



ESSEX PLANNING & ZONING COMMISSION

REGULAR MEETING

Tuesday, December 7, 2021

7:00 p.m.

**Meeting Held in Person in 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 7:00 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. Seated in the vacant Member seat was Alternate David Rosengren. Also in attendance were Land Use Official Carey Duques, Consulting Planner John Guskowski (via videoconference), and Commission Counsel Larry Shipman.

2. Approval of Minutes: November 9, 2021 Regular Meeting

**Motion to approve minutes of November 9, 2021 by Gary Riggio, seconded by Jeff Lovelace.
Motion carried unanimously.**

3. Public Hearing

- a. **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

Chairman Smith asked John Guskowski to summarize his proposal. John Guskowski stated that there were no text changes following the November hearing. He suggested that it was reasonable to remove the residentially-zoned properties immediately to the northeast of the Route 9 northbound on-ramp from the eligibility area because their development would likely create a difficult traffic situation. He reiterated the purpose of the Special Development District, which would cut across the six existing “landed” zones all within 1/8

of a mile of the Route 9 interchange, would be to allow some flexibility of development and redevelopment. He stated that this was only a tool and not a mandate for any property owner to be forced to do anything at all with their property, and that the bar for review and approval of both the Master Plan to land the zone and the Special Permit to review the use were very high and required public hearing processes and advancement of the goals of the Plan of Conservation & Development. The proposal was a direct recommendation of the 2015 Plan of Conservation & Development.

Motion to close the public hearing by Mark Reeves, seconded by Gary Riggio.
Motion carried unanimously.

- b. **PZC Application 21-9 Text Amendment to Section 40A.1 of the Zoning Regulations** to not allow applications for Marijuana Dispensaries and/or Producers within the Town of Essex. *Applicant: Roger J. Kern*

The applicant, Roger Kern, an Essex resident, presented his amended petition based on November hearing comments. The revised petition is a ban on exclusively commercial marijuana sales but would allow medical marijuana sales. He stated that a high-end medical marijuana facility would be very unlikely in Essex. He noted several newspaper articles in support of his concern for inappropriate use of marijuana. He stated that several other communities have already taken the lead in banning recreational marijuana.

Zenas Zelotes, an Essex resident, spoke vociferously and at some length against Essex being the regional distribution center for medical marijuana sales.

David Rosengren asked about the procedures for this hearing and application relative to the Commission's moratorium application. Larry Shipman and the Commission discussed procedure.

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

- c. **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 she raised this opportunity for the Commission to take some time to review the issue in further depth and how a moratorium would allow the Town to review options without rush. Mark Reeves suggested that a one-year moratorium would be better.

Public comment by Zenas Zelotes, an Essex resident, to keep drugs out of Essex.

Motion to close the public hearing by Mark Reeves, seconded by Jeff Lovelace.
Motion carried, unanimously.

- d. **PZC Application 21-11 Special Exception for 7 Main Street** for the conversion of the existing building to retail and proposed second floor addition within the building footprint for warehouse, storage, breakroom, offices and mechanicals. *Applicant: Essex Village Enterprises, LLC Owner: Liberty Bank*

Carey Duques noted that the application was received administratively and scheduled for a hearing, stating that newspaper notifications, abutter notification, and signage had all be posted.

Motion to formally receive application by Chairman Smith, seconded by Jane Siris. Motion carried unanimously.

Attorney Ed Cassella represented the applicant stating that the 7800 square foot former bank facility would be re-used as a retail operation with storage, warehouse, breakroom, and offices. The goal is to create a destination for womenswear and home goods. There are 13 existing parking spaces on its own lot. Mr. Cassella presented the redevelopment plans, which proposed to retain as much of the building character as possible, bringing it into ADA compliance, as well as noting some of the character-appropriate new construction components. He presented proposed signage and showed proposed interior building layout. He noted approval from the Town Health Director of the septic system.

Jane Siris confirmed that the proposal would create a full second floor, which converted some attic space and former office. Per the Health Department, the upper level needed to remain exclusively storage. Chairman Smith asked about stormwater management in the parking area, and the applicant and Commission discussed the matter along with other building renovations.

Chairman Smith asked for comments or questions from the public. There was no public input. The Commission had no further questions.

Motion to close the public hearing by Jane Siris, seconded by Robert Day. Motion carried, unanimously.

4. **Old Business & Action Items**

- a. **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

Attorney Shipman stated that the Commission did not have to make a decision today. Robert Day stated that the application was not perfect, but the proposal was better than current circumstances. He also noted that it was a direct recommendation of the Town's Plan, so if the Commission was going to deny it, perhaps the Plan needed additional review. He stated that it was adding complexity.

John Guskowski stated that while the concept is more complex, but the Special Development District would allow a sophisticated developer to cut through the conflicting proximate zones and propose something more unified.

David Rosengren stated that he generally supported the concept but had questions about how the properties to the east of Route 9 would be affected. Jane Siris agreed that the residential properties to the east of the on-ramp should be eliminated. Jeff Lovelace stated that the former proposal for a pharmacy near the Steam Train was denied for reasons of traffic generation. He stated that he was concerned about the potential negative effects on the community character. Jane Siris stated that ideally, this proposal would create developments that would be an asset to the community. John Guskowski stated that in his opinion, the traffic basis for pharmacy denial several years ago were used inappropriately. Carey Duques stated that the revised traffic standards were more sensible. Mark Reeves stated that perhaps the entire eastern portion of the proposed eligibility area was the problem area. The Commission discussed the differences between the east and west sides of Route 9. David Rosengren suggested focusing redevelopment efforts on the western side of Route 9. Carey Duques stated that much of the eastern portion was currently Limited Industrial. Robert Day discussed the long arc of character of the area, which included a factory next to a rail depot. Jane Siris suggested leaving out the properties to the east side of Route 9.

Motion to approve the application, finding it consistent with the Plan of Conservation & Development and with the elimination of the properties to the east of Route 9 from the eligibility area and with an effective date of December 31, 2021 by Mark Reeves, seconded by Robert Day. Motion carried 6-1, with Jeff Lovelace in opposition.

Motion to take up Item 4d out of order by Jeff Lovelace, seconded by Jane Siris. Motion carried unanimously.

- d. **PZC Application 21-11 Special Exception for 7 Main Street** for the conversion of the existing building to retail and proposed second floor addition within the building footprint for warehouse, storage, breakroom, offices and mechanicals. *Applicant: Essex Village Enterprises, LLC Owner: Liberty Bank*

Motion to approve application 21-11 by Chairman Smith, seconded by Gary Riggio.

Carey Duques asked whether there should be any conditions or clarification. Attorney Shipman stated that as long as the proposed use was delineated on the application, the approval should stand. The Commission asked about potential drainage and runoff mitigation conditions and hoped the developer would manage runoff appropriately.

Motion carried unanimously.

- b. **PZC Application 21-9 Text Amendment to Section 40A.1 of the Zoning Regulations** to not allow applications for Marijuana Dispensaries and/or Producers within the Town of Essex. *Applicant: Roger J. Kern*

The Commission discussed the differences between a retail and medical marijuana operation. Mark Reeves did not believe he was ready to completely foreclose the possibility of retail at this point.

Motion to deny the application so as not to foreclose the potential for retail use without further investigation by the Town by Mark Reeves, seconded by Jane Siris. Motion carried unanimously.

- c. **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: Essex Planning and Zoning Commission*

Motion to approve a one-year moratorium for marijuana dispensaries and producers to allow the Town to investigate the topic, with an effective date of December 31, 2021 by Chairman Smith, seconded by Jane Siris. Jeff Lovelace stated that there are 18 current medical marijuana dispensaries in Connecticut, with the closest facilities being in New London, Branford, and Meriden. David Rosengren stated that he believed a six-month moratorium was sufficient. Robert Day stated that the regulations could be put in place shorter than the moratorium length. Jeff Lovelace stated that marijuana is still a federally illegal drug. **Motion carried unanimously.**

- e. **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, September 7, 2021, October 5, and November 9, 2021 meeting)*

Carey Duques stated that there were no new changes. A final plan and as-built is still pending. Attorney Terry Lomme, on behalf of the applicant, confirmed that the applicant’s and Town’s Engineer were working together to come to resolution.

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

5. Receipt of New Applications

- a. **PZC Application 21-12 Special Exception for 49 Plains Road** for a 12,325 sq ft addition to the existing building to be used for Boar’s Head business and for rental space in accordance with uses permitted under Section 90. *Applicant/Owner: Piage Management Corp*

Aaron Schumacher of Doane Engineering, applicant’s representative presented the proposal for the expansion of an existing building, to be placed rearward of the existing

structure. David Rosengren noted the expansion of capacity for bologna. The Commission inquired about existing uses, building access, and neighboring properties.

Motion to receive application and schedule a public hearing for January 4, 2022 by Mark Reeves, seconded by Jeff Lovelace. Motion carried unanimously.

6. Appointments/Reports from Committees and Officers

a. Report from Lower CT River Valley Council of Governments

Jane Siris stated the final Regional PoCD had been posted on the website and is being promoted by member towns. Carey Duques stated that as Town's representative for the Regional Housing Plan, she would be setting up a follow up meeting, and several Commissioners stated they would like to participate.

b. Report from Economic Development Commission Representative

Robert Day stated that he missed the last meeting.

c. Report of Committee on Plan of Conservation & Development

Carey Duques stated that the adoption of the Route 9 Special Development District was an important implementation item, and that the Accessory Apartment discussion was pending.

d. Election of Officers

Jeff Lovelace presided over the election of officers, asking for nominations for Chairman. **Jane Siris nominated Russ Smith for Chairman. David Rosengren seconded. Election of Russ Smith was unanimous. Chairman Smith nominated Jane Siris for Vice Chairman, seconded by Robert Day. Motion carried unanimously.**

e. Adoption of 2022 Meeting Schedule

Motion to adopt 2022 meeting schedule with a continued calendar of 1st Tuesday of the month at 7:00 p.m. with application due dates by Jane Siris, seconded by Jeff Lovelace. Motion carried unanimously.

7. Staff Reports

- Town Planner John Guskowski noted that he had prepared a mark-up of the current Accessory Apartment Regulations to show what would need to be changed in order to bring the Town into compliance with State guidelines. He would distribute this to the Commission for consideration in advance of the January meeting. Robert Day discussed the logistics of the opt-out provision.
- Land Use Official Carey Duques had no further report.

8. Correspondence and Invoices

- Discussion regarding 63 South Main Street, Essex. Attorney Terry Lomme stated that he represented the new owner, Privé Suisse. Attorney Lomme reviewed the history of uses at this site, which was most recently a spa. He stated that the proposed use was a private short-term residential facility for up to eight patients/clients currently being treated for addiction. He discussed the conversations about permitting pathways, including Special Exception or modification of an existing Use Variance. Carey Duques stated that the use was close enough to the Special Exception use as a medical clinic or convalescent home or treatment center for addiction, despite the split zone for the property. Robert Day agreed with Carey's interpretation of the regulatory use. The Commission discussed regulatory processes and the specificity of Special Exceptions, and by consensus believed that the applicant should proceed with an application to Planning & Zoning. The Commission also discussed the procedure and potential to receive and hold a hearing in the same meeting, assuming all statutory timeframes had been met.
- Peter Decker stated his appreciation of the Town's attempt to clarify and improve the regulatory possibilities for the Witch Hazel factory complex.
- Chairman Smith reported that Erin Borruso has resigned from the Commission.
- Chairman Smith created a Marijuana Subcommittee for discussion during the moratorium, and named David Rosengren, Jane Siris, and Jeff Lovelace as members.

9. Adjournment

Motion to adjourn by Robert Day, seconded by Jeff Lovelace. Motion carried unanimously.
Meeting was adjourned at 9:23 p.m.

Respectfully submitted,


John Guskowski
Consulting Town Planner