

1 TOWN OF ESSEX
2 PLANNING COMMISSION DRAFT MINUTES
3 JUNE 10, 2021
4

5 **Note: This was a virtual meeting on Teams.**
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8 PLANNING COMMISSION (PC) PRESENT: Dustin Brusco, Chair; Josh Knox, Vice-Chair;
9 John Mangan, Clerk; David Raphael; Johnathan Schumacher; Tom Furland and Ned Daly.
10

11 OTHERS PRESENT: Owiso Makuku, Community Development Director; Sharon Kelley,
12 Zoning Administrator; Darren Schibler, Planner; Deana Stoneback, Administrative Assistant;
13 Al Senecal; Brian Bertsch; Rob Conboy; Paul O'Leary; Joe Flynn; Den Mincar; Shawn
14 Cunningham; Rick Bove and Town Meeting TV.
15

16 Chairman Brusco called the meeting to order at 6:32 p.m.; read the Covid meeting instructions
17 into the record; took a roll call of the Commissioners present; and provided the public oath.
18

19 **AGENDA ITEM 1: PUBLIC COMMENTS:** None.
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21 **AGENDA ITEM 2: SITE PLAN AMENDMENT-PUBLIC HEARING: GLAVEL, INC. &**
22 **ALLEN BROOK DEVELOPMENT, INC.: PROPOSED HEIGHT WAIVER OF**
23 **STORAGE SILOS AND ROOF VENTS AND OTHER SITE IMPROVEMENTS**
24 **LOCATED AT 131 RED PINE CIRCLE IN THE RESOURCE PRESERVATION**
25 **DISTRICT-INDUSTRIAL (RPD-I) ZONE. TAX MAP 72, PARCEL 12-5.**
26

27 Darren Schibler, Planner, informed the PC that the request was for four height waivers, which
28 prevented the application from being processed as a consent agenda item. He reminded the PC
29 that other site improvements were approved in January. Schibler stated that the application
30 meets all regulations and justifications of a waiver as noted in Section 3.6 of the Zoning
31 Regulations
32

33 Commissioner Furland asked how the site would look from different roads, particularly Saxon
34 Hill. Schibler referred to the elevation plan. Furland questioned if other vantage views were
35 provided. Schibler brought up the site on Google Earth.
36

37 Brian Bertsch spoke on this application. He stated he had nothing to add to the overview just
38 provided. He explained that the original two silos were approved at 45' in height and they were
39 requesting to increase the silos to 58' in height and two chimneys to 51' in height.
40

41 Al Senecal stated that there is a 200' buffer between the houses and the building, and the
42 proposed building is another 200' from the houses.
43

44 Furland noted that the abutting neighbors are in a rural area and he was concerned if they bought
45 their properties under certain set of rules. He would like to know the impact of their views
46 before changes are made. He asked what color was proposed for the silos. Bertsch replied that a
47 cream color, like the building, would be used and noted that they were fine if the silos were any
48 color.
49

50 Schibler noted that the existing trees are at least 50' tall, as shown on the Google Earth picture.

51

52 Chairman Bruso asked what the original height of the silos were at the time of site plan approval.

53 Bertsch replied 45 feet in height.

54

55 Sharon Kelley noted that notices of the hearing went out to the public and no one from the public
56 was in attendance.\\

57

58 **Vice-Chair Knox MOVED and Commissioner Daly SECONDED a MOTION to open the**
59 **Public Hearing. The MOTION passed 7-0.**

60

61 There were no public comments.

62

63 **Commissioner Raphael MOVED and Vice-Chair Knox SECONDED a MOTION to close**
64 **the Public Hearing. The MOTION passed 7-0.**

65

66 **Commissioner Raphael MOVED and Vice-Chair Knox SECONDED a MOTION to**
67 **approve the 131 Red Pine Circle application as warned and according to the Findings &**
68 **Conditions of a Staff Report dated 6/10/21, as written. The MOTION passed 7-0.**

69

70 **AGENDA ITEM 3: SITE PLAN-PUBLIC HEARING: FORESTDALE HEIGHTS, INC**
71 **AND BRAD & RENEE LAFOUNTAIN: PROPOSAL TO CONSTRUCT 2 WAREHOUSE**
72 **BUILDINGS TOTALING 12,600SF ON A 2.21-ACRE PARCEL LOCATED AT 19**
73 **CORPORATE DRIVE IN THE RESOURCE PRESERVATION DISTRICT-**
74 **INDUSTRIAL (RPD-I) ZONE. TAX MAP 72, PARCEL 3-19.**

75

76 Darren Schibler stated the applicant was proposing 2 warehouse buildings on the vacant lot. The
77 buildings would connect to municipal water and sewer and utilize on-site stormwater treatment.
78 His only concern with the application was the proposed street trees within the 50' buffer. He
79 reminded the PC that they have granted waivers for other applications within the 50' buffer, and
80 this applicant is also asking for a waiver. He noted that they are replacing the trees so that they
81 are at least 10' from the easement, with smaller ground cover. He also noted that this lot will
82 share stormwater with Lot 13.

83

84 Commissioner Raphael noted this stormwater was being allocated for this lot and asked if the PC
85 was comfortable with the remaining site to be developed.

86

87 Chairman Bruso referred to Line 108 of the Staff Report and was concerned about the word
88 "replace" because the PC talks about street trees to modify but not "replace."

89

90 Schibler read previously approved waiver language that the PC used with other applications as
91 follows, "The Commission supports a waiver to clear the 50 ft. buffer along Corporate Drive in
92 order to replace the fragmented buffer with street trees similar to Corporate Drive Phase 2 lots.
93 The objective is to maintain a consistent appearance throughout Corporate Drive. There will be
94 no structures built within the 50 ft. buffer area."

95

96 Commissioner Raphael suggested the word "within" the 50' buffer, is more appropriate to use
97 instead of "replace."

98

99 Vice-Chair Knox questioned the frontage being 7' short from the requirement. Schibler stated
100 that Section 3.1 of the Zoning Regulations allows frontage to be reduced by 75% along curved
101 portions of a cul-de-sac.

102

103 Commissioner Mangan asked if the proposed second building situated away from the parking
104 area, had public access or if it was just for the owner to utilize. Paul expected it to be used only
105 by the business owner.

106

107 Paul O'Leary spoke on this application. He stated that there is sufficient stormwater on the
108 entire site for all lots. He described how the stormwater is infiltrated and goes to a pond. He
109 noted the pond has never filled up. They will be amending the State Stormwater Permit so that
110 there will be capacity for all lots to have onsite stormwater. He was fine with the Staff Report
111 but noted that Condition 17 was not needed as it was covered under Condition 21.

112

113 **Commissioner Raphael MOVED and Vice-Chair Knox SECONDED a MOTION to open**
114 **the Public Hearing. The MOTION passed 7-0.**

115

116 There were no public comments.

117

118 **Commissioner Raphael MOVED and Vice-Chair Knox SECONDED a MOTION to close**
119 **the Public Hearing. The MOTION passed 7-0.**

120

121 **Commissioner Raphael MOVED and Commissioner Schumacher SECONDED a**
122 **MOTION to approve the 19 Corporate Drive application as warned and according to the**
123 **Findings & Conditions of a Staff Report dated 6/10/21, with minor changes as follows:**

124

125 Lines 108: Change to read, "The applicant has proposed replacing fragmented vegetation within
126 the 50' buffer with four trees along the road."

127

128 Lines 282-285: Change to read, "The Commission supports a waiver to clear the 50 ft. buffer
129 along Corporate Drive by replacing the fragmented buffer within the 50 ft. buffer area."

130

131 **The MOTION passed 7-0.**

132

133 **AGENDA ITEM 4: SITE PLAN-PUBLIC HEARING: RICK BOVE D/B/A HDI REAL**
134 **ESTATE, INC.: PROPOSAL FOR 2 RESIDENTIAL BUILDINGS TOTALING 30**
135 **APARTMENT UNITS; AND 1 MIXED-USE BUILDING INCLUDING 22 APARTMENT**
136 **UNITS AND 6000 SF OF COMMERCIAL SPACE LOCATED AT COMMONWEALTH**
137 **& 10 CARMICHAEL STREET IN THE MIXED-USE COMMERCIAL (MXD-C)**
138 **DISTRICT & BUSINESS DESIGN CONTROL (B-DC) OVERLAY DISTRICT. TAX**
139 **MAP 91, PARCEL 1.**

140

141 Darren Schibler, Planner, stated that there was a long history of applications that underwent
142 review over a couple of decades. The current proposal consists of Parcel G, G1 & H. Staff feels
143 this proposal is the least aligned with the vision and does not support the application. He
144 informed the applicant and suggested changes that could be supported, but those were ignored by
145 the applicant. Schibler said the application is before the PC due to the insistence by the
146 applicant. Schibler started to walk-thru the reasons, as listed in the Staff Report, such as,

147 sidewalks too narrow; not enough street trees; access through the rear between buildings I & H
148 and G and X; exceeds allowed density for area; request for bonus not justified; etc.

149

150 Commissioner Raphael interrupted to say that he feels the staff report gives all the reasons of the
151 recommended denial and did not feel the need to go through it in detail. He would rather hear
152 what the applicant has to say about the recommended denial. Chairman Brusco agreed.

153

154 Paul O’Leary, P.E. provided the following comments on this application:

- 155 • That commercial space is usually more valuable than residential space, however
156 commercial real estate has crashed and is of very little money.
- 157 • He pointed out that Bove’s neighbor, Peter Edlemann, has 82,0000 sq. ft. of empty space
158 and he gives space to someone for nothing.
- 159 • O’Leary said you need residential density to make commercial work. He discussed
160 Maple Tree Place at Taft Corners in Williston, noting the 1,0000 units of residential
161 development named ‘Finney Crossing’ is what makes the commercial space work.
- 162 • He noted they are now looking at the Town Center and D. Schibler is stating that there is
163 way too much residential density. O’Leary said this is not true and that the Town Center
164 needs way more density.
- 165 • He agrees there is lots of history with the Town Center. He noted that a Master Plan does
166 two things: 1) allows the Town to see long term; and 2) Gives a developer some sense on
167 how to go forward. He noted previous approvals granted in March 2016, and February,
168 2017, and there have been no changes to the regulations since these approvals. He noted
169 that if the PC read through those staff reports said that all was okay, density, setbacks,
170 sidewalks, etc. He continued on with comparisons of building, sidewalk size, etc.
- 171 • He felt that Staff was prejudice. He noted that the header starting on Page 2 of the Staff
172 report reads, “DENIAL”; the height of the building is not as tall as the 2017;
- 173 • There have been six or seven planners prior to the current planner and none have
174 convoluted a staff report. He repeated the Staff Report is negative and prejudiced when it
175 should be unbiased;
- 176 • He told the planner that the PC must decide if the application did not qualify, not the
177 planner, which is why they want to hear from the PC on this matter;
- 178 • He noted that no conditions were put forth in the Staff Report and questioned how the PC
179 could go forward with the application.
- 180 • He finished by stating he was “wicked disappointed.”

181

182 Commissioner Daly read the Staff Report and stated he had mostly the same reaction as Paul
183 O’Leary. He felt there should be a case study of why things do not get built and that somehow
184 planners need to sit down with developers.

185

186 Chairman Brusco stated that the Staff Report recommends denial and asked the PC for no more
187 beating up on staff. He stated if the PC does not agree with staff it can redirect staff.

188

189 Commissioner Raphael supports a continuance and agrees with points on both sides. With the
190 ETC|Next Plan out of the equation, O’Leary made some great points. It would not take much to
191 change the regulations. He wants to see something happen with these lots and feels there is room
192 to make something happen.

193

194 Vice-Chair Knox said “Ditto” to Raphael’s comments. He has concerns of active versus in-
195 active streetscape, however recognized that it does predate the ETC|Next plan.
196

197 Commissioner Schumacher also said “Ditto” to the comments and wants to see the applicant and
198 staff be more objective. He is hoping to see the paving finished on Carmichael Street.
199

200 Commissioner Mangan agrees with all comments stated.
201

202 Owiso Makuku stated that even though Darren doesn’t have a design background, she has a
203 Masters in architecture and has worked as an architect. She stated that that they spent a couple
204 of hours going over the building and site design. She said, “she thinks that the design could be
205 more consistent with our ordinance, but design is subjective and we can agree to disagree.”
206

207 Rick Bove echoed Paul’s comments. He stated that his bank wants something to happen. It is a
208 stretch to propose commercial space at this time. The news says a hybrid is suggested. Nobody
209 knows what things will look like. Office space is turning into residential as people are working
210 from home. This is the reason he is asking for residential on the first floor. He said that he can
211 change back to commercial when there is a demand.
212

213 Commissioner Furland is in favor of density and felt the PC should discuss commercial space.
214 He suggested spaces needed to convert back and forth from commercial/residential. He is in
215 favor of granting a height waiver to add another floor to gain more residential density and
216 believes there needs to be a drive on residential development. However, he agrees with Owiso,
217 the buildings should not all look the same.
218

219 Commissioner Raphael suggested a continuance. Commissioner Furland said it would not be
220 productive to have staff talk to the applicant until the PC decides on commercial space. Schibler
221 agreed. Schibler heard Bove’s statement about convertible space and it merits some exploration.
222 Schibler stated that staff is not against residential density, rather is concerned that this
223 application does not meet the regulations and cited Section 6.7(D)(4) of the Zoning Regulations.
224

225 O’Leary stated that if you drive by 5-corners in the Village, it is still half empty, 6-7 years later.
226 He said they need a clear opinion from the PC. Again, stating that only the PC can make a
227 motion to approve or deny the application.
228

229 Makuku stated that seeing paper up on windows is a distraction and quality of life on the street
230 level is not desirable. Also, if the PC is to consider converting from commercial to residential,
231 the first floor should be constructed to commercial standards so that this option can happen.
232

233 Commissioner Raphael was a fan of super high density as that becomes the driver for
234 commercial. It should not rely on car traffic and parking. He said to look at commercial across
235 the whole area. It is in the tank, but higher residential density brings commercial. He wants to
236 see a balance. He is fine with waivers. He wants to see more collaboration and less arguments.
237 He wants to make it work and believes we are not that far off.
238

239 Vice-Chair Knox agrees and said it is the chicken and the egg scenario. We need people but we
240 need a reason for folks to walk around.
241

242 Commissioner Daly stated that we have worse buildings and thinks the architect did a good job –
243 it seems to fit. He would like to get something to further our plan and does not roadblock the
244 developer.

245
246 Commissioner Schumacher noted the following concerns: commercial; architecture; square
247 footage; waivers; elevations; density bonus; and how much commercial space is needed. He
248 said, “We are at an impasse and it is odd with no conditions.”

249
250 Chairman Brusco repeated to the Commission to take it easy on the staff as staff did exactly what
251 was asked of them with this application, which is to take a stance and defend it. He suggested
252 that due to comments from other Commissioners, the PC can direct staff to bring them a different
253 report so they have an option to approve or deny the application.

254
255 Commissioner Furland wanted to decide on terms of commercial and if convertible space is
256 accepted, to take Owiso’s comments on height of floor and windows. He believed that residential
257 is never converted to commercial. He is happy with higher ceilings, larger windows, taller
258 buildings, mixing up the colors on the building. He has no strong opinion on the other issues.

259
260 Vice Chair Knox supports a continuance. The substance is how to get an active streetscape.

261
262 Commissioners Raphael said, “Ditto.” He does not want to give up commercial. He is okay for
263 bonuses, especially for affordable housing. Schumacher and Knox agreed.

264
265 Commissioner Daly said they do not have enough to weigh the pros and cons. The PC needs
266 more of “a shopping list,” in order for the PC to decide.

267
268 Commissioner Mangan likes the look of the building. He stated that 5 corners is a horrible place
269 to fill as there is no parking. He stated it would be nice to get data on commercial space and
270 asked how many businesses closed during Covid. He is a big fan of density. He wants the
271 completion of Carmichael Street.

272
273 Chairman Brusco stated the amount of commercial can be calculated. The streetscape is a design
274 point and does not think residential should be challenging commercial for the draw. He does not
275 believe seeing switching back and forth from commercial to residential happening. He
276 questioned what the correct amount of commercial space. He suggested the Staff Report be
277 rewritten as an approval, with elements for the PC to work on for the next meeting.

278
279 O’Leary noted that Finney Crossing does not mix buildings, it is either commercial or
280 residential. He stated that it is about people there walking and higher density helps. He noted
281 this would also help out Edelman. He repeated that density brings and helps commercial.

282
283 Schibler stated that commercial storefront would enhance civic and greenspace. The Town
284 Common is not proposed until the next phase of development but, having none would be a
285 disappointment.

286
287 Makuku stated that McGillcuddy’s has a non-compete clause so that no other restaurant could go
288 into the space, which is a reason the commercial stays empty. She noted that public
289 transportation needs to be folded in as another option. Once more density is built, more busses
290 will come to the area.

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A discussion ensued on the greenspace. O’Leary suggested that a portion of the proposed lot could be started and will be explored.

Bove stated that he has three more developable lots at the town center. If his bank states they need more residential density, we will take that up to the PC at the time, if they say they need commercial, they will do it.

Makuku stated that she worked as a planner in Burlington for over 5 years and not having commercial on the ground floor is a mistake.

Chairman Brusco instructed staff to look at the 2017 approval along Carmichael Street. Things he heard from Commissioners are:

- Commercial along Carmichael Street; bonuses for more residential; not hearing no to the proposed design of the building; acceptance from Commissioners that may not need as much commercial space; ask for waiver, and the PC will approve as they can.

Commissioner Raphael noted the term affordable housing was not low-income housing.

Chairman Brusco asked staff to rewrite as an approval incorporating the comments made.

Vice-Chair Knox MOVED and Commissioner Raphael SECONDED a MOTION to open the Public Hearing. The MOTION passed 7-0.

There were no public comments.

Chairman Brusco MOVED and Commissioner Raphael SECONDED a MOTION to keep the Public Hearing open and continue the application to the next available hearing as determined by staff. The MOTION passed 7-0.

AGENDA ITEM 5: MINUTES 5/13/21 & 5/27/21:

Commissioner Mangan MOVED and Commissioner Knox SECONDED a MOTION to approve the 5/13/21 & 5/27/21 minutes as written. The MOTION passed 7-0.

AGENDA ITEMS 6: OTHER BUSINESS:

Sharon Kelley noted the submittal of a sign application to be located at 81B Center Road in the Business Design Control (B-DC) Zoning District. She asked if the PC wanted to see this as a full application or if the Zoning Administrator (Z.A.) could approve it administratively. Kelley reported the colors proposed are black, white and maroon. The PC authorized the Z.A. to sign-off on the permit application.

The Planning Commission meeting adjourned at 8:43 p.m.

PLANNING COMMISSION

By: _____

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Dustin R. Brusio, Chair