ESSEX PLANNING COMMISSION
March 24, 2016

STAFF REPORT
Prepared by Greg Duggan
Town Planner

FINAL PLAN
PLANNED UNIT DEVELOPMENT – COMMERCIAL
SITE PLAN
RESIDENTIAL PHASING
BOUNDARY ADJUSTMENT

I. Applicant

A&C Realty LLC
c/o Al Senecal
31 Commerce Ave.
South Burlington, VT 05403

II. Proposal

The applicant has applied for Final Subdivision Approval for a Commercial Planned Unit Development and a Boundary Adjustment to combine five residential lots on 5.47 acres into a single parcel at 12 Gardenside Lane, Tax Map 78, Tax Parcels 6, 6-1, 6-2, 6-3, as well as another parcel that according to town documentation has already merged with Parcel 6-1. The Commercial Planned Unit Development (PUD-C) would consist of 48 residential units in several multi-family buildings, as well as a mixed-use, 16,500-square-foot commercial building. The project is proposed for a Retail – Business (B1) zoning district located between Gardenside Lane, VT Route 2A/Colchester Road, and Susie Wilson Bypass.

The multi-family housing would consist of six townhouses, each containing four two-bedroom units, and a 24-unit building with 12 one-bedroom units and 12 two-bedroom units. All residential units would be rentals.

The commercial building is proposed to have multiple uses that could include small dry goods, services, and a deli-salad/hot bar within a grocery. The applicant said the use could have up to 20 stations for standing or seating.

A neighboring parcel at the corner of Gardenside Lane and VT Route 2A is also in the B1 district and contains residential uses. Other neighboring lots west of Route 2A lie in a Medium Density Residential (R2) zoning district and include homes north of Gardenside Lane and south of Susie Wilson Drive. An Industrial (I1) zoning district sits east of Route 2A, with state-owned Circumferential Highway land directly across from the project site and commercial uses to the southeast.

III. Background

In July 2006 the Planning Commission denied a Sketch Plan application for a 72-unit multi-family structure and commercial structure, citing concerns about the size of the project. The proposal featured three residential buildings and one 9,000-square-foot building for office and service uses. At the time of denial, the Planning Commission advised the applicant to return with a smaller project that better fit the character of the area.

In December 2011 the applicant submitted a revised plan for Conceptual Review. The plan featured 65 dwelling units and 9,800 square feet of commercial space.

The Planning Commission in October 2012 approved a Sketch Plan for a Commercial Planned Unit Development (PUD-C) consisting of 48 residential units, an 18,000-square-foot commercial building, and underground parking. The decision also served as a Master Plan approval.

The Planning Commission approved the Preliminary Plan for the PUD-C in October 2013. The Preliminary Plan included 58 residential units, although the Planning Commission expressed interest in seeing the number of units reduced back to 48. The Preliminary Plan approval later expired, but the Planning Commission re-approved the Sketch and Preliminary plans in January 2016.

The VT Route 2A and VT Route 289 interchange is the site of a Circumferential Highway Alternatives project, a joint effort between the Town of Essex, the Chittenden County Regional Planning Commission (CCRPC), and the Vermont Agency of Transportation (VTRANS). The project aims to improve traffic flow around Circumferential Highway.

IV. Article II, Section 2.9 of the *Subdivision Regulations*: Final Subdivision Approval

The applicant has applied for Final Subdivision Approval pursuant to the *Town of Essex Outside the Village of Essex Junction Official Subdivision Regulations*. As a PUD and a mixed-use development, the proposed project qualifies as a major subdivision. All major subdivisions must obtain Final Subdivision Approval. Section 2.8(A) of the *Subdivision Regulations* describes the purpose of Final Subdivision Review:

> *The purpose of Final Subdivision Review shall be to compare the plat for consistency with the approved Preliminary Plan or approved Sketch Plan, to ensure that all engineering, survey and other data are complete, and to ensure that the proposed subdivision is in compliance with all appropriate regulations and standards. Review by the Planning Commission shall include a public hearing in accordance with the provisions of Article V of these Regulations.*

Because the project is a Planned Unit Development, the Planning Commission must also

consider the requirements of Article VI in the *Town of Essex Outside the Village of Essex Junction Official Zoning Regulations*. The requirements are covered in Section V of this Staff Report.

(A) Plans:

The applicant has submitted the following plans:

- Sheet C1-00, "Boundary Plat, A & C Realty LLC, Route 2A, Essex, Vermont," prepared by Trudell Consulting Engineers, dated 1/26/16.
- Sheet C1-01, "Legend & Notes, A & C Realty, 12 Gardenside Lane, Essex, Vermont," prepared by Trudell Consulting Engineers, dated 1/23/13, last revised 1/29/16;
- Sheet C1-02, "Existing Conditions Plan, A & C Realty, 12 Gardenside Lane, Essex, Vermont," prepared by Trudell Consulting Engineers, dated 1/23/13, last revised 1/29/16;
- Sheet C1-03, "Demolition Plan, A & C Realty, 12 Gardenside Lane, Essex, Vermont," prepared by Trudell Consulting Engineers, dated 1/23/13, last revised 1/29/16;
- Sheet C2-01, "Master Site Plan, A & C Realty, 12 Gardenside Lane, Essex, Vermont," prepared by Trudell Consulting Engineers, dated 1/23/13, last revised 1/29/16;
- Sheet C2-02, "Master Utility Plan, A & C Realty, 12 Gardenside Lane, Essex, Vermont," prepared by Trudell Consulting Engineers, dated 1/23/13, last revised 1/29/16;
- Sheet C2-03, "West Site Plan, A & C Realty, 12 Gardenside Lane, Essex, Vermont," prepared by Trudell Consulting Engineers, dated 8/28/13, last revised 1/29/16;
- Sheet C2-04, "East Site Plan, A & C Realty, 12 Gardenside Lane, Essex, Vermont," prepared by Trudell Consulting Engineers, dated 8/28/13, last revised 1/29/16;
- Sheet C2-05, "West Utility Plan, A & C Realty, 12 Gardenside Lane, Essex, Vermont," prepared by Trudell Consulting Engineers, dated 8/28/13, last revised 1/29/16;
- Sheet C2-06, "East Utility Plan, A & C Realty, 12 Gardenside Lane, Essex, Vermont," prepared by Trudell Consulting Engineers, dated 8/28/13, last revised 1/29/16;
- Sheet C3-01, "Water & Sanitary Profiles, A & C Realty, 12 Gardenside Lane, Essex, Vermont," prepared by Trudell Consulting Engineers, dated 1/23/13, last revised 1/29/16;
- Sheet C3-02, "Sanitary Force Main Plan & Profile, A & C Realty, 12 Gardenside Lane, Essex, Vermont," prepared by Trudell Consulting Engineers, dated 1/23/13, last revised 1/29/16;
- Sheet C3-03, "Sanitary Force Main Plan & Profile, A & C Realty, 12 Gardenside Lane, Essex, Vermont," prepared by Trudell Consulting Engineers, dated 1/23/13, last revised 1/29/16;
- Sheet C3-04, "Sanitary Force Main Plan & Profile, A & C Realty, 12 Gardenside Lane, Essex, Vermont," prepared by Trudell Consulting Engineers, dated 1/23/13, last revised 1/29/16;
- Sheet C3-05, "Sanitary Force Main Plan & Profiles, A & C Realty, 12 Gardenside Lane, Essex, Vermont," prepared by Trudell Consulting Engineers, dated 1/23/13, last revised

1/29/16;

- Sheet C3-06, "Sanitary Force Main Plan & Profile, A & C Realty, 12 Gardenside Lane, Essex, Vermont," prepared by Trudell Consulting Engineers, dated 1/23/13, last revised 1/29/16;
- Sheet C3-07, "Sanitary Force Main Plan & Profile, A & C Realty, 12 Gardenside Lane, Essex, Vermont," prepared by Trudell Consulting Engineers, dated 1/23/13, last revised 1/29/16;
- Sheet C4-01, "Stormwater Watershed Delineation Plan, A & C Realty, 12 Gardenside Lane, Essex, Vermont," prepared by Trudell Consulting Engineers, dated 1/23/13, last revised 1/29/16;
- Sheet C5-01, "Erosion Prevention & Sediment Control Plan, A & C Realty, 12 Gardenside Lane, Essex, Vermont," prepared by Trudell Consulting Engineers, dated 1/23/13, last revised 1/29/16;
- Sheet C8-01, "Water Details, A & C Realty, 12 Gardenside Lane, Essex, Vermont," prepared by Trudell Consulting Engineers, dated 1/23/13, last revised 1/29/16;
- Sheet C8-02, "Water Details, A & C Realty, 12 Gardenside Lane, Essex, Vermont," prepared by Trudell Consulting Engineers, dated 1/23/13, last revised 1/29/16;
- Sheet C8-03, "Sewer Details, A & C Realty, 12 Gardenside Lane, Essex, Vermont," prepared by Trudell Consulting Engineers, dated 1/23/13, last revised 1/29/16;
- Sheet C8-04, "Sewer Details, A & C Realty, 12 Gardenside Lane, Essex, Vermont," prepared by Trudell Consulting Engineers, dated 1/23/13, last revised 1/29/16;
- Sheet C8-05, "Pump Station Plan View, A & C Realty, 12 Gardenside Lane, Essex, Vermont," prepared by Trudell Consulting Engineers, dated 1/23/13, last revised 1/29/16;
- Sheet C8-06, "Pump Station Profile View, A & C Realty, 12 Gardenside Lane, Essex, Vermont," prepared by Trudell Consulting Engineers, dated 1/23/13, last revised 1/29/16;
- Sheet C8-07, "Pump Station Notes & Details, A & C Realty, 12 Gardenside Lane, Essex, Vermont," prepared by Trudell Consulting Engineers, dated 1/23/13, last revised 1/29/16;
- Sheet C8-08, "Stormwater Details, A & C Realty, 12 Gardenside Lane, Essex, Vermont," prepared by Trudell Consulting Engineers, dated 1/23/13, last revised 1/29/16;
- Sheet C8-09, "Stormwater & Site Details, A & C Realty, 12 Gardenside Lane, Essex, Vermont," prepared by Trudell Consulting Engineers, dated 1/23/13, last revised 1/29/16;
- Sheet C8-10, "Site Details, A & C Realty, 12 Gardenside Lane, Essex, Vermont," prepared by Trudell Consulting Engineers, dated 1/23/13, last revised 1/29/16;
- Sheet C8-11, "Site Details, A & C Realty, 12 Gardenside Lane, Essex, Vermont," prepared by Trudell Consulting Engineers, dated 1/23/13, last revised 1/29/16;
- Sheet C8-12, "Erosion Prevention & Sediment Control Details, A & C Realty, 12 Gardenside Lane, Essex, Vermont," prepared by Trudell Consulting Engineers, dated 1/23/13, last revised 1/29/16;
- Sheet C8-13, "Erosion Prevention & Sediment Control Details, A & C Realty, 12

Gardenside Lane, Essex, Vermont," prepared by Trudell Consulting Engineers, dated 1/23/13, last revised 1/29/16;

- Sheet L1-01, "Landscape Plan, A & C Realty, 12 Gardenside Lane, Essex, Vermont," prepared by Trudell Consulting Engineers, dated 1/23/13, last revised 1/29/16;
- Sheet L1-02, "Lighting Plan, A & C Realty, 12 Gardenside Lane, Essex, Vermont," prepared by Trudell Consulting Engineers, dated 1/23/13, last revised 1/29/16;
- Sheet Number A1, "Elevations, Garden Side – Multi-Family, Essex Vermont," prepared by Innovative Design, Inc., dated 08/21/14;
- Sheet Number A1, "Flats- Unit Type A- Proposed, Gardenside, Essex Vermont," prepared by Innovative Design, Inc., dated 05/15/14;
- Sheet Number B1, "Flats- Unit Type B- Proposed, Gardenside, Essex Vermont," prepared by Innovative Design, Inc., dated 05/15/14;
- Untitled sheet with elevations for Flats – Type B, dated 5/14/14.
- Sheet Number B1, "Flats- Unit Type B- Proposed, Gardenside, Essex Vermont," prepared by Innovative Design, Inc., dated 05/15/14;
- Sheet Number R1, "Retail Building- Proposed, Gardenside, Essex Vermont," prepared by Innovative Design, Inc., dated 05/15/14.

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

1. Section 4.1, Standards Applicable to All Subdivisions

a) 4.1(P), Conformance with the *Town Plan*. The project complies with the following relevant goals of the 2016 *Town Plan*:

Goal 1a: *Essex West is developed as a sub-regional growth center that provides employment opportunities, a diversity of housing opportunities, and retail and personal services.*

Goal 2a: *The Essex tax base is increased and diversified by an economic development climate that is friendly to a large variety of businesses, including start-ups.*

Goal 4b: *A diversity of housing types, including microhousing and choices between rental and ownership, is provided.*

b) 4.1(G), Conformance to the *Zoning Regulations*. Table 2.9, Retail Business District (B1). The site is located in a Retail Business (B1) zoning district, the purpose of which is described in Table 2.9(A) of the *Zoning Regulations*:

> *This area consists of existing commercial areas and adjacent lands which are becoming predominantly commercial in nature. Due to the location of these areas on major thoroughfares, they are well suited for providing the retail, business and personal service needs of this community and other nearby towns.*

However, strip development along these thoroughfares must be discouraged in favor of consolidated access points in order to minimize traffic hazards and maintain smooth traffic flows. Also, since these areas are the focal point of activity for the Town, the review of commercial development within this district must ensure attractiveness for site design and signage. Furthermore, new commercial development should be compatible with adjacent commercial and residential structures.

i. **Permitted Uses.** Multi-family dwellings with one- or two-bedroom units are a permitted use in B1 districts, provided the number of units does not exceed 25 per acre. With 5.47 acres, the site could have up to 136 units.

Potential uses in the commercial building include small dry goods, services, and a grocery store with a deli and salad bar. Neighborhood shopping centers, restaurants, and retail uses are all allowed in B1 districts.

PUD-Cs also allowed in the B1 district if they meet the provisions of Section 6.6 of the *Zoning Regulations*. PUD-Cs will be covered in more detail in Section V(B) of this Staff Report.

ii. **District Dimensional Requirements.** The proposed subdivision would have off-site water and sewer, and adheres to the following dimensional requirements:

Dimension	Required	Proposed
Minimum land area, PUD-C	3 acres	5.47 acres
Minimum lot frontage	150 ft.	910 ft.
Minimum front setback (Gardenside, Route 2A)	50 ft.	50 ft.
Minimum side setback (residential)	n/a	30 ft.
Minimum side setback (non-residential)	30 ft.	30 ft.
Minimum buffer/Residential Districts	30 ft.	30 ft.
Maximum lot coverage	70%	50.1%
Maximum height	40 ft.	≤ 40 ft.

In a project narrative dated February 8, 2016, the applicant's engineer wrote,

> *All buildings are less than 40 feet tall. The three-story multi-unit residential structure will have a maximum distance from average finished grade at the corners of 40 feet. The four plex units will have a distance from average finish grade of 32 feet of less, the individual buildings may vary slightly. The retail building is designed as a 1 story structure at 31 feet.*

c) **4.1(Q), Existing homes and apartments.** The property has four existing dwelling units, with a total of eight bedrooms. The buildings would be razed prior to

development of the PUD-C.

2. Section 4.3, Preservation of Natural Features

a) Natural Features. The *Subdivision Regulations* require the preservation of outstanding natural features, including groves of trees, watercourses, historic sites, exceptional views, and other irreplaceable assets. The Planning Commission can require building envelopes for some or all buildings when it is necessary to carefully define building locations and heights to protect the natural features listed in Section 4.3 of the *Subdivision Regulations* or identified on the Significant Features Reference Map.

The Significant Features Map, Map 19 of the 2016 *Town Plan*, shows crossing value on Susie Wilson Bypass, but the site does not otherwise contain any significant features.

Town Plan Map Number 21, Historic Sites, shows two historic buildings on the property. In the February 8, 2016 narrative, the applicant's engineer wrote,

> *On behalf of the applicant Northeast Archaeology Research Center, Inc. conducted a Phase I survey in May 2014 across the 5.47 acres. The survey concluded that it is unlikely that significant archaeological deposits are present within this project area. …*
>
> *Historic Structures Assessment for the Vermont Route 2A-VT 289 Interchange Scoping Study identified one house on the Gardenside site, at 200 Colchester Road, listed in the 1976 Vermont Historic Sites and Structures Survey (VHSSS) for the Town of Essex. The home is listed on the State Register of Historic Places, but has "deteriorated significantly since it was surveyed in 1976," according to the Historic Structures Assessment. A barn that stood on the property was also collapsing, and was demolished in 2011.*
>
> *A second home on the site property, at 202 Colchester Road, is not included in the VHSSS, but in 2011 the Vermont Division for Historic Preservation determined the house to be eligible for the State Register.*
>
> *The applicant has prepared the submission for Act 250 Criterion 8 Scenic Beauty, Historic Sites, and Natural Areas regarding this matter which is not likely to result in redesign or inability to acquire permits. Vermont State Historic Preservation Office has guidelines for the applicant to document and demolish the structures in question. The agency does not "restrict the owner's basic right to use and dispose of the property as he or she sees fit."*

i. Natural contours. Section 4.3(A)(1) of the *Subdivision Regulations* specifies

that subdivisions shall retain the natural contours of land and conserve natural cover and soil as much as possible.

A portion of woods at the western side of the site would be partially cut back for development of the PUD-C. The remaining trees would serve as a buffer at the end of Gardenside Lane.

The wooded portion of the site contains the steepest slope on the property. The land on the site generally slopes downhill toward the southeast corner at the intersection of VT Route 2A and Susie Wilson Bypass. The land would be graded for development and for the stormwater management system.

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

Section IV(B)9 of this Staff Report provides more details about stormwater management and erosion control.

iii. Topsoil. The *Subdivision Regulations* require topsoil removed during grading to "be replaced to an average depth of four (4) inches (10 cm) with a minimum depth of two (2) inches (5 cm) and the site seeded in accordance with Soil Conservation Service recommendations and the Town's Public Works Specifications."

b) New Trees. The *Subdivision Regulations* require new street trees in areas where no trees exist, or where existing trees would suffer life-shortening damage during construction. One street tree needs to be provided for each 50 feet of frontage.

The applicant plans to plant seven Kentucky Coffee trees along Gardenside Lane, and nine Common Hackberry trees along VT Route 2A. Existing trees along Susie Wilson bypass would remain in place.

Landscaping will be covered in further detail in Section VI(D) of this Staff Report.

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

The PUD does not contain any blocks.

Lots must meet the minimum lot and yard requirements of the *Zoning Regulations* and must have satisfactory access to a public street. Drainage on the lots must be designed to flow away from all buildings. The depth to width ratio of the lot shall not exceed 5 to 1.

The proposed lot meets the dimensional requirements of the *Zoning Regulations*, as demonstrated in Section IV(B)(1)(b) of this Staff Report. The lot would have two

connections to public streets: a right-in, right-out access on VT Route 2A; and an entrance from Gardenside Lane. In the project narrative dated February 8, 2016, the applicant's engineer wrote,

> *The road system and access points have been designed to accommodate emergency vehicle access to the site via two access points, mountable curbing, and roads are 24-ft in width and provide direct access to all structure.*

Grading on the site would direct water around the property perimeter to a stormwater treatment basin at the lot's southeast corner. The depth to width ratio of the lot does not exceed 5 to 1.

4. Section 4.5, Streets

The *Subdivision Regulations* call for streets that are suitably located, of sufficient width, and adequately constructed to provide access to prospective traffic, emergency vehicles, school buses and other road maintenance equipment. The arrangement of streets needs to be coordinated with existing and planned streets.

The applicant is not proposing any new roads with the PUD. The project would contain a private, internal loop road with access points from Gardenside Lane and VT Route 2A.

In the project narrative dated February 8, 2016, the applicant's engineer wrote,

> *The applicant has proposed vehicular access from Gardenside Lane and VT2A. Gardenside Lane would serve as the primary access for most vehicles. The access point on VT2A would only allow right turns in and right out turns only. This divided entrance will be constructed with mountable curbing, to allow emergency vehicles in the event of an emergency to use the VT2A entrance. A Letter of Intent has been issued by VTrans dated 3/10/15, for the VT2A access, which is based on a traffic report prepared by Stantec ….*
>
> *… The Route 2A right-in and right-out is a limited access and is intended to support the businesses on site.*

The 24-foot-wide internal roads would provide access to all of the buildings in the PUD.

The applicant submitted a traffic study conducted by Stantec. Originally based on a project with 58 residential units and 16,500 square feet of commercial space, the traffic study – dated February 27, 2014 – projected an increase of 88 AM peak hour trips and 117 PM peak hour trips.

The study found,

> *The project is expected to increase PM peak hour volumes VT 2A adjacent to the*

> *project site by approximately 2.7 percent. These increases are not expected to significantly change traffic operations at adjacent intersections along VT 2A. Furthermore, a monitoring of peak hour vehicle queues along VT 2A southbound at its intersection with Susie Wilson Bypass indicate that the proposed right-in/right-out site driveway on VT 2A can operate without obstructing VT 2A traffic flows. Implementation of potential long-range improvements along VT 2A under consideration by VTrans will allow all of the intersections included in this study to operate below capacity during future peak traffic hours.*

In 2013, according to the traffic study, area intersections already had low levels of service at certain times of day:

		2013 Existing		
Intersection	**Peak Hour**	**V/C Ratio**	**Delay (sec)**	**LOS**
VT 289 Westbound/VT 2A (signalized)	AM	0.96	40.5	D
	PM	0.76	22.0	C
Gardenside/VT 2A	AM	0.05	54.9	F
	PM	0.02	22.4	C
VT 289 Eastbound/Susie Wilson Bypass/VT 2A (signalized)	AM	0.84	12.9	B
	PM	1.01	43.3	D

V/C Ratio = Volume-to-capacity ratio; Delay = Average delay per vehicle in seconds; LOS = Level Service

The traffic generated by the project is expected to increase delays at the intersection of VT Route 2A and Susie Wilson Bypass by almost 1 second.

Stantec reconsidered the study based on the reduction of residential units to 48, although the updated traffic numbers are still expected to cause a delay of nearly 1 second at the VT Route 2A and Susie Wilson Bypass intersection. In a letter dated November 9, 2015, Stantec wrote to the applicant's engineer,

> *Your calculations show a reduction in the number of housing units and a corresponding reduction in the number of AM and PM peak hour trips generated by the housing component. You have also reduced traffic forecasts for the commercial component in the AM peak hour and show a very modest increase of only 14 trips during the PM peak hour. We find that the added 14 peak hour trips will have an inconsequential impact on area traffic operations.*
>
> *In our traffic study the worst performing intersection during the PM peak hour was the Susie Wilson Road/VT 2A intersection. At this location the project generated 117 PM peak hour trips only increased the calculated delay by 0.9 seconds. Adding 14 trips to the project total would still result in an approximate one second increase in delay at this intersection due to the project. Consequently, an updated traffic impact study would show only a 0.1 second change in delay at*

> *this intersection due to the proposed project change. This is not a significant difference.*

Public Works commented on traffic in a memorandum dated March 14, 2016:

> *Traffic has been intensively studied in the area of VT2A and Gardenside Lane, including the two ramps off and onto the Circumferential Highway by VTRANS. This engineering work was done in connection with a Circumferential Highway Alternative Project approved for this area of the roadway by the Selectboard and the Circ Highway Task Force. Public Works has reviewed the traffic analysis presented in previous submittals for this project. Some comments remain valid. A new traffic study dated February 27, 2014, by Stantec Consulting has been submitted for review with a study update letter dated November 9, 2015. Public Works will base the following comments off of this current study.*
>
> *This development project, because of location does have an impact on the broader Susie Wilson Road corridor but not all the peak hour (am and pm) traffic will be in that corridor. Based upon the comparison of diagrams between the am and pm "no-build" alternative and the am and pm "build" alternative, 59 vehicles in the am and 75 vehicles in the pm go through the VT2A and Susie Wilson Bypass intersection from the proposed development. This intersection is considered to be part of the Susie Wilson Road corridor subject to the impact fee for that corridor. Using the pm peak number of 75 peak hour traffic and the previous calculations developed for Green Mountain Coffee and other recent projects, a traffic fee of $216/peak-hour trip provides a calculated fee of $16,200.*

Per Section 4.5(6) of the *Subdivision Regulations*, "Where existing access roads are inadequate to handle traffic to be generated by the proposed subdivision, the Planning Commission may require the subdivider to improve existing access roads, affected intersections and pedestrian facilities, or provide additional access roads, intersection improvements, or pedestrian facilities."

A Circumferential Highway Alternative Project is planned to improve traffic flow at the intersections of VT Route 2A, VT Route 289, and Susie Wilson Bypass. Public Works acknowledged the importance of the Circ Alternatives project as it relates to the development of the proposed PUD, writing in a March 14, 2016 memorandum,

> *As a condition of approval of the proposed development project, the applicant shall agree to provide such added right of way or easements for the State project and adjust if necessary the project plans to accommodate the change to the right of way or easement limits. It is not anticipated that significant right of way will be needed by VTRANS along V2A and there is sufficient area on the property to provide it. It needs to be noted that construction of the State project has relieved the applicant of a significant traffic impediment on this development at a relatively low cost to the developer.*

> *Public Works has a concern on timing between the construction buildout of this project and the VTRANS improvements along VT2A. Originally, it was anticipated that the VT2A/Susie Wilson/Circ Highway Improvement Project (Phase 2) would proceed the construction of this development or at least be concurrent. The VTRANS project including widening and lane changes is now scheduled for construction funding from FYE17 and FYE18 State and Federal funds. In effect this means that construction on the road project is most likely to begin in the spring of 2017 and finish by the late summer of 2018. Because VT2A is a State Highway and the letter in the packet for review is dated over a year ago, Public Works is of the opinion that the Planning Commission should require an updated letter from VTRANS regarding the traffic impacts of the development under the assumption that the project will be mostly built-out prior to or during the initial stages of the VTRANS project. Is this acceptable to VTRANS given that the project traffic will impactVT2A before and during their construction. It may be a non-issue but it is important to insure that VTRANS is okay with the timing of the two projects. We do know from prior discussions with VTRANS that the development project is acceptable and built into the traffic model post construction of the road improvements. Specific issues relating to traffic are indicated in the comments on the individual plan sheets*

5. Section 4.6, Sidewalks – Planning and Construction Standards

The *Subdivision Regulations* require sidewalks or paved paths on all major collector and minor roads. Roads with dead-ends or low anticipated traffic volumes can have sidewalks or paths installed on one side. The *Subdivision Regulations* also require applicants to "install sidewalks along the adjacent side of an existing street where the street is located in a … medium density residential zone or when the Planning Commission determines that a significant volume of pedestrian traffic will exist."

The PUD would have a 5-foot-wide concrete sidewalk entering the property from Gardenside Lane. ADA-compliant sidewalks would provide pedestrian access to all buildings on the site. As the applicant's engineer wrote in the February 8, 2016 project narrative,

> *Sidewalks have been provided internally within the project to maintain safety walking around the project site.*

As Public Works noted in its March 14, 2016 memorandum,

> *The Town of Essex constructed a 10' wide multi-use pedestrian path along the west side of VT 2A from Pinecrest Drive to Old Colchester Road. A new sidewalk along the North side of Pinecrest Drive is currently in design. The Town would like to continue to improve pedestrian movement through this corridor and with the construction of the proposed development at 12 Gardenside, the need for*

> *alternative modes of transportation is greatly increased. Public Works suggests the construction of a 10' wide paved path along the frontage with VT RT 2A or as an alternative, eliminate the pedestrian access along the front of the proposed development, and provide the Town with the funds to be used for this portion of the project to be used to design and construct future multi-use pedestrian paths within the VT RT 2A corridor between Gardenside Lane and Old Colchester Road. The second option is the preferred alternative.*

The applicant's project narrative dated February 8, 2016, notes,

> *The applicant is willing to work with the Town of Essex and provide the Town with funds from this project to be used to design and construct future multi-use pedestrian paths within the VT RT 2A corridor between Gardenside Lane and Old Colchester Road. This is a preferred option discussed by Public Works in a Memo dated October 18, 2013.*

The applicant has also agreed to provide a 15-foot-wide non-motorized, multi-use easement along VT Route 2A.

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

The Town can accept recreation land in lieu of recreation impact fees. Furthermore, if trails and conservation greenways shown in the Town Plan appear on a property, they must be accommodated within the open space and recreational areas.

Town Plan Map Number 8, Proposed Bicycle Network, identifies Susie Wilson Bypass as a First Priority Bike Path and VT Route 2A as a Third Priority Bike Path. As noted in Section IV(B)(5) of this Staff Report, the applicant plans to provide an easement along VT Route 2A and provide funding for a multi-use path in the area.

The applicant does not plan to provide any public open space, although the plans show space for a community garden for PUD residents. The garden would be located near the Gardenside Lane entrance. Previous iterations of the plan had called for a playground.

The project will be subject to recreation impact fees.

7. Section 4.8, Utility and Access Easements and Improvements

a) Easements for Utilities, Drainage and Access. The applicant plans to provide 20-foot-wide easements to the Town over the water and sewer lines running through the property. The applicant also plans to provide a 15-foot-wide non-motorized easement along VT Route 2A.

b) Utility Improvements. The Subdivision Regulations require utilities to be installed "underground except where the Planning Commission, upon recommendation of the

Town Engineer, determines that ledge, underground water or other conditions make underground installation economically infeasible."

8. Section 4.9, Water Supply and Waste Water Systems

a) Water Supply. The *Subdivision Regulations* require a development to connect to municipal water whenever the supply is "reasonably accessible … and consistent with the Town Plan, the Town Water Ordinance, and any applicable Town policies."

The applicant intends to connect to the Town water system. In the project narrative dated February 8, 2016, the applicant's engineer wrote,

> *The applicant's fire protection design consultant Richard Culver has successfully satisfied the concerns raised by the Town Engineer and fire Chief by providing a demand analysis which was reviewed by Tetra Tech, Inc and the town engineer. The hydraulic model was updated with the project demands and the system was found to have adequate capacity to meet the fire flow needs while maintaining an acceptable residual pressure throughout the modeled distribution network. Allocation letter has been obtained from the Champlain Water District.*

Public Works, in a memo dated March 14, 2016, wrote,

> *A representative of the Town of Essex Public Works Department shall witness both wet-taps. The 8-inch water main to be tapped is the main feed to the distribution system in this end of Town. Extra care shall be taken during all wet tapping operations.*

b) Waste Water Systems. The *Subdivision Regulations* require developments within the Town's sewer core area to connect to the public sewage disposal system when the system is "reasonably accessible."

The property lies within the sewer core area, and the applicant intends to connect to the municipal wastewater system. In the project narrative dated February 8, 2016, the applicant's engineer wrote,

> *The applicant calculated a design flow for the project of 12,000 gallons per day, and the applicant has obtained Selectboard approval for a sewer allocation of 12,000 GPD. … A force main has been designed to convey wastewater from Gardenside to the gravity sewer at Suffolk Lane.*

Public Works calculated water and sewer fees totaling $212,640. The fee calculations were explained in Public Works' March 14, 2016 memo:

Due to the two existing dwellings with water connections that will be demolished as part of this project, a 400 gpd water allocation and two flat rate connection fee credits have been applied to the water allocation costs due. In addition, if the fee's schedule changes, then the fee charged shall be the fee in effect at the time of submittal for a building permit. The applicant will be required to submit an application for the water and sewer connections for buildings C-1 and D-1. Individual applications for each living unit must be provided for each of the condominium units in buildings A-1, A-2, B-1, B-2, B-3, and B-4.

The Town's water and sewer fees are calculated based on two parts. A fixed flat amount per water or sewer connection, and an assigned allocation based on a per GPD fee. The portion of the hook on fees based on allocation are as follows:

Water: [(12,000gpd – 400gpd) x $5.65/gal] = $ 65,540.00
Sewer: [(12,000gpd – 400gpd) x $9.75/gal] = $113,100.00
Total = ***$178,640.00***

The portion of the hook on fees based on the number of water and sewer connections is as follows:

Water: (26 connections x $1,000/connection) = $ 26,000.00
Sewer: (8 connections x $1,000/connection) = $ 8,000.00
Total = ***$ 34,000.00***

9. Section 4.10, Stormwater Management and Erosion Control

Proposed subdivisions must include a stormwater management and erosion control plan that conforms to the Town's Stormwater Management Ordinance. The plan needs to provide stormwater management and erosion control measures during construction and establish permanent provisions for after construction. The *Subdivision Regulations* require the establishment of a homeowners association or other organization that will have responsibility of maintaining the permanent stormwater management system.

During construction, the applicant plans to control erosion by using erosion blankets, fences, and stabilized construction entrances. No more than 2 acres would be disturbed at a time.

Once completed, the project would feature a stormwater management system that uses grading and a series of catch basins and piping to direct water to a stormwater pond area near the southeast corner of the property. In the project narrative, the applicant wrote,

The stormwater pond discharges to Indian Brook via an 18-inch pipeline owned and maintained by the Town. The Town system then enters a 30-inch pipeline owned and maintained by the State (VTRANS). The design for the development to meets a Vermont Agency of Transportation standard where discharges to culverts do not exceed a 1.5-to-1 headwater-to-depth ratio for a 50-year storm event.

VTrans approved the LOI plan set showing this connection to their system.

The applicant has agreed to take responsibility for maintaining the stormwater management system.

Indian Brook is included on the state's list of stormwater impaired waterways. The applicant will need to obtain a state stormwater permit, as noted by Public Works commented in a March 14, 2016 memo:

The storm water system plans will require a state permit and review by the Agency of Natural Resources. A copy of the state permit shall be sent to Public Works prior to the commencement of any work.

The resulting discharge will enter an 18-inch pipeline owned and maintained by the Town. The Town system then enters a 30-inch pipeline owned and maintained by VTRANS.

a. *VTRANS approved the LOI plan set showing the connection into their system. A copy of this approval shall be submitted to Public Works.*

b. *The stormwater discharge into the Town's system shall be considered an independent discharge and the Town shall have no permit or legal or maintenance responsibility upstream of the point of discharge of the development's stormwater system discharge (i.e., catch basin in the Town ROW on Susie Wilson Bypass receiving the development's storm water discharge).*

c. *It is anticipated that EPA will shortly issue the Lake Champlain TMDL Implementation Plan which effectively calls for higher levels of phosphorous removal for all storm water discharges to the Lake or its tributaries. It is also the State's intent to eventually wrap all community storm water permits into the Town's MS4 NPDES Phase II permit and extend the boundary of the current MS4 drainage limits to the boundary of the Town. Because of this pending change, the applicant will need to provide the design details for the proposed storm water system as well as the pounds of phosphorous to be removed through the proposed system. Approval of the proposed storm water system by the State does not relieve the developer from added future Phosphorous removal responsibility, if deemed appropriate by the Town requirements imposed by either the State or EPA.*

   An option to this requirement may be to redesign the storm water system now for maximum phosphorous removal as well as flow control as currently outlined under the State's design guidelines. Use of an infiltration system now may reduce the developer's future retrofit costs.

> *There is significant opportunity for construction of infiltration systems under parking areas and in the green space along VT2A that will both handle the flow and remove the phosphorous at a much lower cost than a future required retrofit. A storm water pond as designed has negligible phosphorous removal.*

> *The developer or his successor shall agree as a condition of the project's approval to develop and provide to the Town a yearly report on a maintenance program for all stormwater elements on the site, to include but not necessarily limited to annual checks of all catch basins for structural damage and for depth of material in the catch basin sumps, spring and fall sweeping of all paved surfaces by a wet sweeper, check and cleaning of the ADS water quality unit, and cleaning as necessary of the stormwater ponds and all connected piping. The maintenance plan shall be submitted to the Town for review prior to final approval of the project.*

The applicant's engineer responded in an email dated March 18, 2016, writing,

> *Applicant has spoken with Public Works and explained that as currently proposed the site is meeting the interim net-zero phosphorous regulation. Stormwater permit approval is dependent on this. There are no proposed changes to the stormwater design at this time.*

10. Section 4.11, Monuments and Lot Markers

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

V. Article VI of the *Zoning Regulations*: Planned Unit Development

Planned Unit Developments are allowed in various zoning districts as authorized in Article II of the *Zoning Regulations*. PUDs must also meet the requirements of Article VI of the *Zoning Regulations*. Section 6.0(B) describes the purpose of PUDs:

> *PUDs shall be allowed in order to fulfill the purpose of these Regulations as set forth in Article I, and to meet the purposes, goals and objectives set forth in the Essex Town Plan – specifically those goals and objectives relating to land use, clustering of development, affordable housing, and protection of agricultural soils and natural features.*

Planned Unit Developments – Commercial (PUD-Cs) are allowed in Retail Business (B1) districts if they meet the requirements of Article VI of the *Zoning Regulations*.

When planned unit developments involve a subdivision, the Planning Commission must review the PUD as a major subdivision under the *Subdivision Regulations* and through all applicable requirements of Article VI of the *Zoning Regulations*. The Final Subdivision review of the major subdivision occurs in Section IV of this Staff Report.

(A) Section 6.4, General Standards (Applicable to All Planned Unit Developments)

1. Conformance

PUDs must conform to the *Town Plan* and meet all other applicable provisions of the *Zoning Regulations*.

Section IV(B)(1) of this Staff Report details the proposed PUD-C's conformance to the *Town Plan* and dimensional requirements of the *Zoning Regulations*.

2. Uses

Land use in a PUD shall not differ substantially from the uses allowed in the zoning district where the PUD is located.

The proposed PUD-C is located in the B1 district, where multi-family dwellings with one to two bedrooms, neighborhood shopping centers, restaurants, and retail uses are all permitted.

3. Purposes

A PUD needs to be consistent with the purposes of its zoning district and with Section 6.0 of the *Zoning Regulations*.

Section IV(B)(1)(b) and Section V of this Staff Report detail the proposed PUD's consistency with the B1 district and Section 6.0 of the *Zoning Regulations*, respectively.

4. Multiple Buildings

The *Zoning Regulations* give the Planning Commission the authority to approve multiple buildings on a single lot if the Commission determines that such an approval will achieve the purposes of a Planned Unit Development.

The applicant plans to build multiple residential buildings and a commercial building on a single lot. Staff feels the proposed development satisfies the purpose of a PUD, and recommends that the Planning Commission approve multiple buildings on the lot.

5. Density Calculations

Public and private roads, as well as land in floodplains, floodways, wetlands, and on slopes greater than 20 percent, must be subtracted from total acreage prior to establishing density on a property.

6. Density

The Planning Commission can allow greater density within developable portions of a PUD if doing so will "enable innovation in design and layout and more efficient use of land."

The *Zoning Regulations* allow up to 25 one- and two-bedroom multi-family dwelling units per acre in the B1 district. For the 48 desired units, the applicant would need only 2 acres.

7. Roads

Certain roads in a PUD may need to be dedicated to the Town as public roads. In the project narrative dated February 8, 2016, the applicant's engineer explained that the project will not have any roads:

> *The applicant has proposed private internal loop parking lots to serve the project. The applicant intends to lease all of the proposed properties and will maintain the parking areas.*

8. Open Space

Per Section 6.4(H) of the *Zoning Regulations*, "Open spaces shall include lands identified on the Significant Features Reference Map, land determined to be undevelopable, and land intended for recreational uses."

The property does not include any land that would be dedicated as open space.

9. Covenants

The *Zoning Regulations* require developers to create "protective covenants to insure orderly and controlled development of the Planned Unit Development." The covenants need to satisfy the Planning Commission or Board of Adjustment.

The applicant has submitted covenants, which have been reviewed by the Town Attorney.

10. Impact Fees

PUDs are subject to impact fees legally enacted by the Town. The developer can seek credit against impact fees if required to provide land or construct facilities included in

the calculation of impact fees.

If approved, the PUD would be subject to recreational impact fees.

11. Residential Density Bonuses

The applicant is not seeking a density bonus.

(B) Section 6.6., Planned Unit Development – Commercial (PUD-C)

The *Zoning Regulations* describe a PUD-C as "an area of land, to be developed as a single entity for a variety of business uses (… and one (1) - and two (2) –bedroom multiple family residential uses where authorized in Article II), the plan for which may not satisfy all of the minimum lot and yard requirements of the relevant zoning district."

PUD-Cs are meant to "encourage the creation of compact commercial and mixed use development in areas designated for such uses, to encourage creative design, and to implement the relevant goals and objectives of the Town Plan." A PUD-C must occur on at least 3 acres.

The proposed PUD-C has adequate acreage and contains a variety of business uses as well as one- and two-bedroom apartments.

VI. Article V, Section 5.6 of the *Zoning Regulations*: Site Plan Review

Section 2.9(C)(4) of the *Subdivision Regulations* requires the Planning Commission to review a final subdivision application with relevant Site Plan Review provisions from the *Zoning Regulations.* Per Section 5.6 of the *Zoning Regulations*,

> *The purpose of site plan review is to ensure that the layout and design of development on pre-existing or approved lots conform to the Town Plan of record, these Regulations and applicable conditions of previous subdivision and conditional use approvals. Standards specifically relate to the internal layout of the site, its physical design, and the functional integration of the site with adjoining properties, uses and infrastructure.*

In addition to conformance with the *Town Plan*, Site Plan review covers issues related to dimensional requirements of the *Zoning Regulations*, aesthetics, outstanding violations, natural features, access, site circulation, parking, landscaping, lighting, utilities and services, and fire protection. Most of those issues are covered in Section IV of this staff report. The remaining issues are covered below.

(A) Section 5.6(A), General Requirements

1. Aesthetics and visual impacts

The property is not located in a design control overlay district.

The applicant submitted building elevations. The 24-unit multi-family building would mostly have horizontal clapboard siding, with some shingled siding on the top level. The roofline contains gables and one section with horizontal roofing. Double hung windows would predominate, and some units would also have faux balconies.

The townhouses would have two different styles. Both styles feature gabled roofs, horizontal and shingled siding, panel doors, and double hung windows.

The commercial building is currently designed with brick siding near the ground, and horizontal siding on upper portions. The building also features gabled roofs. The elevations for the retail building contain a note saying the elevations may change based on the needs of tenants.

2. Outstanding violations

The property does not have any outstanding violations.

(B) Section 5.6(B)(3), Natural Features, Renewable Energy

The project would have no adverse impact on access to renewable energy. The project narrative dated February 8, 2016 notes,

> *The project will be setup to implement alternative energy technology for solar roof panels and electric car charging stations once the costs decline.*

The East Site Plan, Sheet C2-04, shows two vehicle charging stations near the commercial building.

(C) Section 5.6(E), Parking

Parking must be provided in accordance with Section 3.9 of the *Zoning Regulations*, and no more than 50 percent of a front-yard setback can be devoted to parking. The Commission can require joint parking facilities.

Parking would be located throughout the site: in front of the townhouses, around and underneath the 24-unit building, and around the commercial building. The entire site would have 174 parking spaces. Based on the off-street parking requirements in the *Zoning Regulations*, the site would need only 154 parking spaces.

Residential uses comprised of one- and two-bedroom multifamily units require 1.67 spaces per dwelling unit. Retail stores require 1 space for every 250 square feet of floor space. Convenience stores and grocery stores require 1 space for every 150 square feet of floor

space.

Use	Required Parking	Proposed Parking
Residential (48 units)	81	
General retail stores (11,500 sf)	46	
Convenience stores (4,000 sf)	27	
Total	**154**	**174**

The applicant provided a shared parking analysis showing that peak parking demand would occur on weekdays from 6 p.m. to 7 p.m., and require 143 spaces.

Sites with 151 to 200 parking spaces need to have at least six ADA-compliant spaces, including one van-accessible spot. The parking plans call for eight ADA-compliant spaces.

If the Planning Commission approves the PUD, staff recommends that the underground parking contain an indoor bike storage or bike rack for tenants.

(D) Section 5.6(F), Landscaping and Screening

The Planning Commission can require landscaping to achieve the objectives of the *Zoning Regulations* and the *Town Plan*. Landscaping objectives in B1 districts focus on street trees, parking areas, and planting strips.

Street trees are meant to create unifying visual element along the edge of roads, and to create a canopy over roads. A property must have one street tree for every 50 feet of frontage. Street trees must be guaranteed for a five years.

Near parking areas, landscaping shall be used to screen the parking from view of roadways, to break up large expanses of parking, and to provide shade.

Planting strips create a landscaped area along the front of lots. The trees, shrubs, and ground cover along VT Route 2A would serve as a planting strip.

The project narrative, dated February 8, 2016, describes the proposed landscaping for the site:

> *The landscape plan includes the careful placement of trees, shrubs and perennials which adhere to the Business District landscaping objectives as well as compliment the architectural expressions of the proposed buildings and site features. Street trees have been provided at a ratio of one tree per 50 feet of roadway frontage along Route 2A and Gardenside Lane. A planting strip has been provided along Route 2A and Gardenside Lane to provide visual interest along the roadway and to screen parking areas from the road and, along Gardenside Lane, blend into existing trees and hedge to remain. Street trees on Route 2A have been placed just inside the*

> *property line and have been integrated into the front portion of the planting strip.*
>
> *Landscaping within the parking area includes the placement of shade trees in landscape islands. Additional plantings around the residential units have been provided to compliment architectural features and integrate the buildings into the site. Vegetation selected as part of the landscape plan was selected for tolerance to sun or shade, road salt and overall visual interest. Additionally, trees and shrubs were selected based on consideration of species in the surrounding area and on adjacent parcels and for their inclusion in the Landscape Guidelines adopted by the Planning Commission.*
>
> *Additionally the site plan includes a community garden area with adjacent seating wall and partial perimeter landscape screening from the entrance drive.*

Street trees will provide shade and screening for parking areas near VT Route 2A and Susie Wilson Bypass. Shrubs will also help with screening from VT Route 2A. Honeylocust trees near the townhouse parking will provide shade for those areas.

None of the plants in the landscaping plan are considered invasive to Vermont.

(E) Section 5.6(G), Lighting

The *Zoning Regulations* call for an exterior lighting plan that provides "site lighting and lighting levels that are appropriate for the anticipated activities on the site and the property's surrounding context, and that maximize the efficiency of site lighting and energy demand, while minimizing up-light glare, and unnecessary spillover light or light diffusion onto adjacent properties." Parking lot lights mounted on poles can be no higher than 22 feet, or 15 feet when located adjacent to residential districts. The Planning Commission, however, can approve a height of up to 30 feet if doing so contributes to the overall quality of the lighting plan and does not adversely affect adjoining properties. Lighting levels on the site cannot exceed 7 foot-candles, and must have an average to minimum uniformity ratio of 5 to 1. Light trespass from the site must not increase by more than 0.2 foot-candles 5 feet beyond the property line. Lighting levels must be appropriate for the site and surrounding area, and must maximize efficiency of lighting and energy.

The applicant plans to use LED lighting throughout the project. The site would have a maximum lighting level of 3.3 foot-candles. The residential parking area would have a uniformity ratio of 5 to 1, and the retail parking area would have a uniformity ratio of 3 to 1.

Although most of the lights would be mounted no higher than 15 feet, five parking lot lights near VT Route 2A and Susie Wilson Bypass would be at heights of 22 feet. An I1 district is across VT Route 2A, but a Medium Density Residential District sits across from the site on Susie Wilson Bypass. Despite the 22-foot height, lighting trespass would not extend beyond the property boundaries, and staff believes the height contributes to the overall quality of the lighting plan and would not adversely affect adjoining properties.

(F) Section 5.6 (I), Fire Protection

The applicant must satisfy the requirements of the State Fire Marshal for this project.

The Fire Chief, in an email dated February 12, 2016, wrote,

> *All buildings with more than two floors (including basement / ground floor parking) shall have stand pipes at all common stairwells. Standpipe connections will be 5" Storz on the exterior of the building and co-located with the Sprinkler 5" Storz connection in an area that is to be kept clear of all plantings or other obstructions per NFPA.*
>
> *If each building will have a common master key for all occupancies, then one Supra Key Box can be located near the Annuciator Fire panel. If not, then each commercial space will be required to have individual Supra Boxes located near their respective front entry points.*
>
> *All fire alarm panels shall be addressable and all buildings will need to be clearly marked with their street address in contrasting colors on any side facing an entry point (we can work with the Applicant to verify locations of these).*
>
> *Sidenote: The fire Department would welcome an opportunity to work with the Applicant on the demolition of the existing structures on the property.*

VII. Article III of the *Subdivision Regulations*: Residential Phasing

The goal of Residential Development Phasing is to maintain an annual population growth between 184 and 226, a rate set forth in the 2016 *Town Plan*. The Town aims for an annual population increase of 205, the midpoint of target range. Population figures are estimated based on a conversion of dwelling units to Estimated Population Equivalents (EPEs). Each bedroom in a dwelling unit translates to one person, so that 1 bedroom = person, 2 bedrooms = 2 persons, 3 bedrooms = 3 persons, and so forth. Section 3.2(D) of the *Subdivision Regulations* directs the Planning Commission to consider the number and type of dwelling units proposed in a development, as well as the number of bedrooms in the units.

Any single project is allowed to add 20 dwelling units per calendar year if the development is within the sewer core, and five units if the development is outside the sewer core. The Planning Commission can allow exceptions to achieve *Town Plan* objectives related to affordable housing, or if the project contains three or fewer dwelling units. The Planning Commission must act on a preliminary phasing request when a proposed development obtains Sketch Plan approval. Final allotment is granted if the development secures Final Plan approval.

The project at Gardenside Lane lies within the sewer core, and has received preliminary phasing allocation.

The applicant plans to construct the 24-unit building in 2016. By razing four existing units, each with two bedrooms, the applicant would be adding 20 new units and 28 new EPEs. As a result, with the Final Subdivision Plan application, the applicant has requested a final phasing schedule that would result in 20 dwelling units and 28 EPEs in 2016, 20 units and 40 EPEs in 2017, and four units and eight EPEs in 2018.

The phasing request would bring the Town's total number of EPEs to 129 in 2016 (including 40 preliminary EPEs), 40 in 2017, and 8 in 2018.

A summary of the running phasing tabulation is attached.

VII. Article II, Section 2.5(B) of the *Subdivision Regulations*: Boundary Adjustments

A boundary adjustment must satisfy the requirements of Section 2.5(B) of the *Subdivision Regulations*. Article VI of the *Subdivision Regulations* defines a boundary adjustment as "a division of land for the purpose of adjusting boundaries between adjacent lots or parcels where no new lot is created."

The applicant has applied for a boundary adjustment to combine five adjacent lots into a single, 5.47-acre lot.

(A) Planning Standards

1. A boundary adjustment cannot create any new lots. The proposed boundary adjustment will unite several lots owned by one landowner into a single lot.

2. Existing lots cannot be made non-conforming or more non-conforming.

   The lots that would go through the boundary adjustment are in conformance with the *Zoning Regulations*, and the combined 5.47-acre lot would also conform to the *Zoning Regulations*.

3. Total acreage transferred through a boundary adjustment cannot exceed the minimum lot size in the zoning district. Because the landowner is simply dissolving lot lines, rather than transferring land, the total acreage of lots remains the same.

(B) Mylar

If the Planning Commission approves the boundary adjustment, the applicant must

submit a mylar suitable for recording. The mylar, per Section 2.5(B)(6) of the *Subdivision Regulations*, must show "all relevant information, bearings and distances of perimeter boundary lines, monumentation in accordance with Section 4.11 on all corners of each lot, and all easements, and certification by a registered land surveyor that information is based on deed research and field information." The mylar must contain language specified in Section 2.5(B)(6) of the *Subdivision Regulations*, and filed in accordance with Section 2.10 of the *Subdivision Regulations*.

VIII. Proposed Conditions

1. All construction shall be in conformance with the plans listed in Section IV(A) of this Staff Report 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 $16,200.

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, the applicant shall pay water and sewer fees totaling $212,640, or the fees in place at the time of submittal.

5. Prior to the issuance of a zoning permit, the applicant shall agree to provide added right of way or easements for the State Circ Alternatives project and adjust if necessary the project plans to accommodate the change to the right of way or easement limits.

6. Prior to the issuance of a zoning permit, the applicant shall provide the Town with an updated letter of intent for a highway permit from VTrans.

7. Prior to the issuance of a zoning permit, the applicant shall revise plans to show a 15-foot-wide, non-motorized, multi-use easement along VT Route 2A.

8. Prior to the issuance of a zoning permit, the applicant shall work with Public Works and Community Development staff to determine a funding amount for the design and construction of future multi-use, non-motorized paths within the VT Route 2A corridor between Gardenside Lane and Old Colchester Road.

9. Prior to the issuance of a zoning permit, the applicant shall provide Public Works a copy of the LOI plan approved by VTRANS and the state stormwater permit.

10. The stormwater discharge into the Town's system shall be considered an independent discharge and the Town shall have no permit or legal or maintenance responsibility upstream of the point of discharge of the development's stormwater system discharge.

11. The applicant or successor shall agree as a condition of the project's approval to develop and provide to the Town with a yearly report on a maintenance program for all stormwater elements on the site, to include but not necessarily limited to annual checks of all catch basins for structural damage and for depth of material in the catch basin sumps, spring and fall sweeping of all paved surfaces by a wet sweeper, check and cleaning of the ADS water quality unit, and cleaning as necessary of the stormwater ponds and all connected piping.

12. Prior to the issuance of a zoning permit, detail sheets shall be revised to the satisfaction of Public Works.

13. All utilities shall be installed underground.

14. The underground parking facility shall include an area for indoor bike storage.

15. Landscaping shall be completed and maintained in accordance with the approved plans. Existing street trees that suffer life-threatening construction damage shall be replaced. Street trees shall be guaranteed for five years. All other landscaping shall be guaranteed for the life of the project. Any dead or diseased plantings shall be replaced as soon as seasonally possible.

16. Prior to the issuance of a zoning permit, the applicant shall submit a mylar suitable for recording, showing all relevant information, bearings an distances of perimeter boundary lines, and monumentation in accordance with Section 4.11 of the *Subdivision Regulations* on all corners of each lot, and all easements, and certification by a registered land surveyor that information is based on deed research and field information.

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

18. Prior to the issuance of a certificate of occupancy, topsoil removed during grading shall be replaced to an average depth of four (4) inches (10 cm) with a minimum depth of two (2) inches (5 cm) and the site seeded in accordance with Soil Conservation Service recommendations and the Town's Public Works Specifications.

19. Prior to the issuance of a certificate of occupancy, a representative of the Town of Essex Public Works Department shall witness all wet-taps.

20. Prior to the issuance of a certificate of occupancy, all buildings with more than two floors (including basement / ground floor parking) shall have stand pipes at all common stairwells. Standpipe connections shall be 5-inch Storz on the exterior of the building and co-located with the sprinkler 5-inch Storz connection in an area that is to be kept clear of all plantings or other obstructions per the National Fire Protection Association.

21. If each building will have a common master key for all occupancies, then one Supra Key Box shall be located near the Annunciator Fire panel prior to the issuance of a certificate of

occupancy. If not, then each commercial space shall have individual Supra Boxes located near their respective front entry points prior to the issuance of a certificate of occupancy.

22. Prior to the issuance of a certificate of occupancy, all fire alarm panels shall be addressable and all buildings will need to be clearly marked with their street address in contrasting colors on any side facing an entry point.

23. Prior to the issuance of a zoning permit, the applicant shall obtain any and all applicable state approvals and permits.

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

IX. Attachments

- Letter, "Final Plat Submission Narrative for mixed use project, Susie Wilson Bypass / Route 2A/ Gardenside Lane, Essex # PC: 2016-3," from Debra Bell, Senior Project Manager, Trudell Consulting Engineers, dated 2/8/16.
- Letter, "12 Gardenside Lane, Essex, VT," from Richard S. Bryant, P.E., Stantec Consulting, dated 11/9/15.
- Letter, "12 Gardenside Lane, Essex, VT," from Richard Bryant, Stantec Consulting, dated 2/27/14.
- Declaration of Covenants, Easements, Restrictions and Liens, submitted 3/16/16.
- Email, "RE: 05-060 – Local Permitting – 12 Gardenside," from Andrew G. Mills, P.E., Trudell Consulting Engineers, dated 3/18/16.
- Email, "Re: 12 Gardenside Lane," from Charlie Cole, Essex Fire Chief, dated 2/12/16.
- Email, "RE: 12 Garden side lane," from Chief Bradley J. LaRose, Essex Police Department, dated 2/26/16.
- Memorandum, "12 Gardenside Lane, A & C Realty (Final Plan Review)," from Dennis E. Lutz, P.E., Public Works Director; Aaron Martin, P.E., Town Engineer and Utility Director; and Annie Costandi, E.I., Stormwater Coordinator/Staff Engineer; dated 3/14/16.
- "Residential Phasing Report," Town of Essex Community Development Department, dated 3/18/16.

cc: Debra Bell, Trudell Consulting Engineers
Innovative Design, Inc. Architect