



ESSEX PLANNING COMMISSION

**Regular Meeting
January 10, 2013
Essex Town Hall
Meeting Room A**

MINUTES

1. **Call to Order and Seating of members:**

Chairman Tom Danyliw called the meeting to order at 7:30 p.m. In attendance were Commissioners Linda Herman, and Alan Kerr. Seated for member Carla Feroni was Alternate Bob Laundry. Also in attendance were Ralph Monaco, Alternate Neil Nichols, Zoning Commission Chairman Al Wolfgram, RiverCOG Planner Torrance Downes, and Town Planner John Guskowski.

Chairman Danyliw noted that Ralph Monaco, while normally seated as a Commissioner, has not been sworn in by the Town Clerk following his re-appointment to the Commission and was thus not eligible to participate as a Commissioner. He welcomed Ralph to participate as a member of the public, and requested that John Guskowski clarify with the Town Clerk on the seating of alternates in such a case.

Chairman Danyliw noted the recent passing of Lee Thompson, who he described as a very active, committed and valuable resident of Essex who had made great contributions to the Town. The Planning Commission observed a moment of silence in memory of Lee Thompson.

2. **Approval of Minutes:**

Motion to approve minutes of Regular Meeting of December 13, 2012 by Linda Herman,
Seconded by Alan Kerr. **Motion carried unanimously.**

3. **New Business**

a. Zoning Referral – Proposed Text Amendment, Section 20 (Definitions)

Chairman Danyliw invited Zoning Chairman Al Wolfgram to discuss the proposed changes to Zoning Regulations. Al Wolfgram stated that some of the proposed definitions were just “housekeeping,” adding language for clarification, but several of the changes were related to restaurant regulations and the interest of the Zoning Commission in relaxing separation distances and seating capacity of restaurants while preventing the siting of fast-

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food chains in Essex. He proceeded to walk the Planning Commission through the proposed definition changes and responded to questions.

Chairman Danyliw noted that additional natural disasters should be added to the definition of “casualty” and not limited to just fire or flood. There was a general discussion about the proposed definition of “commercial motor vehicle,” and whether vehicles used by service providers such as doctors or consultants without commercial or combination plates would be included in this definition. It was generally agreed by the Commission that a clearer definition would note that vehicles bearing strictly passenger vehicle plates would not be considered “commercial.”

Al Wolfgram described the “fast food restaurant” definition as an attempt to describe the sort of establishment that would later be prohibited by a proposed addition to Section 40. He acknowledged that the establishment of 10 franchise locations as the cut-off number was arbitrary and the Zoning Commission would revisit that number if needed. Bob Laundry asked whether certain franchises would be appropriate, and relayed that the Economic Development Commission thought design was a more important factor than number of franchises. Chairman Danyliw and Linda Herman questioned the purpose of the changes and what principle was being protected by the amendment. Al Wolfgram described the conservative approach to limiting chain restaurants taken by the Zoning Commission, that has concerns about traffic and community character. He suggested that by placing the regulatory description in the definitions of the Zoning Regulations, it would not be subject to variances by the ZBA. Chairman Danyliw asked where the 10-seat limit regulation came from, and whether it was just simply anti-competition for existing restaurants. Al Wolfgram stated that the Zoning Commission’s intent is to first pass the fast food language and restriction, then after any appeals are addressed, to then pass an elimination of the 10-seat limit. Chairman Danyliw stated that he thought the two changes should occur simultaneously, or at least in rapid succession. Linda Herman suggested that restaurant character, size, and location, could be handled through the Special Exception process. Ralph Monaco asked whether the Zoning Commission’s attorney had reviewed the language, and cautioned against outright blanket prohibition of certain types of businesses.

John Guskowski suggested that the definitions of “flood plain,” “high tide,” and related terms should be directly related and tied to definitions provided by FEMA and the State’s Coastal Area Management regulations. The Commission questioned the proposed definition of “Inn,” and generally agreed that the restriction of multiple visits per year was not appropriate, but rather a total-day-stay limit (such as 31 as proposed) would accomplish the goal of avoiding long-term-stay inns.

Al Wolfgram answered questions about the proposed definitions of “retail,” explaining it was a sales-tax distinction from wholesale businesses. He acknowledged that the language within the proposed definition of “temporary structure” relative to intent was difficult to enforce, but that’s a commonality to many regulations. Ralph Monaco questioned the use of the phrase “unnecessary hardship” in the proposed definition of “variance.” Al Wolfgram stated that he would bring these comments and considerations to the Zoning Commission.

b. Zoning Referral – Proposed Text Amendment, Section 40 (General Prohibitions)

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Al Wolfgram stated that the prohibitions proposed to be added to the Zoning Regulations were for fast-food chain restaurants and drive-through windows. This prohibition would include new banks drive-up windows as well, though existing drive-up windows would be allowed as existing nonconformities.

c. Zoning Referral – Proposed Text Amendment, Section 80 (Restaurant separation)

Al Wolfgram discussed that the Zoning Commission's approach would be to eliminate the separation distances currently within the Regulations first, while still maintaining the 10-seat cap. Following any appeals of the fast-food prohibition, he and the Zoning Commission will proceed with lifting the seating cap. Chairman Danyliw stated that he believed the consensus of the Planning Commission was that the 10-seat limit should also be eliminated as swiftly as possible.

d. Zoning Referral – Proposed Text Amendment, Section 90 (Limited Industrial)

Al Wolfgram stated that the final proposed amendment comes not from the Zoning Commission, but from a private property-owner, and declined to comment on the proposal, other than to state that the applicant sought to add additional permitted uses in the Limited Industrial District, including repair of boats and contractors' offices.

Linda Herman clarified that the proposed additional uses would be as-of-right, as opposed to Special Permit/Special Exception processes which would allow for a greater degree of scrutiny. She expressed concerns about hazardous materials, traffic generation, outdoor storage, and other visual and public safety issues. She cited a passage in the Plan of Conservation & Development relative to design standards in commercial districts and how screening was recommended. Alan Kerr stated that given that this was the Limited Industrial District, whether these were reasonable additional permitted uses. Chairman Danyliw stated that the Commission need additional time to review both the existing Limited Industrial Zoning Regulations as well as the recommendations of the PoCD before commenting on this referral. He requested that John Guskowski synopsise the Commission's comments on the Zoning Commission's proposals and prepare a memo of comment.

4. Old Business

a. Preliminary Discussion with RiverCOG about PoCD Survey and Updates

Chairman Danyliw presented an overview of the discussion that led to the concept of re-conducting public opinion surveys in Essex in advance of a PoCD update, including the recent discussions about Accessory Apartments with the Zoning Commission. Torrance Downes stated RiverCOG's interest and willingness to help at some level, and certainly with survey assistance, but updated the Commission on the new governance structure with the new 17-town region and how allocation of available staff hours is part of ongoing discussions. He stated that it is likely that RiverCOG will be able to help with PoCD updates, in a supporting role, and is also possible that additional assistance can be obtained on a fee-for-service basis.

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Different approaches to surveying the public and approaching the PoCD update were discussed. Ralph Monaco suggested that it would be also useful to also review demographic and market changes over the past few PoCD periods, such as 1985-1995 and 1995-2005. John Guskowski stated that the demographics and survey would be standard data compilation to assist the Commission in their update. Guskowski and Downes reviewed the statutory process for updating PoCDs and the relative lack of negative ramification for having an expired Plan. Guskowski also reminded the Commission that their Energy Sustainability and Ivoryton Redevelopment chapters in 2009 could be considered updates from a statutory perspective. He then suggested that he would work with RiverCOG over the next few months to propose an approach and timeline for the update. The first step would be a chapter-by-chapter review of the existing PoCD to assess if the format is still appropriate and if the PoCD needed substantial updating or revision. Torrance Downes stated that RiverCOG would be able to assist with GIS maps as well.

b. Discussion of Subdivision Regulations – Conservation Land Provisions

John Guskowski reviewed the background for considering an update of the conservation land portions of the Subdivision Regulations, and how there is simply a menu of potential methods for preserving land with no established hierarchy of preferences or mechanism for the Commission to establish and defend a preference. He also noted the phrasing of the end of Section 6.12.2.d of the Regulations referring to minimum lot standards and how that portion of the regulation should be clarified or eliminated. Ralph Monaco stated that he would prefer a private easement within a building lot should be a last resort, and that fee-simple open space parcels should be the default, for reasons of enforcement, resource protection, and density control. Chairman Danyliw questioned whether conservation easements were a desired option at all. There was a general discussion about the density preferences, particularly as related to other goals of affordable housing or accessory apartments.

Chairman Danyliw led a discussion about the fee-in-lieu option and the Commission's ability to determine if a setting-aside of land is preferable to a required fee payment, and the Commission discussed the merits and ability of the Commission to accept or require either option of an applicant. John Guskowski was asked to research other municipal regulations to see if there was appropriate language to assist the Commission in establishing a hierarchy of open space dedication preferences.

c. Ivoryton and STEAP Grant Updates

John Guskowski updated the Commission on these active and pending grants. The STEAP grant RFP is being reviewed by the State and will be posted shortly.

Neil Nichols stated that the ad-hoc group of himself, Jane Piro, Janice Atkeson, Chris Pagliuco, and John Guskowski would be meeting later in the month with consultant Phil Esser to review the process for preparing the National Register nomination for the Village of Ivoryton.

5. Report of Committees and Officers

a. Report from TOPPS (Traffic Calming) Subcommittee

John Guskowski reported that TOPPS had not met, but the Essex Public Library had assumed ownership and management of the pedestrian sign to be placed between the Library and Town Hall on Grove Street.

b. Report from Inland Wetlands Representative

In Claire Tiernan's absence, there was no Inland Wetlands report.

c. Report from RiverCOG Representative

Alan Kerr stated that there was no additional report beyond the Commission's discussion with Torrance Downes.

d. Report from Economic Development Commission Representative

Bob Laundry reported that EDC was reviewing proposed changes to the Zoning Regulations, and stated that they received a presentation from Kim Parsons-Whitaker of the CT Main Street Center. The Town has recently become a member of the CT Main Street Center, which makes it eligible for various technical resources for downtown promotion, as well as eligible for Preservation of Place Grants. John Guskowski stated that the funds for the membership came out of EDC's budget, but the initiative was one that came out of Planning and was led by First Selectman Needleman. Linda Herman stated that discussions of the CT Main Street Center also arose out of the Ivoryton Center study. Chairman Danyliw stated that EDC is an offshoot of the Planning Commission, and he believed that the Planning Commission should be kept closely informed about proposals and activities related to the use of the resources of the Main Street Center.

e. Chairman's Report

Chairman Danyliw had no additional report.

f. Planner's Report

John Guskowski reported on the status of the Open Space Sinking Fund, created by Ordinance 93-01, which currently has approximately \$220,000 available. He reviewed the language of the ordinance, which delineates the allowed uses of the funds and the Planning Commission's role in guiding the expenditures and acquisitions. He stated that he believed that there would be interest from other Boards, Commissions, and groups in recommending projects for this fund. He reported on his meeting with the Essex Land Trust Acquisition Committee and their belief that the Sinking Fund could be used exclusively for property acquisition. The Commission agreed with this interpretation. Linda Herman reviewed the Open Space Plan map that was incorporated into the PoCD. Ralph Monaco stated that he believed the Commission should solicit project ideas.

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Chairman Danyliw requested that John Guskowski prepare a memo to the EDC, Wetlands Commission, Conservation Commission, Parks & Recreation Commission, Selectmen, and the Essex Land Trust inviting submission of ideas and proposals for the use of the Sinking Fund.

6. Correspondence and Invoices

Chairman Danyliw reviewed the correspondence, which included a packet of information from the CT Main Street Center, a letter confirming the withdrawal of Terry Lomme's FOI complaint, and an invoice from Dzialo, Pickett, and Allen.

Motion to pay invoice by Alan Kerr, **seconded** by Linda Herman. **Motion carried unanimously.**

7. Adjournment

Motion to adjourn by Linda Herman, **Seconded** by Bob Laundry. **Motion carried unanimously.**
Meeting adjourned at 10:08 p.m.

Respectfully submitted,

John Guskowski
Consulting Town Planner