



ESSEX PLANNING COMMISSION

APRIL 17, 2012

7:30 p.m.

Essex Town Hall- Auditorium

REGULAR MEETING

1. Call to Order and Seating of Members

Chairman Tom Danyliw called the meeting of the Essex Planning Commission to order at 7:30 p.m.

Seated for the meeting were Chairman Tom Danyliw, Vice-Chairman Linda Herman, Carla Feroni, and Alan Kerr. Seated for Member Ralph Monaco was Alternate Bob Laundry. Also in attendance was Alternate Claire Tiernan, Planner John Guszowski, and Engineering Consultant Steve Trinkaus.

Motion to move the Agenda to Item 3a. Application Receipt: Ingham Hill Road Subdivision made by Linda Herman and **seconded** by Carla Feroni.

Motion carried unanimously

3a. Application Receipt: Ingham Hill Road Subdivision.

Attorney Brian Smith of Robinson & Cole representing River Sound Development LLC submitted a letter to the Commission explaining a perceived procedural error in filing subdivision application prior to filing a wetlands application (as opposed to simultaneous filing) for this project has led to the decision to withdraw the pending application scheduled for a Public Hearing this evening and immediately resubmit. Applicant's representative Bob Doane, PE of Doane-Collins has resubmitted the subdivision application to Planner John Guszowski.

Motion to accept the application withdrawal and the new application for subdivision and schedule a Public Hearing to begin on May 10, 2012 by Carla Feroni, **seconded** by Linda Herman.

Motion carried unanimously

Motion to suspend the Regular Meeting and move to the Public Hearing by Linda Herman, **seconded** by Carla Feroni.

Motion carried unanimously

PUBLIC HEARING

1. Call to Order and Seating of Members

Chairman Tom Danyliw called the meeting of the Essex Planning Commission to order at 7:42 p.m.

Seated for the meeting were Chairman Tom Danyliw, Vice-Chairman Linda Herman, Carla Feroni, and Alan Kerr. Seated for Member Ralph Monaco was Alternate Claire Tiernan. Also in attendance was Alternate Bob Laundy, Planner John Guskowski, and Engineering Consultant Steve Trinkaus.

2. Public Hearings

Continued: Subdivision Application – Foxboro Point (Map 16, Lot 12)

Attorney Terry Lomme presented on behalf of the applicant, Mr. Frank Sciamé. Attorney Lomme reviewed the first submitted plans for the subdivision, and presented three alternative subdivision layouts that were requested by Member Ralph Monaco at the March Public Hearing. Alternative #1 set aside 33% open space, including a reconfigured easement area along the cove and a “pocket park” of open space along Foxboro Road near the Windmill’s frontage. The park would provide public views of the Windmill and the waterfront, but have no public parking access. Alternative #2 was similar in its open space/easement layout, but would also include a small area of public parking just off Foxboro Road.

Attorney Lomme stated that either of these layouts were satisfactory to DEEP Staff member Marcy Balint. John Guskowski clarified that he had shown these layouts to Ms. Balint informally and that she said that they would meet the DEEP’s interest in securing “public access” as part of this subdivision application, but had not put her position in writing. Chairman Danyliw asked how these layouts, which did not extend public access to the water, satisfied the “public access” request. Attorney Lomme stated that “public access” could include the view over the sloping land down to the water.

Attorney Lomme then presented Alternative #3, which was a “cluster” development, setting aside an approximately 3.6 acre open space parcel along the Riverview Street frontage and clustering the seven development parcels on lots of approximately 40,000 square feet each, with three lots accessed via a new small private lane, called “Windmill Court.” Chairman Danyliw asked whether the cluster was viable. Applicant’s engineer Joe Wren, PE stated that the soils on the site could easily handle septic systems on the smaller lots. Applicant Frank Sciamé stated that he disliked this alternative and didn’t feel it was appropriate for the neighborhood and would not wish to proceed with this alternative. Attorney Lomme restated that the applicant did not like this alternative, but only presented it as a response to a direct request from the Commission.

Chairman Danyliw asked if the applicant received the letter from a group of neighbors on Foxboro Road dated April 16, 2012 and Attorney Lomme stated that yes, they had received the letter. Attorney Lomme then discussed the presence and nature of the existing open space across the street from the subject property, an 8-acre piece known as Osage Trails, that provides public parking, open space land, trails, and a small-boat launch area on the Falls River cove. He believes that this immediately adjacent open space lessens the public’s need for open space and public access on the subject property.

Applicant Frank Sciamie addressed the Commission relative to the proposed layout, stating that the layout was designed to preserve natural resources along the waterfront, preserve natural topography, and visual corridors and vistas. These are important priorities for land preservation. He is also proposing to have control over the architectural design and appearance of the new houses. Alternatives could have included placing the homes closer to the water, which could be more lucrative to the developer. Based on Connecticut's Affordable Housing Appeals procedure, health codes could theoretically allow 80 new housing units (24 affordable and 56 market-rate) on the site if the developer chose to go that way.

Chairman Danyliw asked about architectural guidelines and design control and if the Planning Commission could have authority over that. Attorney Lomme clarified the difference between the Commission requiring architectural standards (which it cannot) and accepting an offer to impose architecture standards by the applicant (which it can). It can be accepted and approved as part of the terms of approval. After-the-fact enforcement would then rest with both the Town and the developer. Planner John Guskowski clarified that the Commission would want a qualified architect to review the proposed design standards prior to the final endorsement of the subdivision plan. Chairman Danyliw asked for a legal opinion from Counsel about this matter, and Planner Guskowski will follow up on this.

Chairman Danyliw then referenced Subdivision Regulations section 5.8.2 regarding Access and Location of open space, saying that open spaces shall be "easily accessible." Alan Kerr asked on small subdivisions whether there was a real need for accessibility. Chairman Danyliw stated that "accessibility" is a vague and flexible term, as it could also relate to the ability of wildlife to access the open space. Attorney Lomme restated the "offered" vs. "required" nature of building restrictions. Chairman Danyliw stated that he did not wish the Commission to overextend its legal authority and was concerned about potential legal challenges.

Chairman Danyliw asked about the presence and location of inland wetlands and tidal wetlands on the property, and whether they were included within the easement areas and open space calculations. Joe Wren stated that there were no inland wetlands on the property and only a thin stretch of tidal wetlands along the shoreline. He was uncertain if that stretch, which he estimated to be between 3,000-4,000 square feet, was included in the open space percentage calculation, but would provide those numbers to the Commission. In either case, he was certain that the open space in the initial submittal was around 27-28%. Once the Commission provided more certain direction to the applicant, final calculations could be provided.

Joe Wren then provided to address the written comments provided by the Town's consulting review engineer, Steve Trinkaus. He noted that the majority of the comments stated that the plans were in compliance with Subdivision Regulations. He stated that the mapping was not on State Plane because the closest control point was unrealistically distant Foxboro Road, and the applicant could request a waiver of this requirement. The Erosion & Sedimentation notes will be included as part of construction notes, though as no public improvements are proposed, no E&S detail had initially been shown. Joe Wren met at the site with State Archeologist Nick Bellantoni on March 16, and once final subdivision layout is determined, a consulting archeologist will be retained to ensure that no critical resources are being affected. There are no historic archeological features currently known on the site. Stormwater drainage will be designed and dealt with on a lot-by-lot basis. Driveways are anticipated to be peastone or pervious pavers, thus encouraging infiltration. A note on the subdivision plan could be added regarding encouraging low-impact development (LID) design strategies, including directing roof runoff into the ground. Driveways and driveway sight lines will be addressed on a lot-by-lot basis. Linda Herman clarified that Steve Trinkaus' comments were based on the March 8 plan.

Steve Trinkaus, PE clarified some of the reasoning behind his review comments relative to stormwater and E&S controls. He stated that the purpose of individual lot design in a subdivision plan is to demonstrate lot suitability, and that individual lot buyers should be able to see the locations and amounts of potential site disturbance. If there are poor driveway sight lines, that should also be noted. He further stated that as roof runoff is not as “clean” as DEEP believes, owing to significant atmospheric deposition, on-site infiltration and water remediation is preferable. He recommends that the developers avoid the use of stormwater galleries so close to the water.

Joe Wren stated that he will add E&S detail to each lot and will ensure that each driveway location maximizes sight lines and public safety. He and Steve Trinkaus discussed the EPA’s position on galleries relative to Long Island Sound.

Linda Herman asked why the house sites are shown closer to the water in plan Alternative #1 and #2, to which Joe Wren responded that the depicted locations are arbitrary, and the properties are buildable virtually anywhere outside the easement area. John Randolph, Executive Vice President of Sciamé Development, Inc. stated that the staggered development locations was also in response to the negative “tract housing” commentary from the prior Public Hearing. He stated that the developers were eager for specific guidance from the Commission on the layout of the development. Frank Sciamé stated that each lot would have a view of the water, which was critical. Linda Herman asked about the septic system suitability of lots closer to the water, and Joe Wren responded that septic systems could go virtually anywhere on the lots and be pumped uphill if needed. A GeoMatrix system was proposed on Lot #2 because of the narrowing of the lot width at the test pit location and the flexibility of that system.

Chairman Danyliw then opened the discussion up to the Public for their comments. Bill Reichenbach stated that he believed that open space should have public access, and the history of the Planning Commission is to require public access on subdivision open space proposals, not just easements. He stated that the Subdivision Regulations demonstrate a preference for public access on coastal land, and that there are very limited opportunities in Essex to walk along the waterfront. He stated that the density of Essex is what makes it a special place and the proposal has too high a density. A discussion took place among the Commission as to whether there were other subdivisions that set aside only easements without public access. Chairman Danyliw stated that either publicly-accessible open space or restricted easement areas could satisfy the Regulation’s requirement for open space. Planner Guskowski reminded the Commission that Clark’s Pond Lane was a subdivision with a ring of open space that was not publicly accessible. Linda Herman believed that the Commission usually only did this in wooded locations. Chairman Danyliw stated that it was his impression that the location and nature of the open space is really the single most significant issue for this subdivision.

Strick Hyde stated that this development proposal was not on the Connecticut River, but rather was on North Cove. He grew up in the area and has seen many properties developed. Property rights are important and he understood that the developer didn’t want public access cutting across the backyards of each of the lots. The cove and shoreline are still accessible from the water.

Margaret Morris spoke to the presence and value of Osage Trails as open space and that there is water access there that can in turn access North Cove, making this water area very connected to existing open space. She agreed with Strick Hyde that this was cove-front land, not river-front.

Chip Goodrich stated that the preservation of visual corridors and vistas were the most important resource and open space preservation concerns for this proposal. He stated that Alternative #1 with no parking area was the most effective proposal for this goal. The neighbors don’t like the idea

of additional parking area on Foxboro Road. He recommended restrictions on the heights of fencing, hedges, etc.

John Bauman agreed with Chip Goodrich that Alternative #1 was preferable and the parking lot was undesirable. He stated that the North Cove shoreline was a poor location for launching boats and public access would not serve that purpose.

David Harfst stated that he was a signatory on the April 16 letter from the Foxboro Road neighbors to the developer, though he was not that group's spokesman. He thought that the compromise offered in the letter was a good mutual solution. He stated that architectural review and standards were critically important and would welcome the offer from the developer but worried about how it would be implemented and enforced. He further stated that the density of the proposal was important and the neighborhood would do better and the project could be just as successful if the proposal was less dense.

Tom Cunningham prefers either Alternative #2 or the original proposal. He prefers the view corridors and vista protection over public access. He stated that the wildlife along the shoreline, including osprey, would not do as well with increased public access.

Planner John Guskowski read into the record a letter from the Essex Conservation Commission stating its preference for public access along the water and that the 150' easement area proposed by the applicant should be accepted as a fee-simple open space parcel that could be accessible via a corridor from the street. Jeff Lovelace from the Conservation Commission clarified that the letter means the waterfront should be publicly accessible, and that a corridor could be created via a pathway from either Riverview Street or Foxboro Road.

Attorney Lomme stated that he had not been given a copy of this letter until the time of the Public Hearing, and that the Conservation Commission had not included this proposal on its most recent meeting agenda.

Greg Ellis, a co-owner of the subject property, read into the record a letter about why he and his co-owners have decided to sell the property to Frank Sciamme and why he likes the proposal. He had seen many changes in the neighborhood in the seventy years that his family has owned this land. He likes Mr. Sciamme's vision and sensitivity to the neighborhood and the environment. Public access would not allow for the protection of the sensitive wildlife at this property. He restated the value and opportunities provided by Osage Trails, and noted the twelve locations in Essex Village where the public could have direct access to the Connecticut River.

Peter Wallace stated that the windmill property was extremely important and that its preservation was of high priority to the neighbors and to the Town.

Attorney Lomme asked the Commission to provide some direction to the applicants. Planner Guskowski suggested that the Public Hearing not be closed but that Chairman Danyliw should have the Commission provide input without interruption from the public. Attorney Lomme stated again that the plan alternatives were presented because the Commission requested them. He offered to extend the public hearing until May in order to incorporate the preferences of the Commission into revised plans. Linda Herman reminded the Commission that it should get a legal opinion on the architectural standards requirement.

Chairman Danyliw stated that the alternative plans do not impress him, and that protection of views was very important but the windmill was not truly protected by any of the alternatives. He recollected that the general sentiment of the prior Public Hearing was in favor of public access.

Carla Feroni referenced the letter from Marcy Balint of the DEEP of March 7 stating that water dependent uses were of high priority, and public access was a water dependent use. She wondered about the impacts of the Commission not allowing public access in this location. Planner Guskowski believes that the State isn't regulatory in this matter, but if the Town chooses not to allow public access, the Commission would be required to reconcile its decision with the State's priorities. Chairman Danyliw stated that he did not want to incur potential adverse impacts, and Carla Feroni restated that the "highest priority and preference" was for water dependent uses. Alan Kerr wished to have more information about the weight of the DEEP's opinion on this matter. Must the Town require public access? Steve Trinkaus asked if public access would create a problem to wildlife or the integrity of the coastline itself. The Commission requested that Planner Guskowski request clarification from Marcy Balint.

Chairman Danyliw wondered why a narrow strip of public access couldn't be provided along one edge of the property to the water. Claire Tiernan asked if it was truly a hardship for the neighbors or the community if public access was not provided. Her impression was that the property wasn't particularly walkable. Chairman Danyliw stated that this sort of access is something that distinguishes Essex from many other communities, and that he thought a narrow strip would be a reasonable compromise.

Attorney Lomme showed an additional alternative plan that the applicant had prepared but had not yet presented that included a narrow (15' wide) path from Riverview Street on the south edge of the property down to an observation area near the water. He would not recommend direct water access because of intertidal rights. Chairman Danyliw asked if this would preclude the visual preservation corridors or the "pocket park." A general discussion began between the Commission and the applicants as to the purpose and best locations for a visual preservation corridor. There was general agreement among the Commission that it liked the narrow public access strip in combination with the easement area along the shoreline and a visual preservation corridor. Linda Herman stated she would like the public access strip to be slightly wider and planted with vegetation. Attorney Lomme stated that plantings should not obscure the views enjoyed by the Cunningham property.

Planner Guskowski asked if Attorney Lomme would offer an extension of the Public Hearing, to which he stated on the record that they were willing to see the Hearing extended to May 10. Chairman Danyliw asked about the "pocket park" and the purpose of establishing a view corridor there if there was no permanent protection to the windmill. He thought that the original view easement better met the purpose of maintaining views of the River from Foxboro Road. Could trees grown in the easement area? Attorney Lomme stated that the easement area would be maintained to ensure that it would not become overgrown.

Ellen Craft stated that the first proposal with a wider easement area is better for the local wildlife. Tom Cunningham stated that the area was not heavily wooded and the wildlife is abundant in the lower portions of the property where the potential public access strip would be located.

Attorney Lomme stated that the public access strip could be delineated by signage or low fencing, and could be deeded and maintained by the Town or the Land Trust. He will be in touch with the Land Trust about their potential interest in handling this area.

Discussion amongst the Commission and applicant resulted in some uncertainty about the best location and dimension of a visual corridor, so it was decided that another site walk would be a good idea to see these areas.

Kathy Maher stated that the views of the River are extremely important to the neighbors and to the Town.

Motion to hold a site visit of the Foxboro Road property on Friday, April 20 at 6:00 p.m. to see the visual corridor alternative locations by Carla Feroni, **seconded** by Linda Herman

Motion passed unanimously

Motion to continue the Public Hearing on May 10, 2012 by Alan Kerr, **seconded** by Linda Herman.

Motion passed unanimously

REGULAR MEETING

1. Call to Order and Seating of Members

Chairman Tom Danyliw reconvened the meeting of the Essex Planning Commission at 9:47 p.m.

Seated for the meeting were Chairman Tom Danyliw, Vice-Chairman Linda Herman, Carla Feroni, and Alan Kerr. Seated for Member Ralph Monaco was Alternate Claire Tiernan. Also in attendance was Alternate Bob Laundy, Alternate Neil Nichols (arrived at 9:30), Planner John Guskowski, and Engineering Consultant Steve Trinkaus.

2. Approval of Minutes

The following modifications were proposed for the minutes of March 8, 2012:

- Change "Public Hearing" to "Regular Meeting" at the top of Page 1
- Strike sentence beginning "Tom Danyliw feels it is appropriate..." from middle of large paragraph on Page 1
- Correct spelling of Marcy Balint's name on Page 2
- Strike statement by Margaret Morris on Page 3
- Add agenda item numbers on for Old Business on Page 5
- Add specific reference to "Active Adult Housing" in two motions on Page 5 referring to the proposed text changes.

Motion to approve the Minutes of March 8, 2012 as amended by Linda Herman, **seconded** by Carla Feroni.

Motion passed unanimously

3. New Business was addressed earlier in the meeting. Application was withdrawn and resubmitted, received and scheduled for a Public Hearing in May.

4. Old Business

- a. **Foxboro Point Subdivision** – Hearing continued until May
- b. **Ingham Hill Road Subdivision** - Application resubmitted and schedule for hearing in May

- c. **Transportation Study Implementation: TOPPS Subcommittee** – Planner Guskowski stated that he has requested appointments of subcommittee members from Zoning, EDC, and Traffic Authority and is awaiting these appointments
- d. **Accessory Apartment Regulations – Zoning Meeting** – The Planning Commission has been invited to the May 21, 2012 Zoning Commission meeting to discuss the Accessory Apartment Regulations and the recommendations of the Architectural Design Review Subcommittee. Chairman Danyliw will attend, and other members may attend as well. It was decided to post the meeting as a Special Meeting of the Planning Commission as well just in case three or more Commissioners would be in attendance.

5. Report of Committees and Officers

- a. **Inland Wetlands** – Claire Tiernan reported that Wetlands had a site walk of Ingham Hill Road and the public hearing was started on that application but was suspended because of concerns over the application submission procedure.
- b. **CRERPA** – Alan Kerr reported that there will be a Town Meeting soon in Essex to decide on Essex's approval of the CRERPA-Midstate RPA merger, and the Town should support it as a self-determination rather than having the State determine our regional boundaries.
- c. **Economic Development**- Bob Laundry reported that the EDC is doing outreach to businesses about how it could support them. There is also a proposed coffeeshop in Centerbrook seeking a change in the Zoning language that puts a minimum separation distance on restaurants and a restriction on restaurants on corners.
- d. **Chairman's Report** – No report
- e. **Planner's Report** – John Guskowski noted that there would be a Zoning Referral to consider at the next Planning Commission meeting, and reported on his recent meeting with the DOT to try to move forward with some intersection improvement projects and other recommended priorities of the Transportation Study.

6. Correspondence and Invoices:

Motion to pay bills by Linda Herman **seconded** by Carla Feroni.
Motion passed unanimously

7. Adjournment

Motion to adjourn at 10:25 p.m. by Alan Kerr, **seconded** by Carla Feroni
Motion passed unanimously

Respectfully submitted,

John Guskowski, AICP
Consulting Planner