

1 TOWN OF ESSEX
2 PLANNING COMMISSION
3 DRAFT MINUTES
4 FEBRUARY 10, 2022
5

6 **Note: This meeting was in-person and virtual on Teams.**
7

8 **PLANNING COMMISSION (PC) PRESENT:**

9 **IN PERSON:** Dustin Brusco; PC Chair; and Ned Daly.

10 **VIRTUAL:** Josh Knox, Vice-Chair; John Mangan, Clerk; David Raphael; Jonathan Schumacher;
11 and Tom Furland.
12

13 **OTHERS PRESENT:**

14 **IN PERSON:** Sharon Kelley, Zoning Administrator; Darren Schibler, Planner; Pam Schrinier;
15 Scott Lee; Bryan Currier; and Richard Jenny.
16

17 **VIRTUAL:** David Burke; and Scott Lee.
18

19 Chairman Brusco called the meeting to order at 6:33 p.m. and called out the Commissioners
20 who were in attendance virtually and in person. Instructions on how to operate Zoom were
21 provided to the audience.
22

23 **AGENDA ITEM 1: PUBLIC COMMENTS:** None.
24

25 **AGENDA ITEM 2: FINAL PLAN-PUBLIC HEARING: Richard Jenny: Proposal to create**
26 **a 3-lot residential subdivision on a 33-acre vacant parcel located at 44 Brigham Hill Lane in**
27 **the Conservation (C1) Zone. Tax Map 17, Parcel 3.**
28

29 Darren Schibler, Planner, pulled up the plan on the overhead, noting the approximate 33-acre lot is
30 being proposed to split into three 10-acre lots, each with a single-family house. He noted the location of
31 the parcel under review and described the surrounding area. He pointed out that most of the issues
32 were resolved at sketch review except for the following two issues:

- 33 1. The curb cut is required to be constructed pursuant to the Public Works Specifications
34 and as approved by Public Works; and
- 35 2. Staff is requesting a State wetlands sign-off which can be dealt with administratively.
36 He noted that a delineation is not required.
37

38 David Burke, of O'Leary-Burke Civil Associates made the following comments:
39

- 40 • Lots 2 and 3 will share a mound septic system; Lot 1 will have its own mound system;
- 41 • There are 5 plan sheets and a plat. Sheet 1 and the plat will be corrected as Lot 3 was
42 shown as 13.2 acres and the correct number is 12.78 acres as the southwest corner of Lot 3
43 and lost 1/3 of an acre. He stated that the PC normally conditions this change;
- 44 • Conditions 1-9 are fine, however he continues to disagree with the wetlands request and
45 also with the access permit. He agrees with a condition that Public Works will handle the
46 access permit administratively;
- 47 • He noted that there are no wetlands on the parcel and no hydraulic soils on Lots 1, 2 or 3 as
48 he has done 20 test pits on the site;

- 49 • He pointed out that Public Works does not have purview on wetlands and it belongs at the
50 PC table;
51 • He repeated that all these points were made at Sketch review, which the PC approved and
52 stated that there was no need to talk further about wetlands.

53

54 Schibler called out small corrections that he made to the Staff Report since it was distributed to
55 the PC.

56

57 Commissioner Furland asked what concerns Public Works had with the wetlands. Schibler stated
58 that wetlands exist across the street which may be impacted by the construction of new driveway.
59 Furland asked for confirmation that wetlands were not on the applicant's property. Schibler
60 confirmed.

61

62 Chairman Bruso noted that the request is to request confirmation from the State on the wetland
63 concerns that Public Works has expressed.

64

65 Burke stated that the wetlands discussion was a requirement at sketch level, and "big discussions"
66 took place at that time. It was his contention that confirmation is not needed. If it was now
67 required, this could mean that they would not get an answer until September and there is no reason
68 for Mr. Jenny to wait on something that was already settled.

69

70 Schibler repeated that the condition would only require a confirmation from State Wetlands
71 Division.

72

73 **Vice-Chair Knox Moved and Commissioner Daly Seconded a motion to open the Public**
74 **Hearing. The Motion passed 7-0.**

75

76 There was no public comment.

77

78 **Commissioner Daly Moved and Commissioner Schumacher Seconded a motion to close the**
79 **Public Hearing. The Motion passed 7-0.**

80

81 **Commissioner Raphael Moved and Commissioner Schumacher Seconded a motion to**
82 **approve the Staff Report for 44 Brigham Hill Lane subject to the Findings and Conditions of**
83 **a Staff Report dated 2/10/2022, including the following changes:**

84

85 Lines 141: Delete "of" with, "where the existing ground slope is" and after "20% or less" delete
86 the remaining sentence:

87 Line 147: After "mapped" and "is";

88 Line 220: After "by" add "underground service lines to existing";

89 Line 259: Add, "The Planning Commission noted that the applicant reported a minor change to
90 acreage on Plan Sheet 1 and the Plat.

91

92 **The Motion passed 7-0.**

93

94 **AGENDA ITEM 3: CONCEPTUAL DISCUSSION: Scott A. Lee & Pamela P. Schirner:**
95 **Request to proceed with a 2-lot PUD application for property located at 247 River Road in**
96 **the Industrial (I1) & Agricultural Residential (AR) Zones. Tax Map 33, Parcel 17.**

97 Sharon Kelley informed the PC that an inquiry was made for a 2-Lot PUD on an approximate
98 17-acre lot that was previously developed with 2 homes on the parcel. She noted that the
99 current Zoning Regulations allow for 2-lot PUDs, however given that PUDs have been a
100 challenge of late, staff determined that the applicant should bring forth a conceptual application
101 so that the PC could make a determination if they are willing to entertain such an application.
102 Kelley noted that access to both homes come off a private drive (Kimo Drive) and they share a
103 driveway. Kelley noted that the applicant's parcel boundary falls short of Kimo Drive and
104 therefore its only frontage is on River Road, which has 275 feet. She stated that the parcel is a
105 non-conforming lot as the parcel and has split zones, Agricultural-Residential (AR) and
106 Industrial (I1). Kelley noted that a PUD would lessen the acreage of the nonconformity and
107 create one conforming lot.

108
109 Kelley reported that both she and the town planner met with the landowner on site to
110 determine if a trail easement could be obtained on the westerly side that would connect River
111 Road up to the applicant's boundary, with the hopes of a future connection to Al Senecal's lands
112 at Saxon Hill. Kelley noted that much of the area was passible until you came near the top as the
113 terrain and creek made it more difficult. She reported that this would be a trail for a skilled
114 hiker, however staff did not agree that this would not be a workable area for a path. Kelley noted
115 that they discussed a trail along the property line that runs up Kimo Drive and the applicant's felt
116 this would be too close to their homes.

117
118 Commissioner Furland stated that he would be interested in a trail on the west side even if the
119 terrain gets steep.

120
121 The landowner, Scott Lee, stated that a walk could be arranged for the PC as he believed this
122 would be more beneficial than looking at a map.

123
124 Bryan Currier, P.E., of O'Leary-Burke Civil Associates spoke on this application and made the
125 following points:

- 126
127
- 128 • The I1 portion of the lot points south and the AR portion points north;
 - 129 • Two houses exists on the parcel with one of the homes being non-conforming due to it
130 being located in the I1 zone.
 - 131 • He stated that a PUD requires 200' of frontage and the applicant has 275 feet.
 - 132 • No waivers or flexibility was being requested;
 - 133 • Lot 1 is proposed as a 3-acre lot; would be situated in the AR zone; and would become a
134 conforming lot;
 - 135 • Lot 2 is proposed to be an 11-acre lot and retains approximately 3-acres in the front of the
136 parcel in the AR zone. This acreage is being retained for future development in the event
137 Kimo Drive becomes a public road.
 - 138 • A 3-acre lot is shown on the plan as an open space lot.

139 Scott Lee stated that his house was built in 1975 and in that time-frame zoning was not the
140 same as it is today. Currier stated the lot was originally conforming, but since zoning changes
141 it became non-conforming.

142 Chairman Brusco asked what would happen with Lot 1 in the future when Kimo became a
143 public road. Kelley reported that a PUD amendment would be required unless the Regulations
144 changed the options. She reminded the Commission that they are going to review and possibly
145 change the current requirement which allows for PUDs to start at 2-lots.

146

147 Commissioner Furland asked if no houses existed how would they propose a PUD. Kelley
148 stated that the houses would still need to be clustered. Kelley noted the lot was 17-acres, with
149 a shared driveway and it was her opinion that the existing houses are clustered. Currier stated
150 it would probably be the same number of units, however one lot would be residential and one
151 lot would be commercial due to the zoning districts.

152

153 Commissioner Furland felt the PC needed to approve the request for a 2-Lot PUD and
154 suggested that a PC Finding would need to state that lot was originally a conforming lot due to
155 zoning district changes in years ago.

156

157 Commissioner Daly stated that the request seems reasonable. He noted that Lot 2 does have
158 the stream and wetlands. Scott Lee reported that the terrain dictated where the houses are
159 situated.

160

161 Commissioner Raphael doesn't have conceptual issues however, struggles with 2-lot PUDs.
162 He is worried about accessory dwelling units being converted into homes. Currier replied that
163 accessory dwellings are required to meet a certain size.

164

165 Commissioner Mangan agreed with Commissioner Furland's statements.

166

167 Commissioner Schumacher doesn't like anything about a 2-lot PUD but agreed that this lot
168 started out as a family lot and the zoning district changed. He would like to see a trail
169 proposed.

170

171 Vice-Chair Knox agreed with Commissioner Furland and stated you have to recognize the facts
172 on the ground.

173

174 Darren Schibler, Planner, stated that he was not sure of putting a trail in as the state is clear that
175 new trails cannot be put in a wetland area, noting that there was a similar discussion with the
176 Kolvoord subdivision. He echoed Commissioner Raphael's fears about two houses on a lot but
177 Commissioner Furland's suggestion lessens the precedent to some extent. He noted that Kimo
178 Drive exists and there are plans for it to become a full public road in the future, which could
179 allow for more development.

180

181 Chairman Brusco noted that the PC appears agreeable to consider a PUD application as the
182 request meets the existing regulation requirements.

183

184 Schibler noted that the PC would need to provide a waiver as Lot 2 does not have its own
185 frontage on a public road.

186

187 Chairman Brusco noted the lots have a shared driveway on Kimo Drive. Brusco stated that there
188 needs to be a trail easement to go from point A to point X, even if it does not yet connect to
189 another trail.

190 Chairman Brusco asked the PC if they wanted a formal application to go forward. The PC
191 agreed however, Commissioner Raphael was still struggling.

192

193 Currier stated that the state allows for a primitive path to go next to a wetland.

194

195 **AGENDA ITEM 4: MINUTES 1/27/2022:**

196

197 **Commissioner Raphael MOVED and Commissioner Schumacher SECONDED a**
198 **MOTION to approve the 1/13/2022 minutes with the grammatical changes as reported.**
199 **The MOTION passed 6-0.**

200

201 **ITEM 5: OTHER BUSINESS:**

202

203 Chairman Brusco proposed to change the documentation process when updated Regulations or
204 Plans so that they are done electronically, which is more flexible and agile. The PC agreed.
205 **Chairman Brusco Moved and Commissioner Furland Seconded a Motion to instruct staff to**
206 **work towards electric schematic for its master copies. The Motion passed 7-0.**

207

208 Sharon Kelley reported that the landowner, the Reynolds family and the tenant, Kevin Collins,
209 (who owns Inside Out Upholstery) have been fitting up the former Powell's place structure,
210 which the tenant has been using as an accessory storage use to his business on the premises.
211 Kelley noted that Collin's request would be put forth to the PC at the upcoming regulation
212 workshop, however the requests consisted of the following:

213

- 214 1. To allow for a caretaker apartment in the Center Zoning District; and
- 215 2. A reduction of size to the floor area for a single-family unit to be 250 square feet.

216

217 Chairman Brusco stated that any additional talk of residential in this area, being so close to the
218 corner, is an issue.

219

220 Schibler noted that the PC should have received the worklist that was provided to them and
221 asked if they wanted to discuss now or at the workshop meeting. The PC determined the
222 discussion should take place at the workshop meeting. Chairman Brusco asked the PC to come
223 prepared with each Commissioner listing its priorities. Brusco suggested this might be a good
224 time to get other committees involved. More discussion will occur at the next workshop
225 meeting.

226

227 The meeting adjourned at 7:43 p.m.

228

PLANNING COMMISSION

229

230 By: _____

231

Dustin R. Brusco, Chair

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233

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