



# TOWN OF ESSEX PLANNING and ZONING COMMISSION

29 WEST AVENUE – ESSEX, CT 06426  
Essex Town Hall

## PUBLIC HEARING & REGULAR MEETING

Tuesday, April 2, 2024 7PM  
Meeting held both in person and via Zoom.

### DRAFT MINUTES

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

Chairman Smith called the meeting to order at 7:01 p.m. Seated for the meeting were Members Jane Siris, Mark Reeves, Gary Riggio, and Peter Fleischer. Seated for Member Robert Day was Alternate Tom Carroll. Also in attendance were Land Use Official Carey Duques, Commission Counsel Larry Shipman, and Town Planner John Guskowski.

**Motion to amend the agenda to address the hearings on applications 24-2 and 24-3 as the first items by Mark Reeves, seconded by Tom Carroll. Motion carried unanimously.**

**Motion to continue items 24-2 and 24-3 to the May 7, 2024 PZC meeting by Mark Reeves, seconded by Peter Fleischer. Motion carried unanimously.**

#### 2. Approval of the Minutes

- March 5, 2024 Regular Meeting

**Motion to approve the minutes of March 5, 2024 by Mark Reeves, seconded by Jane Siris.** Carey Duques noted that the reference to the member of the public as “Betty” should properly be stated as Betty Loiacono. **Motion carried unanimously, with Tom Carroll abstaining.**

#### 3. Public Hearings

- **PZC Application 24-1 Special Exception** under 80A.2(D) and 80A.2(T) of the Essex Zoning Regulations to conduct seasonal outdoor events at **11 and 15 Old Deep River Rd Centerbrook**. *Applicant and Owner: Essex Steam Train Events, LLC. (Application received February 6, 2024; Public hearing opened on March 5, 2024)*

Attorney Ed Cassella re-introduced the topic to the Commission and reminded them that the general principle of the application is that the activities proposed are already happening in association with the Essex Steam Train, but this application would move some of the events to a remote location accessible primarily by train. All guests will be moved to and from the remote location by train. Only vendors and Steam Train employees will use the vehicle access from Old Deep River Road, as described in the Statement of Use. He updated the projected schedule of uses based on the current calendar, which changed since the last meeting, and offered to put the formal calendar of events for the first year on the conditions of approval. He argued that from a traffic perspective, there will be no changes, as guests will continue to park at the main Essex Steam Train location, and the visitors will use the train to proceed to the event venue. He argued that the Essex Planning & Zoning Commission does not have jurisdiction over the

opening and lowering of road-crossing gates and would not agree to a condition that changed train traffic. Chairman Smith asked about overflow parking, and Attorney Cassella stated that the Lee Company had a long-standing agreement to provide overflow parking.

Attorney Timothy Herbst presented for a concerned abutter and presented a Traffic Study prepared by Kermit Hua, PE on April 2, 2024. The abutter is the owner of the package store adjacent to the railroad tracks. Attorney Herbst stated that he believed that the parking agreement with the Lee Company should be provided to Town Staff for review. He reviewed the necessary findings of a Special Exception in the Zoning Regulations, including traffic patterns and flow as well as effects on neighboring properties.

Mr. Hua presented as an experienced traffic engineer, and noted the letter submitted (Exhibit #1) to the Commission. He assessed the frequency and duration of road crossings by the train. He stated that increased frequency of train crossings will create traffic backups on Plains Road, which is a primary access point to and from Route 9. He raised concerns about the volume of traffic and parking during peak operations accessing to and from a single driveway location on Plains Road. With over 200 parking spaces, this is categorized as a major traffic generator. He stated that placing limits on the number and size of trucks using the narrow roadway on Old Deep River Road would be appropriate conditions, particularly requiring that the applicant should demonstrate that tractor-trailers could safely access the event site from this road and the intersection with Route 154. He further argued that more analysis was needed because Plains Road is a State Road, Route 153. Attorney Herbst provided a summary, proposing several conditions of approval that would satisfy concerns, including: Per the traffic report, the Steam Train Station is a major traffic generator along three state highways, and that OSTA and DOT review the application prior to the issuance of a Certificate of Zoning Compliance or Certificate of Occupancy; per the traffic report, each road closure should last no more than five minutes nor occur more than once per hour between the limited daytime hours; that only vendors and no guests use Old Deep River Road to access the event venue; that the applicants demonstrate to the DOT District 2 that there is safe turning at the intersection of Deep River Road and Old Deep River Road; that some authority to monitor or police the absence of guest parking at the Old Deep River Road site; that a determination is made on an annual basis by staff and the Commission whether modifications need to be made to the scope and number of events; and that a bond should be implemented to guarantee compliance with the conditions. He stated that the highly unusual nature of this proposed operation should empower the Commission to require the inclusion of these conditions to ensure that impact is understood and minimized.

Attorney Cassella stated that the applicants would not agree to any of the conditions proposed by Attorney Herbst and stated that he provided a list of proposed conditions to the Commission. He described the proposed function and transportation is the basic function of the Valley Railroad now. He stated that the added events are not anticipated to require overflow parking. He stated that the Commissioners could use their own understanding of the traffic flows and judgement of the proposed activity on traffic conditions. He stated that the governing regulations currently state that the longest road closure is five minutes already. He noted that Old Deep River Road is already used and accessed by delivery vehicles and trucks, such as UPS or Amazon delivery vehicles. The proposed use would be no different in terms of size or scale of delivery vehicles. He asked the Commission to approve the application.

Jane Siris asked about current frequency of events. Maureen Quintin from the Valley Railroad stated that there were everyday use of the Valley Railroad plus approximately 50 larger events of the facility currently. Chief Mechanical Officer Wayne Hebert noted

that the meadow is north of the station, which means crossing of Route 153 (Plains Road) should not be increased at all. He described the preparation and queuing of the trains that require access to Route 153 and how more events to the north of the Steam Train would not increase the frequency of crossings of this road. He further described the protocols for emergency vehicle access and crossings.

Mark Reeves asked about how these events coordinate with the standard train traffic, and what happens in medical emergencies in the meadow area. Ms. Quintin stated that scheduling of special trains would be coordinated around the regular train schedule, and there were numerous sidings to pull trains out of the way if there were potential conflicts. Mark Reeves asked about emergency access, and Attorney Cassella stated that the Fire Marshal had signed off on the proposed use. Ms. Quintin stated that like the train and boat, there are emergency plans in place and equipment like defibrillators available.

Peter Fleischer stated that he would propose a condition of approval to understand more about the right-of-way across state roads. He stated that the events sounded potentially valuable for the community but should be limited and tracked in the first year and revisited to understand impact, particularly from a traffic perspective. He further expressed concern about traffic at the Old Deep River Road intersection. Chairman Smith opened up the hearing to members of the public.

Francis D'Mello, the owner of the package store adjacent to the tracks, asked about the statement of operation from Wednesday to Saturday, but he stated he has observed trains on Sunday. Attorney Cassella stated that the proposal should cover Sundays as well. He further asked about previous events that did not receive permission. Carey Duques stated that the Steam Train facility and train tracks were all parts of the State Park, and thus was exempt from local zoning. The use of the meadow properties are privately owned, outside the State Park, and therefore is subject to local review. Mr. D'Mello stated that every event train does cross Route 153 to prepare for its journey. Mr. Hebert disagreed with this characterization and stated that this was only during major traffic events such as the Polar Express. Peter Decker, manager of the Witch Hazel Works, suggested that previous traffic studies done in this area, including the Witch Hazel properties, could supplement the Commission's understanding, as could the Essex Station apartments study. He further stated that there is an additional maintained emergency right-of-way across the Witch Hazel property as needed. Martha Moody from Dennison Road stated she was interested in knowing more about current and proposed noise levels. She suggested another visit to Old Dennison Road trestle area and that emergency egress should be studied. She stated that the trestle could provide quicker access for first responders, and was close to the Essex ambulance barn. Ms. Quintin recapped the discussions and approvals from the Fire Marshal. Mike Ferguson asked about handicap guest access. Ms. Quintin stated that unfortunately the trains were not generally handicap accessible unless the guest can get on and off the train. Attorney Cassella stated that there was no allowance for guests to arrive other than on the train. Ms. Quintin stated that there would be a maximum of twenty events for the first year, including two weddings, pumpkin patch trains, but excluding the circus this year.

Gary Riggio asked for further explanation of the entrance to the property off of Old Deep River Road. Attorney Cassella stated that the entrance was alongside the tracks, within the State's right-of-way. Gary Riggio stated that he had concern about the narrowness of Old Deep River Road, as well as the noise from the generator and lights for events, and their effect on the neighbors. Attorney Cassella stated that the generator was not disruptive and was quieter than the train itself. Gary Riggio asked about future tree clearing, and Attorney Cassella stated that much of the woods were in the upland review area of the Falls River. He stated that part of the statement of use was a pledge not to clear trees. Carey Duques stated that the meadow goes all the way to the Falls River, and

anyone on the other side of the river who cleared trees would also need wetlands approval. Gary Riggio asked whether the trains would be sitting in place during the events. Ms. Quintin stated that the wedding events were just for the ceremony, and the receptions would take place in the Steam Train station building. There are never more than eight cars on a train, with a maximum of 60 per passenger car. Dining cars hold fewer. Tom Carroll asked about the largest capacity event, which is the North Pole Express. Ms. Quintin stated that the maximum daily throughput was nearly 4,000 visitors. Jane Siris stated that the focus should be on the use of the meadow area. Ms. Quintin stated that the State does regular traffic analysis of the area. Chairman Smith asked about hours of operation, and Ms. Quintin stated that trains are all returned no later than 10:00 or 10:30 p.m. Jane Siris stated that the proposal was for 20 events, and Peter Fleischer stated that he would recommend a lower number. In response to a question from Martha Moody, Chairman Smith stated that the Commission does not measure noise. Gary Riggio clarified that the current set of events did not include proposed loud music, and Peter Fleischer stated that it could still happen in the future. Mark Reeves asked about limiting the size of vendor vehicles. Ms. Quintin stated that they had no intention of using large vehicles. Mark Reeves warned about future conditions and larger events that may require larger vehicle access. He reiterated his concerns about emergency access, and there was a discussion about reasonable numbers of attendees. Attorney Cassella stated that they would accept a condition of no vehicles longer than 40' accessing via Old Deep River Road.

Ruth Morrison asked whether multiple events could be run concurrently, and Ms. Quintin stated that there was only one set of tracks at the meadow, so additional trains could not pass that location during events. Mark Reeves confirmed that the train and passenger cars would be in place in the meadow during events, so additional traffic on the tracks would not be traveling. Attorney Cassella stated that the first year did have a limited number of events and was willing to work with the Town. Emergency plans were in place, and would depend on the nature of the emergency and location. Mr. D'Mello submitted a letter for the record (Exhibit 2). Attorney Herbst stated that he understands the Commission's concern and stated that the Commission was under no obligation to act on the application this evening, and conditions could be considered and drafted deliberately.

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

- **PZC Application 24-4 Special Exception** under 70A.2(B) of the Essex Zoning Regulations for a new nail and hair salon at **12 Main Street Essex**. *Applicant: Maria Malla and Owner: 12 Main LLC*

*Application was withdrawn.*

- **PZC Application 24-2 Text Amendment** under Section 123 of the Essex Zoning Regulations to create the Bokum Corner Development District (BCDD). *Applicant: Essex Planning and Zoning Commission. (Application received February 6, 2024; Public hearing opened on March 5, 2024)*

*Public Hearing for Application was continued.*

- **PZC Application 24-3 Text Amendment** under Section 123 of the Essex Zoning Regulations to create parcel standards for nonconforming non-waterfront parcels located in the Village Residence Zone. *Applicant: Essex Planning and Zoning*

*Commission. (Application received February 6, 2024; Public hearing opened on March 5, 2024)*

*Public Hearing for Application was continued.*

4. **Unfinished Business/Action Items**

- **PZC Application 24-1 Special Exception** under 80A.2(D) and 80A.2(T) of the Essex Zoning Regulations to conduct seasonal outdoor events at **11 and 15 Old Deep River Rd Centerbrook**. *Applicant and Owner: Essex Steam Train Events, LLC. (Application received February 6, 2024; Public hearing opened on March 5, 2024)*

**Motion to approve the application with the following conditions: requiring coordination with emergency personnel before each event; requiring a traffic study specifically along Route 154 and Old Deep River Road and including closings of Routes 153 and 154 during the days of meadow events submitted to the Commission by the December 2024 meeting; review by the Commission for potential changes or renewal of permit no later than February 2025; limiting the events to 15 events for the rest of 2024; by Peter Fleischer, seconded by Mark Reeves.** Jane Siris stated that a first year cap on events should be set at 12, but disagreed with a traffic study, because they are not really increasing traffic, and no vehicle traffic on the subject meadow properties. She was ok with a traffic study at the intersection at Old Deep River Road. Peter Fleischer stated that the effect should be studied before increased activity is allowed. Tom Carroll agreed with limiting events and reviewing annually. Mark Reeves suggested amending the motion to cap guests at 250 accessing the meadow properties and not allow amplified music after 8:00 p.m. Peter Fleischer stated that he was amenable to those additional conditions and the Commission reviewed the motion. Attorney Shipman stated that a one-year Special Exception was valid. Chairman Smith asked about increasing events to twenty, and the Commission settled on 15 events. The Commission discussed their authority and involvement in the business planning for the Steam Train relative to community impact. **Motion carried unanimously.**

**Motion to amend the agenda to include receipt a new application – Application PZC 24-8, by Jane Siris, seconded by Mark Reeves.**

5. **Receipt of New Applications**

- **PZC Application 24-5 Special Exception** under 70A.2(H) of the Essex Zoning Regulations regarding adding seating at Privateers Pizza at **53 Main Street Essex** also known as **55 Main Street Essex**. *Applicant: John Hajnal and Owner: Carlson Landing I LLC*

Carey Duques stated that Privateers Pizza did not have a Special Exception for a full restaurant use with indoor seating that may involve a liquor license in the future. This would require a public hearing. The Commission discussed the pending public hearings for the Bokum Node and other text amendment.

**Motion to continue the public hearings for Applications 24-2 and 24-3 to the June 4, 2024 PZC meeting by Mark Reeves, seconded by Jane Siris. Motion received unanimously.**

**Motion to receive application 24-5 and schedule a public hearing for May 7, 2024 PZC meeting by Peter Fleischer, seconded by Jane Siris. Motion carried unanimously.**

- **PZC Application 24-6 Site Plan** under 101J.1. of the Essex Zoning Regulations for a 45 sf addition to the single family home that exceeds 4,000 sf total floor area at **10 Benson Lane Essex**. *Applicant: Attorney Edward Cassella; Owner: Marc and Elizabeth Schnitzer*

Carey Duques stated that this application was required because exceeding 4,000 square feet is subject to Gateway District regulations, but the Commission could deem this a Site Plan application. The matter could not be decided at this meeting because signage needs to be posted on the subject property. Carey Duques and Peter Fleischer discussed Gateway review. Attorney Ed Cassella reviewed the current approvals with the Commission and Carey Duques recommended updating the Site Plan to make these matters clear.

**Motion to treat this matter as a Site Plan review and place it on the May 7, 2024 PZC meeting by Jane Siris, seconded by Tom Carroll. Motion carried unanimously.**

- **PZC Application 24-7 Special Exception** under 101J of the Essex Zoning Regulations for modifications to the existing single-family home that exceeds 4,000 sf total floor area including an addition to the southern side, addition of a chimney to the southern side of the house, alteration to the existing garage and modifications to the second floor balcony at **159 River Road Essex**. *Applicant/Owner: Norman and Sarah Livingston*

**Motion to treat this matter as a Site Plan review and place it on the May 7, 2024 PZC meeting by Jane Siris, seconded by Tom Carroll. Motion carried unanimously.**

- **PZC Application 24-8 Site Plan Review:** Proposed one-bedroom sleeping unit on the second floor of a commercial office building at 190 Westbrook Road, *Applicant: Tiffany Brook Condominium Association/Sunny Day Old Saybrook, LLC*

**Motion to receive application and place the matter on the May 7, 2024 agenda by Jane Siris, seconded by Mark Reeves. Motion carried unanimously.**

## 6. New Business

There was no additional new business.

## 7. Appointments/Reports from Committees and Officers

- Lower CT River Valley Council of Governments Regional Planning Committee
  - o **Regional Housing Committee:** Carey Duques distributed a link to the State's Plan of Conservation & Development 2025, which is in draft form. There was no report from the Housing Committee
- **Economic Development Commission:** There was no formal report from Robert Day
- **Plan of Conservation and Development:** No report.

8. **Staff Reports**

- Town Planning Consultant: John Guskowski stated that revisions were made to the Hubbard Field improvements and the Essex Harbor Management Plan and that he would further be working with Jeff Going and others on a Thatchbed Island restoration project. Jane Siris asked about the PZC's potential review of the Hubbard Field improvements, and Carey Duques stated that it was unlikely to fall under PZC jurisdiction.
  
- Land Use Official
  - o Essex Glen Update: Carey Duques noted an email correspondence that had been circulated to the Commission from Michael Miller from Unit #6 and she further stated that she corresponded with the HOA leadership about the retaining wall behind Unit #26, erosion behind Unit #12, and discussed some recent landscaping photos. Some landscape details needed addressing, and she and Attorney Royston were in touch with developer's representatives. Mr. Miller addressed the Commission and stated that he believed the Commission released the landscaping bond for his property despite the work not being completed. The Commission discussed the landscape work relative to lawn, topsoil, and other elements. Attorney Shipman and Carey Duques reviewed the remaining bond held and the remaining items to be addressed, as well as the authority the Commission provided to Carey Duques. The Commission recommended that Mr. Miller retain an attorney if he had ongoing concerns.

Peter Fleischer addressed proposed protocols at public hearings. Attorney Shipman and the Commission discussed conduct and protocols.

- o Short Term Rentals: Carey Duques stated that the ordinance would be held on April 17<sup>th</sup>, and progress has been made.

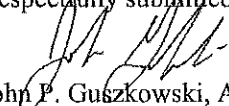
9. **Correspondence**

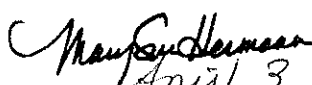
There was no additional correspondence.

10. **Adjournment**

Motion to adjourn by Jane Siris, seconded by Peter Fleischer. Motion carried unanimously.  
The meeting adjourned at 9:24 p.m.

Respectfully submitted,

  
John P. Guskowski, AICP, CZEO  
Town Planner (Consulting)

**Received For Record**  
  
April 3, 2024 3:05pm  
**Assist. Town Clerk, Essex, CT** 7

Received For Record  
*[Signature]*  
Asst. Town Clerk, Essex, CT