

1 ESSEX PLANNING COMMISSION
2 July 28, 2016

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4 **STAFF REPORT**

5 Prepared by Greg Duggan, Town Planner
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7 **BOUNDARY ADJUSTMENT**
8 **SIMPLE PARCEL**
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11 **I. Applicant**

12
13 Renzo White
14 75 Brigham Hill Lane
15 Essex Jct., VT 05452
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17 Brigham Hill Associates, LLC
18 75 Brigham Hill Lane
19 Essex Jct., VT 05452
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22 **II. Proposal**
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24 The applicant is seeking approval for a simple parcel subdivision of a 25.3-acre lot at 75
25 Brigham Hill Lane, Tax Map 17, Tax Parcel 1, as well as a boundary adjustment of 5.3 acres
26 between 75 Brigham Hill Lane and 67 Brigham Hill Lane, Tax Map 17, Tax Parcel 1-2. The lots
27 are located in a Conservation (C1) zoning district.
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29 The applicant described the proposed changes in a project narrative, dated June 27, 2016:
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31 *Ms. White now proposes to subdivide a 10 acre lot from her 25.3 acre parcel. The new lot*
32 *(Lot 2) is proposed for eventual construction of a single family residence. Her existing*
33 *single family home will be retained on a 10 acre lot (Lot 1). The remaining 5.3 acres will*
34 *be conveyed as a boundary adjustment to the adjoining lands owned by Brigham Hill*
35 *Associates, LLC.*
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37 The narrative also describes the history of the neighboring parcel that will be part of the
38 boundary adjustment:
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40 *In 2006 the Ms. White subdivided the subject 25.3 acre property from a 123.9 acre parcel*
41 *on the westerly side of Brigham Hill Lane. The 25.3 acre lot contains her existing*
42 *residence while the remaining 98.6 acres of undeveloped land is now owned by Brigham*
43 *Hill Associates, LLC. The preceding LLC ... was formed by Ms. White and other*
44 *members of her family*
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46 Neighboring properties are in the C1 district and contain residences and undeveloped land.

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III. Background

The Planning Commission, in October 2005, gave Final Plan approval to a two-lot subdivision that led to the creation of the 25.3-acre lot at 75 Brigham Hill Lane and a 93-acre lot at 67 Brigham Hill Lane.

IV. Article II, Section 2.5 of the Subdivision Regulations: Simple Parceling and Boundary Adjustments

The applicant has applied for simple parcel subdivision approval pursuant to the *Town of Essex Outside the Village of Essex Junction Official Subdivision Regulations*. The *Subdivision Regulations* require simple parcel subdivisions to satisfy the conditions of Section 2.5(A).

(A) Plans

The Applicant has submitted the following plan:

- Sheet S1, “2 Lot Subdivision Wastewater System & Water Supply, Renzo L. White, 75 Brigham Hill Lane, Essex – Vermont,” prepared by Willis Design Assoc., Inc., dated 6/8/16.
- Sheet D1, “2 Lot Subdivision Wastewater System & Water Supply, Renzo L. White, 75 Brigham Hill Lane, Essex – Vermont,” prepared by Willis Design Assoc., Inc., dated 6/8/16.
- Sheet 1 of 2, “Driveway/Road Design, Renzo White, 75 Brigham Hill Lane, Essex, VT,” prepared by Trafton Engineering Associates, LLC, dated 6/7/16.
- Sheet 2 of 2, “Driveway/Road Design Profile & Details, Renzo White, 75 Brigham Hill Lane, Essex, VT,” prepared by Trafton Engineering Associates, LLC, dated 6/7/16.
- Plan Sheet #1 of 1, “Plan of Two Lot Subdivision and Boundary Line Adjustment Showing a Portion of Lands of Renzo L. White, 75 Brigham Hill Lane, Essex, Vermont,” prepared by Button Professional Land Surveyors, PC,” dated June 2016.

(B) Simple Parceling Planning Standards

The applicant has applied for a simple parcel subdivision, per Section 2.5(A) of the *Subdivision Regulations*. A proposed simple parceling must meet four requirements, described in Section 2.5(A)(2) of the *Subdivision Regulations*: adequate area for septic, minimum requirements of the Town’s zoning regulations, mitigation of impacts to features on the *Town Plan Significant Features* map, and the provision of easements for trails and paths identified on the Town Plan.

(1) Septic

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The *Subdivision Regulations* require an applicant to demonstrate that proposed lots have adequate area for primary and replacement septic on both lots.

The state approves septic permits. Lot 1 has an existing mound system and a designated replacement area. A performance-based mound system is proposed for Lot 2. As described in the project narrative dated June 27, 2016,

The new home would be served by onsite drilled water supply and mound-type wastewater system. The existing house is similarly served by an onsite drilled well and mound system. Wastewater systems and water supplies have been designed by Willis Design Associates, Inc. Permit approval from the Vermont Dept. of Environmental Conservation is pending.

(2) Zoning Regulations

Although the proposed boundary adjustment will be covered below in Section IV(C) the proposed dimension requirements shown in the chart below would be the result of the simple parceling and boundary adjustment.

Dimensional Requirements	Required	Proposed Lot 1	Proposed Lot 2	Proposed 67 Brigham Hill Lane
Minimum Lot Area	10 acres	10 acres	10 acres	103.9 acres
Minimum Lot Area per Dwelling Unit	10 acres	10 acres	10 acres	n/a
Minimum Lot Frontage	200 ft.	358 ft.	200 ft.	> 200 ft.
Minimum Front Setback (from ROW)	50 ft.	> 50 ft.	106 ft.	n/a
Minimum Side Setback	25 ft.	50 ft.	25 ft.	n/a
Minimum Rear Setback	25 ft.	> 25 ft.	560 ft.	n/a
Maximum Height	40 ft.			n/a

The home on Lot 1 is an existing, nonconforming structure in that it does not adhere to front setbacks. The proposed simple parceling and boundary adjustment would not increase the degree of nonconformity.

The plans submitted by the applicant show a driveway coming off Brigham Hill Lane. The applicant described the driveway in the narrative dated June 27, 2016:

A new access from Brigham Hill Lane is proposed to serve Lot 2. The proposed driveway will require ledge removal in order to maintain desired grades to a house site within the building envelope. The design depicts a 12 foot wide driveway that extends approximately 300 feet to a turn-around at an assumed house location within the building envelope. A site-specific design of the driveway has been prepared by Trafton Engineering Associates, LLC.

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Section 3.1(G)(4)(a) of the *Zoning Regulations* specifies, “The maximum grade in any fifty-foot (50’) length shall not exceed ten percent (10%).” Much of the driveway, as designed, would have a maximum grade of 10 percent. The grade exceeds 10 percent for approximately 48 feet, including a 20-foot section with a 14 percent grade. The section of 14 percent grade is within the first 100 feet of the driveway.

The applicant’s engineer elaborated on the driveway design in a memorandum dated July 5, 2016:

The object of the drive design is to provide the shortest length and minimum slope to service the desired building envelope and house site location, while meeting all Town and State requirements. The proposed grade does exceed the 10% maximum grade for a short length of less than 50 feet, as allowed in Zoning Article III (G) (4) (a). This was done to reduce the amount of excavation where it is known that shale ledge exists at the site. This will reduce the depth of cut by 1 to 2 feet over a length of over 200 feet of the drive, significantly reducing excavating and/or blasting costs. The bedrock has not been investigated, but is expected to be weathered shale or limestone that is relatively feasible to excavate with a large excavator equipped with a pneumatic hammer. Blasting may be necessary.

It is understood that the Essex Fire Department would prefer a pull-off allowing vehicles to pass along the drive. This is possible to do at the 190 to 220 foot station of the drive by widening to 20 feet for a length of 30 feet.

The design exceeds the 10% maximum slope designated by Essex, but meets all State of Vermont B – 71 State AOT Standards for driveway and highway access and runs for less than 50 feet. Design meets all other Town requirements. The average grade of the entire 300 foot drive is 9.2%

The Fire Chief, in an email dated June 28, 2016, wrote,

The fire department is against this road design as it exceeds the maximum grade limit allowed per NFPA of 10%. This application should be denied as submitted.

The Fire Chief has subsequently informed the Planning Commission, at a meeting on July 14, that spec sheets for the Town’s fire trucks indicate that the vehicles can navigate grades of up to 10 percent.

The applicant prefers to keep the driveway design presented in the application. Although the design meets the current *Zoning Regulations*, staff believes the design warrants further discussion, with consideration given to shortening the driveway so

170 that the home is within 100 feet of the road, redesigning the driveway so that grades
171 do not exceed 10 percent on any portion, or requiring a sprinkler system in the home.
172

173 Public Works commented on the driveway design in a memorandum dated July 21,
174 2016:
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176 *The drive location for Lot #2 will require the following upgrades.*
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- 178 a. *The applicant must apply for, and receive approval from the Public*
179 *Works office for the new curb cut to Lot #2.*
- 180 b. *The applicant shall construct the new drive as directed in the attached*
181 *detail.*
- 182 c. *All vegetation, 50-feet either side of the centerline of the proposed*
183 *drive to Lot #2 within the Town R.O.W., shall be cleared.*
184

185 The clearing of vegetation is intended to resolve any potential issues with sight
186 distances.
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188 Public Works, in the same memo, also noted that the project would be subject to
189 traffic fees:
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191 *A traffic impact fee will be required for this project at the time of final project*
192 *approval for adding additional vehicles to Brigham Hill Lane. This fee will be*
193 *calculated using the frontage for the new proposed lot, (Lot #2). The gravel*
194 *road impact fee for 200 feet of frontage is currently based on the following:*
195

$$\begin{aligned} 196 & (200 \text{ ft}) \times (0.25 \text{ ft}) \times (9 \text{ ft}) = 450 \text{ CF} && \text{(half of road)} \\ 197 & (450 \text{ CF}) \times (1 \text{ CY} / 27 \text{ CF}) = 16.7 \text{ CY} \\ 198 & (16.7 \text{ CY}) \times (\$35.00 / \text{CY}) = \$584.5 \end{aligned}$$

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200 The driveway design includes an 18-inch culvert, which Public Works would require.
201 Regarding other stormwater management components, Public Works wrote,
202

203 *All storm water impacts caused by the increase in proposed impervious area*
204 *must be mitigated onsite and not allowed to impact surrounding properties or*
205 *the Town R.O.W. No Exceptions.*
206

207 The Police Chief did not have any concerns about the proposed subdivision.
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209 (3) **Preservation of Significant Features** 210

211 The applicant described the site in the June 27, 2016 project narrative:
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213 *The westerly half of the parcel consists of hardwood trees and conifers. The*
214 *easterly half of Lot 1 contains a meadow with some apple trees. The easterly*

215 *half of Lot 2 appears primarily overgrown with brush and small trees (brush).*
216 *No deeryard, wetlands, or hydric soils are identified on the Vermont ANR*
217 *Atlas or town maps. Because the house on Lot 1 was built in the early 1800's*
218 *the property is noted as having a historic structure on the Town of Essex*
219 *"Historic Sites" map*

220
221 *The proposed building envelope includes 1.9± acres of moderately sloping*
222 *land that extends westerly... to a point where grades begin to exceed 20%.*
223

224 The Significant Features Map, *Town Plan* Map 19, shows deer yards, contiguous
225 habitat, and core habitat in the vicinity of the property, although the scale makes it
226 difficult to determine the exact location of the features in relation to the proposed lots.
227

228 The Agency of Natural Resources' Natural Resource Atlas shows a habitat block on
229 the property. The block has a weighted score of 9 on a scale of 1 to 10, with 10 being
230 the highest priority. If the Planning Commission approves the simple parceling and
231 boundary adjustment, staff recommends including a condition requiring the applicant
232 to work with staff to reduce the size of the building envelope.
233

234 The Conservation Committee, at its meeting on July 12, 2016, advocated for a smaller
235 building envelope. The Committee also recommended that the applicant keep the
236 apple trees on the property as a benefit to deer in the area.
237

238 **(4) Easements for trails and paths**
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240 If a property undergoing a simple parceling contains any non-motorized, multi-use
241 trails/paths identified in the *Town Plan*, the *Subdivision Regulations* require the
242 applicant to provide easements at least 15 feet wide.
243

244 The *Town Plan* does not show any proposed trail networks on the property.
245

246 **(C) Boundary Adjustment Planning Standards**
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248 The applicant has applied for a boundary adjustment pursuant to the *Subdivision*
249 *Regulations*. Per Section 2.5(B)(2), boundary adjustments must satisfy three requirements:
250 the adjustment cannot create new lots; existing lots cannot be made non-conforming; and
251 the total acreage being transferred cannot exceed the minimum lot size for the district.
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253 The proposed boundary adjustment satisfies all three criteria.
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256 **V. Planning Commission comments**
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258 While reviewing the simple parcel and boundary adjustment on July 28, 2016, the Planning
259 Commission ...

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VI. Proposed Conditions

1. All construction shall be in conformance with the plans listed in Finding No. IV(A) above and as may be amended subject to other conditions and approvals.
2. Prior to the issuance of a zoning permit, the applicant shall pay a traffic fee of \$584.50, or an amount calculated by Public Works at the time of submission.
3. Prior to the issuance of a zoning permit, the applicant shall pay recreation impact fees in place at the time of submittal.
4. Prior to the issuance of a zoning permit and prior to filing a mylar, the applicant shall work with staff to finalize the location of the building envelope. The building envelope shall be staked out prior to construction and no construction or clearing shall occur outside of the building envelopes except as needed for the septic system and driveway.
5. Prior to the issuance of a zoning permit, the applicant shall apply for and receive approval from Public Works for a curb cut to Lot 2.
6. All vegetation within 50 feet of the driveway centerline in the Town right-of-way shall be cleared.
7. All utilities shall be installed underground unless the Planning Commission, upon recommendation of the Town Engineer, determines that underground installation is infeasible.
8. Prior to the issuance of a zoning permit, the applicant shall submit any and all covenants, deeds, and legal documents resulting from this approval for review by the Town Attorney. The applicant shall pay any legal fees associated with the review.
9. Prior to the issuance of a zoning permit, the applicant shall install concrete monuments and lot markers in accordance with Section 4.11 of the *Subdivision Regulations*.
10. Prior to the issuance of a certificate of occupancy, the physical street address of any future home shall be clearly marked in reflective number at the road edge and visible to traffic.
11. Prior to the issuance of a zoning permit, the applicant shall obtain any and all applicable State approvals and permits. Copies of the approvals and permits shall be provided to the Town.
12. A mylar shall be recorded in the Land Records no more than 180 days from the date of the written approval, otherwise the subdivision is void. The mylar and three paper copies shall be

**Simple Parcel
Boundary Adjustment
67 & 75 Brigham Hill Lane
July 28, 2016**

304 submitted to the Community Development Department at least one week prior to the 180-day
305 expiration.
306

307 13. By acceptance of the conditions of this approval without appeal, the applicant confirms and
308 agrees for himself and all assigns and successors in interest that the conditions of this
309 approval shall run with the land and the land uses herein permitted, and would be binding
310 upon and enforceable against the applicant and all assigns and successors in interest.
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313 **VII. Attachments**
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- 315 • Narrative, “Renzo L. White, 75 Brigham Hill Lane, Essex, Vermont,” dated 6/27/16.
- 316 • Letter, “TRANSMITTAL – Narrative Memo Driveway Design, Project: 75 Brigham Hill
317 Lane Subdivision— Renzo White,” from Trafton M. Crandall, P.E., Trafton Engineering
318 Associates LLC, dated 7/6/16.
- 319 • Email, “Re: 75 Brigham Hill Road,” from Charlie Cole, Essex Fire Chief, dated 6/28/16.
- 320 • Email, “RE: comments back,” from Chief Bradley J. LaRose, Essex Police Department,
321 dated 7/11/16.
- 322 • Memorandum, “75 Brigham Hill Lane, Simple Parcel Subdivision,” from Dennis E. Lutz,
323 P.E., Public Works Director, and; Aaron K. Martin, P.E., Utilities Director / Town
324 Engineer, dated 7/21/16.
- 325 • Email, “Re: 75 Brigham Hill Lane,” from Aaron Martin, P.E., Utilities Director / Town
326 Engineer, dated 7/21/16.
- 327 • Map, “75 Brigham Hill Lane, Vermont Agency of Natural Resources,” prepared by Greg
328 Duggan, dated 7/20/16.

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331 cc: Justin Willis, Willis Design Associates, Inc.
332 Trafton Crandell, P.E., Trafton Engineering Associates, LLC
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