

1 **ESSEX PLANNING COMMISSION**
2 **March 24, 2016**

3
4 **STAFF REPORT**

5 Prepared by Greg Duggan, Town Planner
6

7 **SKETCH PLAN**
8 **MASTER PLAN**
9

10
11 **I. Applicant**

12
13 Allen Brook Development, Inc.
14 c/o Al Senecal
15 31 Commerce Ave.
16 South Burlington, VT 05403
17
18

19 **II. Proposal**
20

21 Pursuant to a judgment order, the applicant has applied for Sketch Plan Review of a four-lot,
22 minor subdivision of 401.41 acres at 31 Allen Martin Drive, Tax Map 72, Tax Parcel 8. The
23 property is in the Resource Preservation District – Industrial (RPD-I) zoning district.
24

25 In the project narrative dated February 25, 2016, the applicant’s attorney wrote,
26

27 *Pursuant to the February 5, 2016 Settlement Agreement and proposed Judgment Order*
28 *between Allen Brook Development Incorporated (“Allen Brook”) and the Town of Essex*
29 *(the “Town”) relating to Allen Brook’s approval to conduct sand extraction on 27.5*
30 *acres of its land in the Saxon Hill Industrial Park, Allen Brook is required to convey*
31 *approximately 245 acres of its land to the Town for recreation and conservation*
32 *purposes.*
33

34 *The Settlement Agreement, which was negotiated between Allen Brook and the Town over*
35 *the course of many months, resulted in the approval of the boundaries of the lands that*
36 *would be conveyed to the Town and the lands that would retained by Allen Brook. These*
37 *boundaries are shown on the enclosed plat entitled: “Subdivision Plat, Allen Brook*
38 *Development, 31 Allen Martin Drive, Essex, Vermont,” prepared by Trudell Consulting*
39 *Engineers dated February 3, 2016 (the “Subdivision Plat”).*
40

41 *Under the Settlement Agreement, Allen Brook will be conveying Parcel C (35.37 Acres)*
42 *and Parcel D (195.05 Acres) as shown on the Subdivision Plat to the Town, and Allen*
43 *Brook will be retaining Parcel A (8.23 Acres) and Parcel B (162.76 Acres) as shown on*
44 *the Subdivision Plat, for development purposes. In order to complete the agreed-upon*
45 *land transfer described in the Settlement Agreement, Allen Brook will need subdivision*
46 *approval for the four-lot subdivision depicted on the Subdivision Plat.*
47

48 Parcel B of the proposed subdivision includes 27.5 acres where sand extraction has been

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31 Allen Martin Drive, 4-lot subdivision
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49 approved by the judgment order, and another 27.5-acre temporary no-build area that will be off
50 limits to development while sand extraction takes place. Once the sand extraction is complete
51 and the land reclaimed, Allen Brook Development would convey by warranty deed the reclaimed
52 land to the Town and be able to develop the temporary no-build area.

53
54 Abutting properties north of the proposed subdivision are in the RPD-I district and an Industrial
55 (II) zoning district, and include industrial uses and undeveloped land. Properties to the east are
56 in Agricultural-Residential (AR), Conservation (C1), and Open Space (O1) zoning districts, and
57 include residences, recreational trails, and undeveloped land; the 90 acres in the O1 district are
58 owned by the Essex Junction School District and are included in the 60 percent
59 conservation/recreation land ratio for the RPD-I. Properties south of the proposed subdivision are
60 in an II district and are currently undeveloped but are going through a subdivision process to
61 create industrial lots. Properties west of Allen Martin Drive are in the RPD-I district and include
62 industrial uses; properties west of Sand Hill Road are in a Medium Density Residential (R2)
63 district and contain residences.

64
65

66 **III. Background**

67

68 The RPD-I district was created in December 1977 and covers land on east and west of Allen
69 Martin Drive. The RPD-I includes approximately 750 acres, 60 percent of which is designated
70 for Conservation/Recreation use and 40 percent of which is for Industrial use.

71

72 In 2011 the Planning Commission denied an application for a sand extraction operation on 54
73 acres of the property. The decision was appealed to the Environmental Division of Vermont
74 Superior Court. In November 2014, Allen Brook Development purchased much of the
75 undeveloped RPD-I land, as well as the rights to the sand extraction appeal. Allen Brook
76 Development approached the Town with an offer to settle the appeal. In early 2016, the
77 Selectboard authorized the Town Manager to sign the settlement agreement that would allow
78 Allen Brook Development to extract up to 615,000 cubic yards of sand from 27.5 acres; in
79 return, Allen Brook will convey approximately 245 acres of conservation/recreation land to the
80 Town. In February, a judge issued a judgment order granting Allen Brook Development approval
81 to conduct sand extraction on 27.5 acres. The matter was then remanded to the Town for the
82 ministerial purpose of processing the application to subdivide Allen Brook's property into four
83 lots, which will allow the Town to take ownership of the approximately 245 acres for
84 conservation and recreation.

85
86

87 **IV. Article II, Section 2.6 of the *Subdivision Regulations*: Sketch Plan**

88

89 The applicant has applied for Sketch Plan review pursuant to a judgment order. Section 2.6 of the
90 *Town of Essex Outside the Village of Essex Junction Official Subdivision Regulations* requires
91 sketch plan approval "for all subdivisions except boundary adjustments and simple parceling."
92 Sketch Plan Review is meant

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93
94 *to explore the options for the overall subdivision concept and layout, including uses and*
95 *open spaces, in relation to the objectives of the Town Plan, the characteristics of the site*
96 *and characteristics of the surrounding area, and to determine that the proposed*
97 *subdivision appears consistent with the requirements of these Regulations and the*
98 *Town's Zoning Regulations.*
99

100 With fewer than six lots and no need for a new street or the extension of public water or sewer
101 systems, the proposed project is considered a minor subdivision. Minor subdivisions must
102 receive Sketch and Final approval.

103
104 **(A) Plans:**

105
106 The Applicant has submitted the following plans:

- 107
- 108 • Sheet C1-02, "Subdivision Plat, Allen Brook Development, 31 Allen Martin Drive,
- 109 Essex, Vermont," prepared by Trudell Consulting Engineers, dated 2/3/16.
- 110 • "Habitat Map, Allen Brook Development, 31 Allen Martin Drive, Essex, Vermont,"
- 111 prepared by Trudell Consulting Engineers, dated 3/17/16.
- 112

113 **(B) Article IV: Subdivision Standards of the *Subdivision Regulations***

114
115 The Planning Commission must evaluate any proposed subdivision based on the standards
116 of Article IV of the *Subdivision Regulations*. Standards include conformance to the *Town*
117 *Plan* and *Town of Essex Outside the Village of Essex Junction Official Zoning Regulations*.
118 Other applicable standards relate to public safety, natural features, streets, sidewalks, open
119 space, availability of water and sewer, and stormwater management.

120
121 **1. Section 4.1, Standards Applicable to All Subdivisions**

- 122
- 123 a) **Conformance with the *Town Plan*.** Section 4.1(P) of the *Subdivision Regulations*
- 124 requires all subdivisions to conform to the *Town Plan*. The project complies with
- 125 the following goals of the 2016 *Town Plan*:
- 126

127 *Goal 1e: The Town's natural resources, water quality and scenic views are*
128 *protected.*

- 129
- 130 b) **Conformance to the *Zoning Regulations*. Table 2.14, Resource Preservation-**
- 131 **Industrial District (RPD-I).** Section 4.1(G) of the *Subdivision Regulations*
- 132 requires all subdivisions to conform to the *Zoning Regulations*. The property is
- 133 located in the RPD-I district. Table 2.14(A) of the *Zoning Regulations* describes
- 134 the purpose of the RPD-I:
- 135

136 *The RPD-I District is established for land that is comprised of forests, bodies*

of water, high elevations, scenic overlooks, or similar natural settings. The RPD-I District acreage in combination with the 90-acre parcel zoned O1 (presently owned by the Essex Junction School District) totals 751.7 acres. The objective of the RPD-I and the related O1 District parcel is to protect such natural attributes for public enjoyment, and to carry out development activities in harmony with the natural surroundings. Of the 751.7 acres in this district, 60 percent has been formally designated for recreation/conservation use (including all of the related O1 District acreage) and the remaining 40 percent for permitted uses as set forth in (B) below that satisfy all other district requirements. Residential uses are not allowed in this district.

i) District Dimensional Requirements.

Dimensional Requirement	Required	Proposed
Minimum Lot Area	40,000 sf	358,499 sf
Minimum Lot Frontage	200 ft.	0 ft.
Minimum Buffer/Residential Districts	200 ft.	200 ft.

The lot boundaries were delineated per the judgment order. Parcels A, B, and D have adequate frontage. Parcel C, which will consist of open space owned by the Town, will have approximately 2,380 feet of frontage once Thompson Drive is extended. Until then, per the judgment order, access to and through Parcel C would exist via easements over existing trails and dirt roads.

When a subdivision has special circumstances, Section 2.1 of the *Subdivision Regulations* allows the Planning Commission to make the minimum modifications to the Regulations necessary to afford relief without nullifying or adversely affected the intent and purpose of the Town Plan or the Zoning Regulations. Based on special circumstances – the subdivision is a result of a judgment order from the Environmental Division of Vermont Superior Court, a road will eventually be constructed to give frontage to Parcel C, and access to Parcel C currently exists – staff recommends that the Planning Commission grant a waiver from the frontage requirements for Parcel C.

Parcel A would contain a 100-foot no-build conservation area along Allen Martin Drive, as required by Table 2.14(D)(7)(b) of the *Zoning Regulations*. The plat also shows a 200-foot-wide no-build conservation area on the northeastern portion of Parcel B, where it abuts an AR district. Other setback, buffer, lot coverage, and height requirements would be applied during site plan reviews.

2. Section 4.3, Preservation of Natural Features

a) Natural Features. The *Subdivision Regulations* specify,

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178 *Outstanding natural features of the site, including groves of trees, watercourses*
179 *and falls, historic sites, exceptional views, and similar irreplaceable assets,*
180 *shall be preserved. The Planning Commission may require building envelopes*
181 *to be specified for some or all buildings where it is necessary to carefully define*
182 *building locations and heights in order to protect the natural features listed in*
183 *this section or identified on the Significant Features Reference Map.*

184
185 The Significant Features map, Map 19 in the 2016 *Town Plan*, shows Contiguous
186 Habitat and deer yards on portions of the property. Much of the resources are in the
187 lots that would be conveyed to the Town for conservation and recreation.

188
189 The Vermont Agency of Natural Resources' Natural Resource Atlas does not show
190 any deer wintering areas on the property, but does show a habitat block that extends
191 over the forested portions of the property. The habitat block is ranked 5 out of 10,
192 with 10 being the highest ecological priority.

193
194 The Habitat Map shows an archaeological area on Parcel D.

- 195
196 **i. Natural contours.** Section 4.3(A)(1) of the *Subdivision Regulations* specifies that
197 subdivisions shall retain the natural contours of land and conserve natural cover
198 and soil as much as possible.

199
200 Parcels A, B, and C consist of mostly level terrain. Parcel D contains some level
201 land as well as ravines with steeper slopes. Once conveyed to the Town, Parcels C
202 and D would be preserved as conservation and recreation land.

- 203
204 **ii. Erosion and Stormwater Control.** Section 4.3(A)(2) of the *Subdivision*
205 *Regulations* requires erosion and stormwater control plans when subdivision
206 improvements occur on slopes or areas with fragile soil conditions.

207
208 No subdivision improvements are being proposed with this application. Section
209 IV(B)9 of this Staff Report provides more details about stormwater management
210 and erosion control.

- 211
212 **iii. Wetlands.** The property contains ponds that are included in the Vermont State
213 Wetland Inventory. The ponds are located on Parcels C and D, which would
214 remain undeveloped as conservation and recreation land.

- 215
216 **iv. Lot sizes.** The *Subdivision Regulations* encourage the smallest possible lot sizes
217 that can site the primary use, accessory buildings, on-lot water, on-lot sewer and
218 access driveways. Small lot sizes are intended to maximize the amount of open
219 space.

220
221 The RPD-I district has a minimum lot size of 40,000 square feet, or 0.92 acres.
222 Lots C and D will protect 35.37 acres and 195.05 acres of open space,

223 respectively. As covered later in Section V of this staff report, the proposed
224 subdivision would serve as a master plan showing that future development and
225 subdivisions may occur on Parcels A and B.

226
227 **v. Forested areas.** When a subdivision is proposed in a forested area, the
228 *Subdivision Regulations* require the developer to submit recommendations from a
229 professional forester regarding the location of subdivision improvements and the
230 removal of trees.

231
232 A forest management plan for the RPD-I already exists.

233
234 **b) Water Bodies and Adjacent Buffer Areas.** The property contains streams and four
235 ponds. Portions of two of the ponds, as well as a stretch of one stream, are located on
236 adjacent properties that are not part of the subdivision application. Most of the
237 streams and ponds are located on the land that would be preserved in Parcels C and
238 D.

239
240 The plat does show a small length of stream that runs across a narrow portion of
241 Parcel B. If the stream is at any time piped, dammed or altered, the applicant will
242 need to obtain Town approval, and should be required to submit comments from the
243 State Department of Environmental Conservation about whether state approval is also
244 required.

245 246 **3. Section 4.4, Blocks and Lots – Planning and Design Standards**

247
248 The proposed subdivision does not contain any blocks.

249
250 Section IV(B)1(b)(i) of this staff report describes the lots in relation to the dimensional
251 requirements of the *Zoning Regulations*.

252 253 **4. Section 4.5, Streets**

254
255 The applicant is not proposing the construction of any new roads with the subdivision,
256 although the narrow portion of Parcel B will serve as the location of a future public road.

257
258 **a) Fire Department.** In an email dated February 28, 2016, the Fire Chief raised
259 concerns about the length of Thompson Drive. In subsequent conversations with
260 the Fire Chief, Community Development staff clarified that the applicant is not
261 proposing any development or road extensions with the four-lot subdivision. The
262 Fire Chief responded in an email dated March 17, 2016, writing,

263
264 *Per our meeting regarding the Saxon Hill subdivision, I concur with the*
265 *general recommendations of Staff and will provide further comments as to*
266 *specific building applications for the respective lots.*

267

268 **b) Police Department.** The Police Chief did not have any concerns with the proposed
269 subdivision.
270

271 **5. Section 4.6, Sidewalks – Planning and Construction Standards**
272

273 The applicant does not plan to build any roads or sidewalks with the proposed
274 subdivision.
275

276 **6. Section 4.7, Land for Public Open Space and Recreational Use**
277

278 The *Subdivision Regulations* allow the Town to accept land reserved for public
279 recreation purposes in lieu of all or part of recreation impact fees. Trails and
280 conservation greenways identified in the Town Plan must be accommodated within open
281 space and recreation areas.
282

283 Parcels C and D would be conveyed to the Town as public open space for conservation
284 and recreation. Town Plan maps indicate that the parcels have “extensive trails,”
285 including proposed horseback trails and proposed cross country ski trails.
286

287 **7. Section 4.8, Utility and Access Easements and Improvements**
288

289 **a) Easements for Utilities, Drainage and Access.** The Planning Commission can
290 require perpetual, unobstructed easements to facilitate non-motorized, multi-use
291 facility user access to public open space or adjacent properties as part of a proposed
292 contiguous access plan. Non-motorized, multi-use access easements must be at least
293 15 feet wide. The applicant plans to provide 20-foot-wide trail easements to the
294 Town over portions of Parcel B.
295

296 A temporary parking area and easement at the end of Thompson Drive would allow
297 access to the 200-foot conservation buffer area in the northeast portion of Parcel B.
298 Other easements would ensure access to the Town-owned Parcels C and D.
299

300 A temporary, 20-foot-wide easement over Parcel C would allow the applicant to
301 access the northern and southern portions of Parcel B until Thompson Drive is
302 completed.
303

304 **b) Utility Improvements.** Public utility improvements shall be installed in accordance
305 with Public Works Specifications, and shall be installed underground unless Public
306 Works determines that doing so is infeasible.
307

308 **8. Section 4.9, Water Supply and Waste Water Systems**
309

310 The applicant has not proposed the extension of water or wastewater lines.
311

312 **9. Section 4.10, Stormwater Management and Erosion Control**

313
314 The *Subdivision Regulations* require all proposed subdivisions to include a stormwater
315 management and erosion control plan that adheres to the Town’s Stormwater
316 Management Ordinance. The plan must address stormwater management and erosion
317 control during and after construction.

318
319 No construction is proposed as part of this subdivision, although in a memorandum
320 dated March 10, 2016, Public Works wrote,

321
322 *The applicant will be required to obtain a state general permit for construction*
323 *before any sand extraction occurs on Parcel B. The permit must be reviewed by*
324 *Public Works before final approval.*

325
326 *The applicant is required to take preventative action to prevent the tracking of*
327 *sediment from the construction site onto any Town roads or surrounding streams.*
328 *Failure to comply will result in a violation of Section 10.20.067 of the Town’s*
329 *Stormwater Ordinance.*

330
331 **10. Section 4.11, Monuments and Lot Markers**

332
333 If the project obtains Final Plan approval, the applicant shall install concrete monuments
334 and lot markers to the standards specified in Section 4.11 of the *Subdivision*
335 *Regulations*.

336
337
338 **V. Article II, Section 2.7 of the *Subdivision Regulations*: Master Plan**

339
340 *Subdivision Regulations* require a Master Plan “for any project which is intended to be developed
341 in phases and for which approval of only one phase is currently requested, or for any project
342 where development of only part of the parcel is proposed and the remaining land exceeds in area
343 three times the minimum lot size in the district in which the subdivision is located.”

344
345 Per Section 2.7(B) of the *Subdivision Regulations*, a Master Plan serves the following purpose:

346
347 *The purpose of the preparation and review of a Master Plan by the Planning Commission is*
348 *to acquaint the Commission with the entire tract of land without requiring the presentation*
349 *of extensive surveying, engineering, or design data, to identify significant features*
350 *warranting future protection, and to facilitate anticipated future development in an orderly*
351 *manner. Applicants are encouraged to explore different schemes by presenting alternative*
352 *plans that represent thoughtful site planning and are in conformance with the Town Plan*
353 *and Bylaws.*

354
355 The proposed subdivision will serve as a master plan for the 401 acres currently owned by Allen
356 Brook Development. Parcels A and B will be available for development of uses as allowed in the

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357 Zoning Regulations for the RPD-I district, and Parcels C and D will be reserved as conservation
358 and recreation land owned by the Town of Essex.

359
360

361 **VI. Planning Commission comments**

362

363 While reviewing the project on March 24, 2016, the Planning Commission determined ...

364

365

366 **VII. Proposed Conditions**

367

368 1. All conditions from previous approvals shall remain in effect, except as modified herein.

369

370 2. If the stream that runs through Parcel B is at any time piped, dammed or altered, the
371 applicant shall obtain Town approval, and shall submit comments from the State Department
372 of Environmental Conservation about whether state approval is also required. If state
373 approval is required, the applicant shall obtain any applicable state permits.

374

375 3. No clearing shall occur on individual lots prior to the issuance of a zoning permit for those
376 lots, except for activities permitted in a forest management plan approved by the Planning
377 Commission.

378

379 4. Prior to the issuance of a zoning permit, the applicant shall install concrete monuments and
380 lot markers to the standards specified in Section 4.11 of the *Subdivision Regulations*.

381

382 5. By acceptance of the conditions of this approval without appeal, the applicant confirms and
383 agrees for himself and all assigns and successors in interest that the conditions of this
384 approval shall run with the land and the land uses herein permitted, and would be binding
385 upon and enforceable against the applicant and all assigns and successors in interest.

386

387

388 **VIII. Attachments**

389

- 390 • Narrative, "Saxon Hill Industrial Park—Four Lot Subdivision," from Robert H.
391 Rushford, Gravel & Shea PC, dated 2/25/16.
- 392 • Email, "Re: 31 Allen Martin Drive," from Charles J. Cole, Chief, Essex Fire Department,
393 dated 2/28/16.
- 394 • Email, "RE: 31 Allen Martin Drive," from Sharon Kelley, Zoning Administrator, dated
395 3/8/16.
- 396 • Email, "Re: 31 Allen Martin Drive comments," from Charles J. Cole, Fire Chief, Essex
397 Fire Department, dated 3/17/16.
- 398 • Memorandum, "31 Allen Martin Drive – Allen Brook Development (Sketch/Final),"
399 from Annie Costandi, E.I., Stormwater Coordinator/Staff Engineer; and Aaron Martin,
400 P.E., Town Engineer and Utilities Director; dated 3/10/16.

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401 • Email, "RE: 31 Allen Martin Drive Sketch," from Chief Bradley J. LaRose, Essex Police
402 Department, dated 3/16/16.

403

404

405 cc: Bob Rushford, Gravel & Shea PC
406 Jeremy Matosky, Trudell Consulting Engineers
407 Brian Bertsch

408

409

410 G:\COMMDEV\PC\REPORTS\Allen Martin Drive 31 Sketch 4-lot 032416.doc

411