZONE, RETAIL-BUSINESS (B1) SUBZONE. TAX MAP 91, PARCEL 10.**

33
34 Darren Schibler, Planner, spoke as staff person on this application and made the following points:

- 35
36
- 37 • On the overhead display, he provided the location of the parcel and the orientation of the new
38 building, including access into the lot;
 - 39 • He noted that this will be the new and more convenient location for Essex Rescue;
 - 40 • The application was classified as both Personal Services and Office, however noted the primary
41 use will be emergency rescue;
 - 42 • The application meets all of the Regulations;
 - 43 • A major discussion with the applicant was access into the site. Staff required a pedestrian access
44 (bike or foot traffic) into the site as the parking lot will be shared from the Links at Lang Farm
45 and, there needed to be a safe crossing for same.
 - 46 • He reported the shared access will be required to be named as it may become a future road for
47 further development of the remaining larger parcel;
 - 48 • The applicant is planning for a geothermal building and solar on the site;
 - 49 • A right-of-way need to be deeded to the Town; it is not expected to be built at this time;
 - 50 • Changes to the landscape plan include removal of the street trees as they would block visibility;
and

- 51 • Staff supports approval with conditions as proposed.

52

53 Doug Henson, P.E. and Peter Mutolo, a member of Essex Rescue Board of Directors, spoke on this
54 application.

55

56 Henson made the following points:

57

- 58 • He informed the PC that he discussed the access and elements of the proposal with Aaron Martin,
59 noting that the Town Engineer was not in favor of any lights on the access road and, that the
60 Town Engineer would accept stop signs on the bike path, but not flashing lights or signals due to
61 traffic visibility concerns;
- 62 • He discussed the request for an additional fire hydrant with Town Fire Chief Charlie Cole. The
63 issue is that an additional fire hydrant will add \$2,000.00 to costs and, add 2 months into the
64 permit process as it would also require a water supply permit with the State. He stated that the
65 requirement for an additional hydrant was not clearly spelled out in the Zoning Regulations or the
66 PW Specifications. The Fire Regulations state that a hydrant should not be within 50' of a
67 building; and
- 68 • He was fine with moving the trees and plants, but not with the additional fire hydrant.

69

70 Peter Mutolo, stated that Henson laid out the concerns and he asked the PC to allow the applicants to
71 work out the hydrant issue by inserting a condition with an approval. Mutolo noted the existing fire
72 hydrant is currently not accessible year-round however, when they take over the lot, they will make sure
73 that there will be accessibility to the hydrant at all times of the year.

74

75 The PC was in agreement to allow staff and the applicant to work out the issue of a new hydrant versus
76 maintaining the existing hydrant year-round. Commissioner Raphael suggested removing Finding 3a and
77 creating a condition on this matter. Schibler read a portion of the Zoning Regulations, *Fire Protection*.
78 *Adequate provision for fire protection shall be made in the site layout insofar as it may directly*
79 *interrelate with the above aspects of site plan review.*

80

81 Commissioner Mangan asked if consideration was going to be given to accommodate solar to the roof;
82 and the expectations of the noise level. He asked if any noise complaints came in from its existing
83 location.

84

85 Schibler reminded the PC that the applicant was hoping to add solar, possibly north of the building and,
86 they were hoping to be able to install geothermal heating. He added that the Town does not regulate
87 noise, however if the application needed to go through Act 250, noise levels would be required.

88 Doug Henson confirmed that an amendment to the existing Act 250 permit would be required.

89

90 **Commissioner Daly MOVED and Commissioner Raphael SECONDED a MOTION to**
91 **Open the Public Hearing. The MOTION passed 6-0.**

92

93 The following people provided public comments:

94

95 Will Dodge, 2 Lida Drive. Dodge noted that he was the president of the Homeowner's Association,
96 however he was not speaking on its behalf. He discussed the following concerns:

- 97 1. The proposal would disrupt the flow of bike traffic, jogging, and walking, even more so
98 because of Covid. He noted that it would also disrupt residents from walking to the Essex
99 Experience;
- 100 2. He disagreed that the PC could not require renewable energy as the Town has an Energy Plan,
101 with goals so that solar and geothermal will be installed;
- 102 3. He understands the Town does not regulate noise and asked for confirmation that Act 250
103 would be required. Henson confirmed; and

104 4. He would like to understand why Essex Rescue is moving.

105

106 Chairman Brusco noted that it is not the PC's purview as to why they are moving.

107

108 Schibler noted that the path, and pedestrian traffic for this site was long planned for development through
109 a Master Plan. He noted that the landowners did not further development the site and if they had a major
110 road would been in place; traffic control on the bike path helps and it will not impact its users; the
111 Countryside path brings you out onto the road some of the time with no issue; the Town strongly supports
112 energy; the Town does not regulate noise; and usually electric vehicles are usually evaluated through Act
113 250.

114

115 Dodge stated that he would like to see the Town get to a point to start regulating energy. It is an
116 important project, but there are no mechanisms in place.

117

118 Walt Lange stated that he lived in the condos next to the church; he believes noise is a great concern and a
119 study should be done as the noise is not appropriate for the older tenants; the intersection is an issue as
120 people walk through it all the time; it is dangerous and people "are not good drivers"; he asked why
121 services were not clustered and asked why this location is the best; and concern for future subdivision and
122 questioned if the Town was opening up "unintended consequences."

123

124 Commissioner Daly stated he does not understand the noise concern. He noted that he lives near the
125 existing location and acknowledged some days he hears some noise and other days, nothing. He noted
126 that elderly people need care usually find it comforting when they can hear the sirens. He stated
127 that the Rescue has a wide service area and the proposed location is better.

128

129 Chairman Brusco stated that you can't disregard the pedestrian impacts, however, for the last 40
130 years Essex Rescue has had continual vehicular traffic and pedestrian traffic, while being
131 situated next to a nearby school. He felt the proposed location provided less impact on traffic.

132

133 Colleen Nesto, Essex Rescue Executive Director, noted that at their current location there has never been
134 a "pedestrian incident" and the current location stalls response time because of traffic; no complaints have
135 been issued at the current location; part of the reason is they have outgrown the location and a part of the
136 parcel sits in a floodplain and they cannot put on an addition; the fleet is expanding and the next new
137 ambulance will not fit into the existing garage; and she noted that they did a lot of analysis and asked for
138 support.

139

140 Peter Mutolo stated they plan on a geothermal building as they go forward and welcomes input from the
141 PC and the public; and they want an energy tight building. Mutolo welcomed anybody to contact him for
142 more information.

143

144 Karen Danaher; President of Essex Rescue, reiterated points made by her colleagues.

145

146 John Lang, confirmed the name of the new access road to be named and spelled 'Stinson', which was his
147 grandmother's maiden name.

148

149 The remaining Commissioners were good with the proposal.

150

151 **Vice-Chair Knox MOVED and Commissioner Mangan SECONDED a MOTION to Close**
152 **the Public Hearing. The MOTION passed 6-0.**

153

154 **Commissioner Raphael MOVED and Commissioner Schumacher SECONDED a MOTION to**
155 **approve, including a Friendly Amendment by Chairman Brusco, the application for 35 Essex Way,**
156

157 **as warned and subject to the Finding and Conditions of a Staff Report dated 10/14/21, with the**
158 **following changes:**

159

160 Finding II, Line 395: Insert, “The PC found no additional findings.”

161 Condition 3a, Line 401: Delete and re-letter remaining items.

162 Condition 19, Line 475: Delete “located adjacent to the door closest the fire annunciator panel” and
163 replace with, “at a location approved by the Fire Department.”

164 New Condition 20 (and renumber remaining conditions accordingly), to read, “Prior to the issuance of
165 a certificate of occupancy, the applicant shall work with Staff to determine if a new landowner
166 owned fire hydrant is required to be located along the driveway to allow a fire engine to connect
167 within 20 feet of the hydrant, and within 50 feet of the Fire Department Connection on the
168 building. If it is determined one will be required, the plans shall be revised to reflect the change.
169 As an alternative to a new hydrant, Essex Rescue offered to take responsibility for winter
170 maintenance of the existing hydrant on Stinson Drive.

171

172 **The MOTION passed 6-0.**

173

174 **AGENDA ITEM 3: CONTINUED FROM 6/25/2020-SKETCH PLAN-PUBLIC**
175 **HEARING: RENEE & BRAD LAFOUNTAIN: PROPOSAL FOR A 3 LOT PLANNED**
176 **UNIT DEVELOPMENT-RESIDENTIAL (PUD-R) LOCATED AT 109 BRIGHAM**
177 **HILL ROAD IN THE AGRICULTURAL RESIDENTIAL (AR) ZONE. TAX MAP 14,**
178 **PARCEL 15-602.**

179

180 Chairman Brusco noted the Public Hearing is still open.

181

182 Darren Schibler, Planner, reported on this application as follows:

183

184 The vacant lot is located between 105 & 113 Brigham Hill Road; he provided the history of
185 how the lot was created back in 2007/08, noting that at that time the land was at the end of
186 subdivision per the regulations, and restrictions were placed on the land through a civil
187 matter; he regulations now allow for a 2-lot Planned Unit Development (PUD) and the
188 applicant has submitted several versions with the current proposal showing a 2.3-acre open-
189 space parcel consisting of wetlands and existing vegetation; attempts were made to
190 minimize the impacts to the wetlands but a long driveway is proposed; the houses are not
191 clustered and believes this would set a back precedent; staff recognizes the legal
192 restrictions on the parcel is outside the PC’s review, however stated that the restriction was
193 to preserve the views; he recommended denial without prejudice.

194

195 John Stuart, P.E., represented the applicants. He noted the parcel has a long history. The lot
196 started out as a 4.3-acre lot, however they were proposing to add 2-acres to the parcel, noting
197 that a 6-acre lot is more significant for a 2-lot PUD. He noted the parcel as primarily open
198 meadows and went on to describe the parcel, where the wetland areas and mound systems are
199 proposed to be situated; described the 40’ high tree-line located to the east; and felt the most
200 striking feature was the scenic views of Mount Mansfield and Camel’s Hump, noting the
201 proposed plan was meant to conserve this view; he pointed out the existing farm road and
202 culvert would be used as resources to construct the driveway; the wetlands were delineated and
203 agreed to by the State Wetlands Division, noting that the infringement into the wetlands
204 already exists; he showed the location of the two existing wetlands – approximately 2½-acres,
205 noting that the 2 additional acres were meant to offset the wetlands and end up with 6+ acres of
206 usable land for both lots; he discussed the location of the homes as well as the reasoning for the

207 placement due to the legal agreement; the second house location is treed and not readily visible
208 from Brigham Hill Road; the goal was to keep the viewshed; he stated there were “no real
209 guidelines on clustered” and believes that natural resources are more important than clustering;
210 and Commercial/Ag soils are not viable on this lot; they were looking into current use however
211 determined it did not meet the criteria.

212

213 Chairman Brusco reminded that the Public Hearing was open.

214

215 David Burke, P.E., was also in attendance on behalf of the LaFountains. Burke believes the
216 proposal meets the regulations. He noted the application is proposing 3.3-acres, not 1-acre, for
217 an open space lot with efficient use of the land. He noted Brigham Hill was noted on Map 20
218 of the Town Plan in the scenic corridor and development is not supposed to impact the view.
219 He stated the house was situated to preserve the view and placing a house in the front of the lot
220 will be out of character for the rural area. He agreed with Stuart on the soils, however noted
221 that it does not preclude the landowner from gardens.

222

223 Burke referred to the Staff Report and stated:

224

225 Line 49: The Regulations are clear - a single unit can be a footprint lot.

226 Line 97: He believed lot sizes should be encouraged. Lot 2a is greater than 500’; greater than
227 the 5:1 ratio and modifications can be made by the PC through the PUD regulations.

228 Lines 106/107, clustering. He already made his point.

229 Lines 115-118, he noted that scenic is the highest criteria in the Regulations and Town Plan
230 and it should trump all other regulations.

231 Line 125: The house will be moved to 350’ from the road.

232 Line 155: Common space. This is a 3.22-acre open space lot and it should not be downgraded
233 because of the wetland area.

234 Line 178: Legal Restrictions. He noted the main intent was for 1 home to be up front.

235 The Town Plan does not show a footpath, nor a floodzone, was not in a watershed. He
236 acknowledged the meadow gets wet in the spring, but it was not a true wetland; Map 19 shows
237 no significant features; Map 20 shows scenic preservation.

238

239 He argued that moving the house up front would not meet the goals and purpose of the Town
240 Plan and Regulations.

241

242 Chairman Brusco questioned the 1,000-foot driveway. Schibler stated longer driveways were
243 allowed for more than 2 units. The proposal meets the standards for driveways, but not for a
244 PUD.

245

246 Vice-Chair Knox stated that the PC needs to figure out if a PUD is a negative or positive tool
247 to get a particular kind of development.

248

249 Blair Haxes, abutter, was concerned about vegetation to screen and block headlights and
250 questioned if that issue was in the legal document.

251

252 John Egan, lives on Chapin Road, however stressed the importance of the scenic view, stating
253 “It is a wonderful view and pleasure to drive the road.” He noted that some of the trees located
254 at 115 Brigham Hill Road block the view and questioned if some of them could be removed.

255

256 After continued discussion amongst the PC, Chairman Brusco took a straw poll showing at this
257 time the PC was not ready to issue an approval. Commissioner Raphael noted that Burke
258 raised interesting points about the viewshed and suggested the PC could benefit from a site
259 visit so they could “put eyes with the scenic view.”

260
261 Schibler stated that the applicant could build two homes on the parcel without a subdivision.

262
263 Burke stated that by design a PUD was meant to be loose and open to interpretation and should
264 be subjective to the scenic views. He agreed two houses could be constructed without PC
265 review, without a subdivision, but you are still not getting away from two houses. He believed
266 the innovate part is taking some land.

267
268 Burke stated he has been working with PUD projects for 36 years from town to town. The
269 level of a variance and waiver is different and there should be no worry about setting a
270 precedent with a PUD. He reiterated the alternative is two homes or one duplex and he felt a
271 duplex would not be in keeping with the rural area. He noted that to proceed with a PUD the
272 lot-to-width ratio needs to be shortened to 500’; and the Town Plan only shows the scenic
273 corridor.

274
275 **Commissioner Raphael MOVED and Commissioner Daly SECONDED a MOTION to**
276 **Continue the Public Hearing to the next available date after a site visit. The MOTION**
277 **passed 6-0.**

278

279 **AGENDA ITEM 5: MINUTES 9/23/2021:**

280

281 **Chair Brusco MOVED and Commissioner Furland SECONDED a MOTION to approve the**
282 **9/23/2021 Planning Commission hearing minutes as written. The MOTION passed 5-0.**

283

284 **AGENDA ITEM 6: OTHER BUSINESS:**

285

- 286 • Sharon Kelley reported to the PC that a ZBA application for an AirBnB located at 17
287 Alderbrook Road has been submitted. She reminded the PC that she was required to
288 inform the PC and take back any comments. No comments were put forth however,
289 Commissioner Daly would like further research into AirBnBs for future regulation
290 discussion.
- 291 • Draft PC Operating Procedures. The materials were not on the PC file therefore, the topic
292 will be discussed at the next meeting.

293

294 The meeting adjourned at 8:36 p.m.

295

PLANNING COMMISSION

296

297

By: _____

298

Dustin R. Brusco, Chair