

**ESSEX ZONING COMMISSION
29 WEST AVENUE – ESSEX, CT 06426**

**Special Meeting
Draft**

**Monday, April 25, 2011
Town Hall – Auditorium
Essex, Connecticut
7:00 p.m.**

PUBLIC HEARING

The Public Hearing was called to order at 7:25 p.m. by Zoning Chairman Al Wolfgram.
Secretary Larry Shipman, for the following applications, read the Notice into the record:

Application 11-1 – Petition submitted by the Essex Zoning Commission to amend a district boundary for three (3) properties along Industrial Park Road and for a newly created Business District along a portion of Plains Rd.

Application 11-2 – Petition submitted by Essex Zoning Commission to amend text in Section 90 of the zoning regulations and add “Manufacturing – Light” to definitions.

Application 11-3 – Petition submitted by the Essex Zoning Commission to establish a new section to the zoning regulations for a newly created Business Zone.
Publication dates were April 14 and 21, 2011.
The entire legal notice is available on the Town of Essex website.

Call to order and Seating of members:

Seated for the Public Hearing were Chair Al Wolfgram, Secretary Larry Shipman, regular member Lillian Mosa, and alternate Jim Hill for Susan Uihlein.
Also in attendance were alternate Bill Reichenbach, Attorney Peter Sipples, Zoning Enforcement Officer Joseph Budrow, and former Zoning Enforcement Officer Marian Staye.

Secretary Larry Shipman read correspondence from the Planning Commission discussing their review of the proposed amendments. The Planning Commission was very pleased with the proposals. One area of concern was with Special Principal Uses. With the allowance of mixed use and second floor multi-family, the Planning Commission would like the proposal expanded to permit construction of new multi-family development, and to allow redevelopment of older, large existing

residential buildings for mixed use and multi-family use. This corresponds with the goals of the 2005 Plan of Conservation and Development.

Letters were received from the CT Marine Trade Assoc., Grant W. Westerson, President, and Janet A. Irving, (12 and 14 Plains Rd.) property owners, in favor of the proposed zone district change, as it would greatly enhance the area. Six properties have been left out since the boundary is set at the Valley Railroad rather than the Rt. 9 area. This small group of properties on the south side of Plains Rd. should not be excluded from the proposed business district. The greatly increased number of uses should be available to these properties. This might also constitute illegal spot zoning. The new regulations should apply to the entirety of Plains Rd.

Former ZEO Marian Staye gave the presentation on the proposed changes to the Essex Zoning Regulations.

The key changes to the Essex Zoning Regulations are as follows:

1. Modernize Section 90 – Limited Industrial Zone Regulations
2. Add the definition of *Light Manufacturing* to Section 20
3. Adjustments so that the LI zone boundary agrees with property boundary
4. New Business Zone and regulations (Section 82) on Plains Road

The history of the Limited Industrial Zone was reviewed, noting that the Limited Industrial Zone regulations have not had a comprehensive update since the early 1970's. The Planning and Zoning Commissions began discussions of revisions beginning in 2003. Broad suggestions were included in the 2005 Plan of Conservation and Development. Concerns were with limited environmental and aesthetic controls, visibility and types of heavy industrial uses. The need for continued industrial tax base was also recognized.

Another purpose is to update and modernize allowed uses within the zone without creating many nonconforming uses for current property owners or tenants.

A definition of *light industrial* has been added.

MANUFACTURING-LIGHT. These industries are characterized as lower intensity, cleaner and generally more compatible when located adjacent to commercial areas than are heavy manufacturing uses. Limited industrial districts are intended to permit only those light industrial and other uses that will not generate excessive noise, particulate matter, vibration, smoke, dust, gas, fumes, odors, radiation and other nuisance characteristics, Light manufacturing is capable of operation in such a manner as to control the external effects of the manufacturing process, such as odors, vibrations, emissions, and other nuisance characteristics through prevention or mitigation devices and conduct of operations within the confines of buildings. Existing allowed "as of right" and Special Exception uses were systematically reviewed.

Any existing use that is eliminated will be allowed to continue as a nonconforming use.

Most current uses are still allowed but some uses are better clarified including: “publishing”; storage warehouses; storage requirements and standards for contractors’ yards; restrictions to sales, storage, and distribution of propane; elimination of radio and television broadcasting stations; and elimination of trash, rubbish and garbage collection enterprises.

A formatting change organizes allowed uses under the *Light Manufacturing* heading. *Stormwater management regulations* were added per the CT Environmental standards to reduce non-point source pollutants.

Best Management Practices standards for use and storage of hazardous materials were added.

Proposed boundary changes to properties along Industrial Park Rd. were reviewed. The changes align the Limited Industrial zone boundary with the property boundary for three properties, eliminate nonconforming use (Centerbrook Cemetery is now all rural (RU)), and eliminate confusion about use and coverage issues.

The Plains Rd. area was discussed. It is a major thoroughfare, and currently LI and part commercial. Many properties along the road have fairly small land areas and the Victorians and small capes should be preserved. Enhancing the appearance of Plains Rd. while maintaining a sense of history and architectural diversity is desired.

Goals of the proposals are:

- Recognize the need for commercial and industrial uses in the zone
- Enhance the appearance of Plains Rd. to minimize the typical industrial roadway look
- Expand the complementary uses in the Commercial zone along Plains Rd.
- Eliminate some of the industrial uses that are allowed in the LI zone

Overview:

- Follows the existing property boundary lines for the new Business Zone where possible
- Allows different business uses that encourage a variety of economic development alternatives
- Encourage business uses such as contractors or businesses with walk-in clientele
- Most uses will require Special Exception approval by the Zoning Commission and more design consideration than current regulations

No retail use

- 2005 Plan of Conservation and Development discourages regional shopping attractions i.e., strip malls
- Initial Planning Commission input was to encourage business office uses along Plains Rd.
- Maintains and encourages the preservation of the existing small-scale buildings that are on Plains Road for less industrial character along the street

- Provides residential alternatives (currently single family use not allowed)
- Allows existing residential structures to be maintained and altered
- Allows customary home occupations
- May provide affordable housing – second floor apartments

General Principal Uses Allowed (as-of-right):

- One family dwelling existing prior to the adoption of these regulations.
Changes to the dwelling shall not be considered an expansion of a nonconforming use (C not LI)
- Customary home occupations (C not in LI)
- Professional and business offices and financial institutions not exceeding 1,800 sq. ft. (C not LI)

It seemed logical to expand uses of commercial, and to expand boundaries of some properties trying to follow property lines. It would allow economic development alternatives. Most will require permits from Zoning to allow more stringent consideration.

Business zone would allow existing businesses to remain and allow affordable housing.

Special Principal/Exception Uses:

- A. Conversion of existing residential use to second floor multi-family (new to LI)
- B. Corporate headquarters, non-retail financial institutions, business and professional offices over 1,800 sq. ft. (C and LI)
- C. *Light Manufacturing* (LI not C but subject to more design controls)
- D. Restaurants and food service establishments (new)
- E. Barber shop, beauty parlor, or similar retail service establishments (C not LI)
- F. Emergency medical transportation services (C not LI)
- G. Municipal facilities (C not LI)
- H. Farm, truck or nursery gardening (no animals) (LI not C)
- I. Farm stands (LI not C)
- J. Recreational uses (LI)
- K. Artist studios (C not LI)
- L. Churches, synagogues and other places of worship (C not LI)
- M. Clubs and fraternal organizations (C not LI)
- N. Daycare facility or nursery school (C not LI)
- O. Private schools (C not LI)
- P. Undertakers establishments (C not LI)
- Q. Veterinary hospitals w/o boarding (C not LI)

Overview – Other Conditions:

- Specific Landscaping requirements *
- Sidewalks*
- Bicycle path as dictated by the Transportation Plan*
- Parking to the side and rear*

- Stormwater and best Management Practices that meet CT DEP and EPA standards*

Planning Commission Recommendations*

- Under the Special Exception provision: Allow multi-family housing to all floors of a building and possible townhouse construction where appropriate

Maps were reviewed.

Regarding the letters requesting the 6 properties be included, Marian Staye said those were not included because they seemed currently to be more industrial, and the railroad boundary made sense. It can be reviewed by the Zoning Commission and changed.

Chairman Al Wolfgram called for questions of fact.

There was a request for the definition of retail use. The Zoning Commission imposes rules and regulations but anyone can go to ZBA to make a case for a variance to the regulations. ZBA is out of Zoning Commissions control.

Ted Sullivan asked about some properties that are deep and long, is it the frontage that has changed? There was discussion and review of property boundaries.

Morgan Stanley property owner asked about including properties on the south side of Saybrook Rd. That can be considered in the next phase.

Charles Irving asked how specific uses were considered in the selection process. Relatively selective uses have been chosen. Planning Commission recommendations were considered and Zoning Commission members had input as well as the definition of Light Industrial.

Looking at current uses in the commercial zone and balancing them with current uses in LI zone was part of the process.

It was explained that this is a 2- phase process. It is a work in progress and there can be more additions in future. Historically, big changes have been met with resistance. As the owner of 2 properties on Plains Rd., Charles Irving noted this makes it restrictive to sell properties with current uses.

Lynn Giroux from Essex Savings Bank asked for clarification of the difference between corporate headquarters and non-retail financial institution. Would it include financial advisory businesses? Marian Staye believes a financial service would be included.

Tom Rose, 124 Plains Rd. asked if there would be a traffic study. There should not be a major impact to traffic. If there is a special exception or special permit application then traffic impact is considered.

Joe Armenia asked if there is a provision for uses that have been deleted. Marian Staye explained that they are allowed to continue until abandonment.

Rob Barlow, 18 Plains Rd., wants his property included.

A question was asked to clarify retail service establishment /similar retail service establishment. In other towns it is called a personal service establishment. As in a

nail salon, the product sold is not the primary operation. A possible wording alternative would be to take out “retail”.

Charles Irving asked about the Business District and the why the 6 properties between the RR tracks and Rt. 9 were not included if the purpose is to allow for mixed use development along Plains Rd. Al Wolfram responded that there was no particular reason; it was based on the geography and what seemed like a natural boundary after looking at current uses in those properties. It was not intentional or exclusionary.

Attorney Sipples stated that minor modifications could be made based on the Public Hearing.

Joe Shea, 32 Plains Rd. asked about the right of way, and if it is considered a street. The 25 ft. buffer is not required.

Will money be available for streetscaping? The Planning Commission is working on this through the Transportation Study in progress.

Jim Clark, 40 Plains Rd., asked if sidewalks would be required. If it doesn’t come before Zoning Commission then an owner probably wouldn’t be required to put in sidewalk.

Lillian Mosa asked how difficult is it to include the property owners not included. The legal notice did not include them. It can it be an amendment, but it is cleaner to do it separately. This can be proposed by the Zoning Commission or by any individual.

Bill Reichenbach asked about an application that is not specifically on the list. Wording has “Similar to” so it is not restricted but would be a special exception.

Chair Al Wolfram asked for comments in favor of the proposal.

Attorney Campbell Hudson spoke for Clark Group, which leases over 50 separate spaces in the current Limited Industrial zone. These are a critical part of the economic fabric of the community. He is generally in favor of the improvements to the existing regulations but feels this should be accomplished carefully so as not to discourage industrial uses and add unnecessary costs thereto and does not result in a number of non-conformities being created. Over the past decade there has been a decline in the grand list. The proposals may have the affect of making it more difficult to establish or maintain commercial uses. Several recommendations were given for Section 90 – Limited Industrial Zone, Section 82 – Business District, and a map change.

Gary Dayharsh spoke in favor of including the 6 properties and his 2 properties on Saybrook Rd.

A representative of Structural Graphics stated in favor.

Charles Irving wants the impetus for including the 6 properties to come from the Zoning Commission and not expect individual owners to bring it to the Commission. Michael Ballinger, 70 Plains Rd., is very much in favor.

Lynn Giroux, Essex Savings Bank is in favor but feels that the wording regarding financial institutions should be reviewed and clarified.

Joe Armenia, 42 Plains Rd. is in favor with the provision providing there are no additional restrictions.

Attorney Chris Smith, Shipman and Goodwin, spoke on behalf of Ken and Judy Bombaci, 45 Plains Rd. Submitted to the Commission was proposed additional language that would help to ensure that the Bombaci family's existing business is a protected and permitted use subsequent to the applications being approved. Joe Shea, 30 Plains Rd., has the same request as Ken Bombaci doesn't want his Construction Co. to become nonconforming. His equipment is kept in the back.

There was a call for those to speak against the application and there were none.

Motion was made by Larry Shipman to continue the Public Hearing for proposed amendments to the Zoning Regulations - Applications 11-1, 11-2, 11-3. Seconded by Lillian Mosa. Motion carried.

REGULAR MEETING

Seated for the regular meeting were Chair Al Wolfgram, Secretary Larry Shipman, Lillian Mosa, and alternate Bill Reichenbach for Susan Uihlein.

1. NEW BUSINESS - none

2. OLD BUSINESS

Memorandum of Decision – Application 10-15, Von Ahnen
Commercial district - A special exception is granted for a pastry shop at 31-33 Main St., Centerbrook. Attorney Peter Sipples reviewed the conditions.

Motion was made by Larry Shipman to approve the Memorandum of Decision for Application 10-15, Von Ahnen. Seconded by Lillian Mosa. Motion carried.

3. RECEIPT OF NEW APPLICATION - none

4. VISITORS AND GUESTS

- Marc Levine principal of EG LLC, re: Essex Glen spoke about the Essex Glen proposal for 55 and older housing. The recession has affected this housing market, and people are not coming forth to purchase units. He discussed the project on an informal basis as prelude to a formal application. He is not proposing to change the project. The change from the legal restriction that is currently in place from age restricted to age targeted was discussed. The design of the project will not appeal to "families". It will remain condos not apartments. Attorney Peter Sipples noted that it would be a special exception, or an amendment to a special exception, and it may necessitate change in the regulation.

Jim Rawn - re: Park & Rec. basketball court project.

He is asking for the leaders of Commissions and Town to financially support the project. Tax-deductible contributions can be made to the town with use of an existing vehicle. They need to raise \$177,000 and have already received \$40,000.

5. REPORTS FROM LEGAL COUNSEL AND ZONING ENFORCEMENT AGENT

Attorney Peter Sipples reported on the Rite Aid appeal. It was agreed upon and ordered that Rite Aid brief will be filed on May 27 and the reply brief will be filed on July 1. It will then take a few weeks to a few months.

Joe Budrow will get history and go forward with the issues at the Ivoryton Inn. He will get active in enforcement, particularly with 2 properties at the top of Walnut St. Gualazzi Construction has expanded as an outside tenant is being allowed to bring in equipment. Across the street, an electric company is parking.

The Dunkin Donuts loading has moved out to Dennison Rd. Delivery restriction conditions need to be checked. There is a safety issue with this.

A hoop structure on the right of way on Brookside will be checked.

An access road is being built off Eagle Ridge and being used to store equipment.

A wholesale warehouse used to be in Ivoryton but now selling out of 25 Saybrook Rd. It is operating as retail not in a retail zone. It can be a warehouse, but 40b3 discusses multiple uses. Lillian Mosa questioned the signs there. There needs to be a sign ordinance.

6. ENFORCEMENT UPDATES

7. OTHER BUSINESS

Hope Proctor has resigned from the Commission so that position needs to be filled.

8. APPROVAL OF MINUTES

December 20, 2010 and January 24, 2010

Motion was made by Larry Shipman to approve the minutes of the December 20, 2010 meeting. Seconded by Lillian Mosa. Motion carried.

Motion made by Larry Shipman to approve the minutes of the January 24, 2011 meeting. Seconded by Lillian Mosa. Motion carried.

An article from The Day newspaper was reviewed entitled EPA Selects Essex for Sustainable Communities Program. Of particular interest was the following: In the letter of application to EPA, Guskowski said the PCD discusses such smart growth initiatives as "encouraging compact development; mixing of uses; development of bicycle, pedestrian, and transit facilities; and the preservation of open space," but the regulatory environment has hampered the realization of these goals.

“For many years the challenge to the town has been how to appropriately prioritize these goals within a regulatory regime that is both fair and flexible.....Essex most certainly is a small city with smart growth visions, but the limitations of economics and infrastructure create problems,” he said.

Refinement of the town’s PCD and the identification of key changes to the zoning regulations are two major goals of the project.

9. CORRESPONDENCES AND PAYMENT OF BILLS

Bills and invoices were reviewed.

Motion by Larry Shipman to approve payment of invoices subject to availability of funds. Seconded by Lillian Mosa. Motion carried.

10. ADJOURNMENT

Motion to adjourn at 10:20 pm. Motion carried.

Respectfully submitted,

Sandra Meinsen
Acting Recording Secretary