



## ESSEX PLANNING & ZONING COMMISSION

### REGULAR MEETING

Tuesday, October 5, 2021

7:00 p.m.

Meeting Held in Person in Meeting Room A of Essex Town Hall and  
Via Zoom Video Conference

### DRAFT MINUTES

#### 1. Call to Order and Seating of Members

Chairman Russ Smith called the meeting to order at 7:02 p.m. In attendance for the meeting were Members Jane Siris, Gary Riggio, Robert Day, and Mark Reeves. Seated for Erin Borruso was Alternate Jeff Lovelace. Also in attendance were Alternates Tom Carroll, (via videoconference), David Rosengren (via videoconference), Land Use Official Carey Duques, Consulting Planner John Guskowski (via videoconference), and Commission Counsel Larry Shipman.

#### 2. Approval of Minutes: September 7, 2021 Regular Meeting

Motion to approve minutes of September 7, 2021 by Jane Siris, seconded by Robert Day. Jane Siris noted the length of the minutes. Motion carried unanimously.

#### 3. Public Hearing

- a. PZC Application 21-6 Text Amendment to Section 60A.3(E) of the Zoning Regulations to allow the keeping of horses in a Village Residence (VR) District with minimum 3 (three) acre land size and maximum number of horses restrictions. Agent: Thomas Metcalf, P.E. L.S.; Applicant: Mary Cunliffe Lewis and Ian Carr Lewis (*Received July 6, Continued on August 3, and September 7, 2021*)

Thomas Metcalf presented on behalf of the applicant and updated the Commission on the additional changes that had been made to the proposal, which had been submitted to the Gateway Commission, which had no comment, and include conversion of the proposed use to a Special Permit use, increased structural setbacks

from property lines to 75', increased the setbacks from barns to neighboring dwelling to 125', and requires submission of a best management practices plan. Mr. Metcalf also submitted a petition in favor of the proposal that was signed by every abutting property owner to the Main Street, Ivoryton, property that would be most directly affected by the proposal. He believes that this revision responds to the concerns expressed by neighbors and the Commission.

Chairman Smith asked if there were any questions or comments from the audience. Heather Carta asked whether the Commission had any background on horse management by which to judge whether a proposal for best management practices was appropriate. She believed that horses on properties of ten acres would be appropriate. Mark Reeves stated that he believed that enforcement of best management practices was the key issue. Ms. Carta stated her experience with horse management for the record. John Guskowski clarified the purposes and enforcement of a document, like best management practices, submitted for the record as part of a Special Permit process. Tom Metcalf likened this submission to the industrial properties' requirement in submitting a spill management plan. Jeff Lovelace stated that he had experience with horses when he lived in Missouri. David Rosengren stated that he appreciated the applicant's willingness to modify the application, he believed that an application by a single person to change the Town's approach to livestock in village areas seemed like spot zoning which is a suspect approach without advancing general benefits to the community. He did not believe that this advancing the general planning goals of the community. Attorney Shipman stated that he did not believe that this was a spot zoning application, and John Guskowski agreed and stated that spot zoning, even if this were the case, is less of a concern if the Commission could advance a specific goal of the Plan of Conservation & Development.

Gary Dayharsh stated that generally speaking, he did not agree with having livestock in residential village areas, but there were certainly exceptions on larger lots and the potential lot in question was one of them.

**Motion to close the public hearing by Robert Day, seconded by Mark Reeves. Motion carried unanimously.**

- b. **PZC Application 21- 7 Text Amendment to add Section 105 Route 9 Gateway Special Development District** to serve as a floating zone that would be permitted through a two-step Map Amendment and Special Exception application process which would allow specific uses and bulk standards as stated in the proposed section. Applicant: Planning and Zoning Commission

Planning Consultant John Guskowski introduced the proposal, which was a direct outgrowth of the recommendations of the 2015 Plan of Conservation & Development.

Jane Siris spoke in favor of the proposal and stated that while she understands the reluctance to change, this particular area of the town has great potential for increased economic activity, vitality, a mixture of use, and possibility. She asked whether the

original minimum acreage was higher, which John Guskowski clarified that it was originally two acres and reduced following discussions with stakeholders. Jane Siris also asked about the permitting process, which was discussed by John Guskowski and Attorney Shipman.

Jeff Lovelace stated that in the original Bokum node there is a provision for outdoor recreational facilities and wondered why that use was omitted from the Route 9 proposal. John Guskowski stated that the Planning Commission, in envisioning this area, believed that a different mix of uses were appropriate.

Tom Carroll stated that he was opposed to the proposal as it gave too much power to developers to push development that the Town didn't need. He is concerned about the shopkeepers of Downtown Essex and the impacts of future development and stated that he did not believe this was the right community for this type of development. He did not believe there was a huge public outcry for change and believed that most people would prefer open space. John Guskowski noted that the Commission has a broad ability for discretion and leverage over development proposals. Carey Duques noted that in many cases the underlying zoning is very cumbersome, and the proposed amendment would make a more flexible approach more possible. Mark Reeves stated that he would like development in the Route 9 area to be tough and difficult, with a great deal of scrutiny. He worried about large corporate interests leaning on the Commission that could result in damage to the other areas of Town. Carey Duques stated that Peter Decker from Witch Hazel was interested but skeptical, Herb Clark was curious but largely disinterested, and Geoff Paul was concerned about future lodging uses. Mark Reeves is concerned about large corporate proposals being forced into Town. John Guskowski reiterated the purpose of Zoning Regulations to deliver upon the goals of the Plan of Conservation & Development and noted that hotel uses were not included on the potential developments. Robert Day stated that the current regulations are already a bit complex and convoluted, and this proposal was making it more complicated. He encouraged a much simpler approach to zoning.

Attorney Terry Lomme clarified the process between the landing of the Special Development District based on a master plan and the subsequent special permit process. He further clarified the separation in timing between submitting and approving a master plan and the ultimate proceeding with a development application. He stated that he was at the meeting on behalf of the Paul Foundation, which owned Sunset Pond and expressed concerns about hotels and potential large-scale retail. He and Jane Siris discussed additional restrictions on retail, for example. Jane Siris asked about the scale and purpose of the master plan. Mark Reeves asked about scale and types of development, and John Guskowski noted that the master plan and special exception process allowed a great deal of latitude for design and development. David Rosengren stated that the good wisdom of the Commission could not be relied upon for future generations. Carey Duques asked if the use list could be refined and updated for the Commission's next consideration. The Commission discussed the existing and potential mix of uses in the immediate area and whether this approach was the right option to move the town forward.

Motion to continue the public hearing to allow staff to make some revisions to the proposal based on concerns and comments of the Commission by Jane Siris, seconded by Gary Riggio. Motion carried, 4-2, with Mark Reeves and Jeff Lovelace in opposition.

4. Old Business & Action Items

- a. PZC Application 21-6 Text Amendment to Section 60A.3(E) of the Zoning Regulations Agent: Thomas Metcalf, P.E. L.S.; Applicant: Mary Cunliffe Lewis and Ian Carr Lewis (*Received July 6, 2021, Continued on August 3 and September 7, 2021*)

The Commission discussed the proposal and its appropriate location in the regulations.

Motion to approve the application as revised by the applicant as it would provide for the maintenance of some open space, encourage participation by neighbors in review process, and retain minimum acreage for the proposed use, by Chairman Smith, seconded by Jane Siris. Jeff Lovelace stated that while he loved horses, he did not believe this minimum acreage was sufficient. Motion carried 4-2, with Mark Reeves and Jeff Lovelace in opposition. Chairman Smith stated that the effective date would be October 29, 2021.

- b. PZC Application 21- 7 Text Amendment to add Section 105 Route 9 Gateway Special Development District to serve as a floating zone that would be permitted through a two-step Map Amendment and Special Exception application process which would allow specific uses and bulk standards as stated in the proposed section. Applicant: Planning and Zoning Commission

Consideration of this application will be continued until the November meeting.

- c. Modification to Subdivision Plan- Planning Commission Application No 2-07- Landmark Interests, LLC, 3 lot subdivision. Property now owned by Essex Glen, LLC. Modification pertains to the “as-built” drainage in the right-of-way for Essex Glen Road. Removal of condition requiring a sidewalk in lieu of turnaround at the cul-de-sac at Essex Glen Drive. The modification is to be provided to Robert Doane, designated Agent for the Planning Commission (now the P&Z) for his recommendation to the Commission. (*Continued on March 2, April 6, May 4, June 1, July 6, August 3, and September 7, 2021*)

Attorney Terry Lomme presented on behalf of the applicant and reviewed progress on the list of improvements, including the road guardrail, which will be installed in the spring. He stated that the water company is awaiting further detail from adjoining property owner/developers. The sight line and street light issues have been addressed. He believed that Bob Doane was satisfied with the progress thus far. The Commission noted that State Statute extended the approval period by five years. Carey Duques noted that an updated plan set needed to be provided.

Motion to continue discussion on this matter to the November meeting by Robert Day, seconded by Mark Reeves. Motion carried unanimously.

5. **Receipt of New Applications**

- a. PZC Application 21-10 Text Amendment to Section 40A.1 of the Zoning Regulations to implement a moratorium for a period of 6 months where no application will be accepted, considered or approved and no zoning permits will be issued pertaining to marijuana dispensaries and/or producers. Applicant: Planning and Zoning Commission

Carey Duques stated that the point of the moratorium was to give the Commission time to determine how their Regulations should change (if at all) to address the topic of retail cannabis. The Commission discussed the process of examining the issue, and Attorney Shipman and Carey Duques stated that they would help provide that information to the Commission.

Motion to receive the application and schedule a public hearing to open on November 9, 2021 by Mark Reeves, seconded by Robert Day. Motion carried unanimously.

6. **Appointments/Reports from Committees and Officers**

- a. **Report from Lower CT River Valley Council of Governments**

Carey Duques stated that the Regional Housing Plan is underway, and Essex is participating despite the fact that the Town is already in compliance with the State's Affordable Housing Plan requirement. There will be a public information session on Tuesday, October 12 at 7:00, and the plan should be completed by June. A survey has been distributed.

- b. **Report from Economic Development Commission Representative**

Robert Day stated that the last meeting had been cancelled.

- c. **Report of Committee on Plan of Conservation & Development**

Carey Duques noted that the Committee had not been established but was a standing item for future meetings.

7. **Staff Reports**

- Town Planning Consultant John Guskowski noted that he had prepared an analysis of the Town's current Accessory Apartment Regulations in comparison to the new standards set forth in Public Act 21-29 which require compliance or an opt-out no later than January 1, 2023. Carey Duques proposed that staff could come up with a text amendment for the Commission's consideration in the early part of 2022.
- Land Use Official Carey Duques had two items for discussion:

- Outdoor Entertainment in the Business District – Carey Duques introduced the owner and manager of the Scotch Plains Tavern, who had been taking advantage of outdoor dining during the pandemic. Outdoor entertainment is not a standard component of the COVID-related allowances, and Carey notes that the current Regulations do not address outdoor entertainment, though outdoor seating is covered by a new state law. Mark Reeves asked about septic and water, which Carey Duques clarified would be addressed case-by-case by public health codes. She stated that because the Regulations did not consider outdoor entertainment, the use may be considered prohibited, but wanted input from the Commission.

The Commission asked about the nature of the outdoor entertainment and neighborhood complaints. Steve Cappabianca, Manager of Scotch Plains Tavern described the outdoor music hours and complaints and their efforts to appease the neighbors. Jane Siris stated that the Town and River Museum both held outdoor entertainment, and perhaps a 5-7 p.m. model was appropriate. David Rosengren stated that if the use isn't allowed, it should just be an enforcement issue. The Commission discussed other special outdoor events taking place in town. Fred Autorino, owner of the Scotch Plains Tavern stated that he was unaware that this was not a use allowed with outdoor dining, but that his diners were in favor of the music, which is generally low-key. Attorney Shipman stated that he believed that this matter may be a Town Ordinance issue and not a Zoning Regulation issue and suggested that he would investigate the appropriate regulatory entity.

- Short Term Rentals/AirBnB – Carey Duques also noted that the Commission should consider having a conversation in the future about the use of properties as short-term rentals, as opposed to multifamily leases. The matter may be one of enforcement and performance standards, but the Regulations were silent on the matter. She noted that different towns took different approaches. Attorney Shipman stated that a zoning enforcement matter is different from a law enforcement matter.

8. **Correspondence and Invoices**

None.

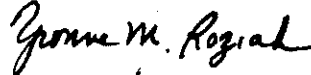
9. **Adjournment**

Motion to adjourn by Jane Siris, seconded by Robert Day. Motion carried unanimously. Meeting was adjourned at 9:25 p.m.

Respectfully submitted,

  
John Guskowski  
Consulting Town Planner

Received For Record



10/06, 2021  
Assist. Town Clerk, Essex, CT

@ 10:25  
A.M.