



# TOWN OF ESSEX PLANNING and ZONING COMMISSION

29 WEST AVENUE – ESSEX, CT 06426  
Essex Town Hall

## REGULAR MEETING

Tuesday, November 1, 2022 7PM  
Essex Town Hall Auditorium and via Zoom

### DRAFT MINUTES

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

Chairman Russ Smith called the meeting to order at 7:00 p.m. In attendance for the meeting were Members Mark Reeves, Chris Riley (via Zoom), Gary Riggio, Jane Siris, Robert Day, and Peter Fleischer. Also in attendance were Alternates Tom Carroll (via Zoom), David Rosengren, Jeff Lovelace, Land Use Official Carey Duques, Commission Counsel Larry Shipman, Town Engineer Bob Doane, and Planner John Guskowski.

**Motion to amend the agenda to move #8a regarding Essex Glen until just before the public hearing, as well as the receipt of a request to modify Application #20-04 a previously approved Special Exception under New Business by Mark Reeves, seconded by Gary Riggio. Motion carried unanimously.**

#### 2. Approval of the Minutes

- September 6, 2022 Regular Meeting

**Motion to approve minutes of September 6, 2022 meeting by Mark Reeves, seconded by Chairman Smith.** Jane Siris clarified that 10,000 square feet was for lot size, not for building unit size. Jeff Lovelace asked about the maximum stay length for short-term rentals under current regulations. **Motion carried unanimously, with Peter Fleischer abstaining**

- October 25, 2022 Special Meeting

**Motion to approve minutes of October 25, 2022 special meeting by Jane Siris, seconded by Chairman Smith. Motion carried unanimously, with Chris Riley and Robert Day abstaining.**

#### 8. Staff Reports

- Land Use Official

- Essex Glen Update: Town Engineer Bob Doane reported on the remaining improvements on the Essex Glen development. He noted: Paving is done; Seeding of area still needs to be done; Drainage needs to be addressed; Embankment on north side of Essex Glen Road needs to remain as a to-do item; The hydroseeding has been done but bond should remain until grass grows in; The cul-de-sac has been constructed; The shoulders have been graded and hydroseeded, so a portion of the bond should remain; The two finished courses of the roadway have been completed; The guiderail is yet to be completed and should be done mid-November; Some signs still remain to be placed. Nine additional trees need to be planted. The original estimate of remaining subdivision improvements needed was \$168,000, with the \$96,000 for paving complete, so less than

\$90,000 of work remain. For the Association's land: some stone needs to be checked in the stone-filled trench and he will do additional testing; The irrigation lines have been properly relocated; Curbing has been repaired; The Association will pay for tree removal; Additional topsoil and hydroseeding of Association land has been completed, but will wait for grass growth; The \$15,000 for the center island of the cul-de-sac will remain in place. The silt fence should remain until growth established; Some additional areas need to be given topsoil and hydroseeding. There is a \$188,000 bond that was recently renewed through October 2023. His recommendation is to keep this bond in place for now and he will continue to inspect progress.

### 3. Public Hearings

- **PZC Application 22-16 Text Amendment** under Section 123 of the Essex Zoning Regulations to add a section regarding Adult- Use Cannabis Cultivation and Sale and Medical Marijuana Dispensary and Production *Applicant: Planning and Zoning Commission (Application was received on August 2, 2022)*

Chairman Russ Smith introduced the topic as the result of much discussion within the Planning & Zoning Commission and that this was the opportunity for the public to speak on the matter. Carey Duques reviewed the proposed zoning map to visually display where different facilities would be subject to Special Exception. Chairman Smith invited the public to address the issue.

Roger Kern, Essex resident, spoke in opposition. He stated that the application did not have a complete and comprehensive statement for the proposed change. He stated that the proposed amendment was kicking the can down the road, questioning the grounds upon which a Special Exception could be denied. He sought clarification on the "downtown" area zoning. He noted that Deep River voted to ban recreational cannabis retailers. He noted the length and complexity of the legislative bill that created this situation and reiterated that the application was incomplete.

Robert Vitari, an Essex resident, stated that the public had very little input on this issue until this meeting. He wondered why the use would not be allowed in the Essex Village retail area. Carey Duques stated that parking and traffic were concerns. Mr. Vitari stated that several empty storefronts in Essex Village would allow for reduced traffic and parking. Larry Shipman discussed the short-visit length that would necessitate more traffic and circulation. Mr. Vitari stated that he believed that this was spot zoning to exclude different areas of Town. He thought that any potential location would be along school bus routes, therefore kids would be exposed to the use. He expressed concerns for property values and policing the uses, particularly within the 1500' radius.

Trevor Hilliar, a longtime Essex resident, commended the Commission on their work and patience. He submitted numerous documents and noted that tobacco and alcohol were much more prone to being "gateway" drugs than cannabis, and in fact cannabis could be a much less harmful method of pain management. He noted that youth cannabis use tends to decline, not increase, in legalized communities, because it reduced black-market sales and use. He contrasted the much higher mortality numbers from alcohol and tobacco with cannabis. He noted that Westbrook, another neighboring town, has chosen to accept applications for cannabis retail. Westbrook's tax authority estimated between \$100,000-\$150,000 from cannabis sales based on the allowable tax increase. He noted that the public poll in Deep River, a majority of residents did find cannabis retail was acceptable,

despite the Zoning Commission vote. He asserted that towns permitting medicinal or recreational cannabis sales have seen reductions in burglaries and violent crime. He asserted that average property values actually increased in states permitting medicinal or recreational cannabis sales. He stated that the Commission's decisions have positively affected the growth of Essex, and thanked the Commission for their work. Carey Duques clarified that the State did remove the population-based cap for licenses. Larry Shipman further clarified that the cap would remain in place through 2024, but the Department of Consumer Protection had the right to adjust that amount.

Philip Miller, Ivoryton resident and former State Representative, conveyed his experience serving on the Public Health Committee at the General Assembly and the testimony of the use of cannabis as a highly effective treatment for cancer patients as well as for children with seizure disorders. He further noted its successful use as a PTSD treatment for veterans and its effectiveness as a "exit" drug from use of stronger narcotics. He briefly reviewed the negative opinions of cannabis through the federal "War on Drugs" in the 1980s and 1990s. He was an advocate for earlier recreational use at the State Legislature. He noted the 1994 Crime Bill and the issue of restoring justice for minor drug-crime offenders. He stated that cannabis does not belong with the Schedule 1 substances at the federal level, and how President Biden has pardoned non-violent drug offenders. Finally, he noted his experiences visiting recreational cannabis facilities in Massachusetts, and how the facilities are clean, well-managed, and properly secured. He stated that he believes that such a facility would be of benefit to the town.

Kay Tucker, Ivoryton resident, reviewed her recollections of the past several decades in Essex. She stated that she was opposed to the use, expressing concern about insufficient regulation, arguing that if it was an appropriate medicine, it could be available in pharmacies.

Carey Duques read correspondence into the record from Leslie Barlow expressing concern and opposition to the proposed amendment, except for medical uses. She read correspondence from resident Patty Sisson encouraging a secure and regulated cannabis dispensary in Essex. She also read correspondence from resident Linda Grossman in favor of approving the application.

Robert Vitari discussed a former application about allowing a pharmacy with a drive-through that was denied over concerns about ruining the rural nature of Essex and noted the different opinions about cannabis and opportunity costs for the Commission's decision. Carey Duques noted that the application did not include a statement about the reasons for the submission of the application.

**Motion to close the public hearing by Robert Day, seconded by Mark Reeves.** Mark Reeves asked if the Commission extended the hearing until December but didn't extend the moratorium, could that assist the review process. John Guskowski stated that the extension of the moratorium would require another text amendment hearing. Robert Day noted the limited nature of the application relative to the overall topic of cannabis.  
**Motion carried 6-1, with Mark Reeves in opposition.**

4. **Unfinished Business/Action Items**

- **PZC Application 22-16 Text Amendment** under Section 123 of the Essex Zoning Regulations to add a section regarding Adult- Use Cannabis Cultivation and Sale and Medical Marijuana Dispensary and Production *Applicant: Planning and Zoning Commission (Application was received on August 2, 2022)*

Robert Day noted that the State Legislature has legalized recreational cannabis and if the Commission does not approve this application, the use would be allowed with any other retail use and would prefer to settle this matter now. He was opposed to the idea of extending a moratorium.

**Motion to approve application #22-16 with the reason that the State has allowed a new category of retail use in the State and it is the responsibility of the Commission to determine how best to regulate the use allowed by the State by Robert Day, seconded by Jane Siris.**

Alternate Tom Carroll (not seated for deliberations) asked that if the Town allowed certain used and disallowed other uses, like tattoo parlors, why would the Commission not consider disallowing this use? Peter Fleischer stated that it seems as if some parts of Essex would be more suitable for this proposed use than in other areas. He confirmed that the use would be prohibited in Essex Village but would be allowed in the shopping plaza in Centerbrook. Carey Duques clarified the districts where it would be allowed, in Commercial, Business, and Limited Industrial Zones, subject to a Special Exception. Peter Fleischer further clarified that there are no current applications for any such uses. Carey Duques further clarified that the reference to “Industrial Zones” should be revised to just reflect “Limited Industrial” districts. **Amendment to motion to remove reference to “Industrial Zone” as distinct from “Limited Industrial” in the proposed amendment by Robert Day, accepted by Jane Siris. Motion carried unanimously.**

**Motion to make the effective date of amendment will be December 31, 2022 at the end of the moratorium by Robert Day, seconded by Gary Riggio.**

5. **Receipt of New Applications**

- a. **PZC Application 22-18 Special Exception** under Section 101J of the Essex Zoning Regulations to build a new detached one-story barn 22’ X 30’ at **47 River Road** *Applicant/Owner: Michael Rice*

**Motion to receive application 22-18 and schedule a public hearing for December 6, 2022 PZC meeting by Jane Siris, seconded by Mark Reeves. Motion carried unanimously.**

6. **New Business**

- a. **PZC Application Modification to Special Exception 20-04**, seeking modification of an approval of a Storage Building that did not originally allow outdoor storage to provide for outdoor storage of approximately 10 boats, trailers or RVs at **35-41 Industrial Park Road, Unit #6.**

Carey Duques noted that the applicant was asking for a change to the conditions of approval of the prior Special Exception and discussed whether the Commission would consider it a minor modification. The Commission was generally in consensus in their

belief that a full revised site plan should be provided in the context of a formal Special Exception application.

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

Lower CT River Valley Council of Governments Regional Planning Committee – Carey Duques noted that the Regional Planning Committee had met, and she discussed the mandatory Commissioner training. She also noted that the CEDS study was underway, and the Regional Housing Committee would be formed shortly.

Economic Development Commission – Robert Day reported that the Commission discussed some future planning and potential UConn student projects. Larry Shipman asked whether the EDC had taken any official position on retail cannabis. Robert Day reported that there was no position.

Plan of Conservation and Development – No Report.

**8. Staff Reports**

Town Planning Consultant – John Guskowski had no additional report beyond his activity report from the October 25, 2022 meeting.

Land Use Official – Carey Duques stated that she and John Guskowski would be discussing the subject of Short-Term Rentals in the next weeks and would have a report at the December meeting. The Commission had a general discussion of clarification regarding current regulations.

**9. Correspondence**

There was no additional correspondence.

**10. Adjournment**

**Motion to adjourn by Mark Reeves, seconded by Peter Fleischer. Motion carried unanimously.** Meeting adjourned at 8:52 p.m.

Respectfully submitted,



John Guskowski, AICP  
Planning Consultant