

1 **ESSEX PLANNING COMMISSION**

2 **April 30, 2020**

3 **84 Susie Wilson Road: Planned Unit Development – Residential**

4 Staff report prepared by Darren Schibler, Town Planner

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21 **Summary**

22 The applicant has proposed a PUD-R with 7 single-unit lots, including one existing single-

23 unit home, on a 10.5-acre property that lies within the R-2, I-1, and C-2 districts. Approximately

24 6.3 acres of the property are undevelopable due to floodplains, wetlands, steep slopes, and a new

25 private road; this land would be included in a shared common lot, and development would take

26 place within the remaining 4.2 acres and primarily within the R-2 zone. The new lots would be

27 served by municipal water and a shared on-site septic system.

28 The proposed layout would result in several lots without frontage along a public road, though

29 each would have sufficient frontage along the proposed private road. The applicant has requested

30 a waiver from the frontage requirements. The applicant has also requested a reduction in the

31 minimum required lot area to allow for a more clustered design, as well as a 14.75% density

32 bonus for the provision two perpetually affordable housing units (29% of the total dwellings).

33 Though the revised design combines two single-unit lots into a duplex lot, the overall design

34 is not significantly more clustered and the dwellings are still spatially isolated from neighbors.

35 The provision of private road frontage for each lot is also an improvement; however, part of the

36 cul-de-sac and the driveways for Lots 3 and 4 are set on a steep (>20%) grade and must be

37 relocated and redesigned.

38 **Applicant**

39 Kathy Pecue
40 36 Tyler Place
41 Jericho, VT 05465

42 **Proposal**

43 The applicant has proposed a Residential Planned Unit Development (PUD-R) on a 10.5-acre
44 lot with an existing single-unit home at 84 Susie Wilson Road, tax map 9, parcel 4. The proposal
45 would result in seven residential lots with one shared open space lot for a total of eight lots. The
46 new lots would be served by municipal water, a shared on-site septic system, and a mix of
47 individual and shared driveways, as well as a new private road. The applicant has requested a
48 14.75% density bonus for provision of two perpetually affordable housing units (29% of the total
49 dwellings). The applicant has also requested waivers to frontage requirements and a reduction of
50 the required minimum lot area.

51 The property is bounded on the north by the Susie Wilson Bypass, a limited-access town
52 highway. Across Indian Brook to the northeast, abutting properties include low-density single-
53 unit homes. To the southwest across Susie Wilson Road is a clustered apartment complex
54 (currently under review for expansion). Properties to the south include moderate-density single-
55 unit homes, and to the west is an equipment storage building.

56 **Background**

57 The existing single-unit dwelling on the parcel was constructed around 1920. Warranty deeds
58 indicate that as of 1946, the parcel was approximately 62 acres in area.

59 On May 5, 1991, the current landowner deeded approximately a portion of the property to the
60 Vermont Agency of Transportation under eminent domain for the Circumferential Highway. Part
61 of this land eventually became the Susie Wilson Bypass road.

62 On July 22, 1999, the Zoning Administrator approved a simple parcel subdivision of the property
63 to create a 0.69-acre parcel currently addressed as 96 Susie Wilson Road.

64 Sheet C1-01, Note 6 of the plans states that a recent survey entitled “SBOUNDARY PLAT
65 JAMES & KATHYBAKER 84 SUSIE WILSON ROAD, ESSEX, VT,” dated 05/16/2006 was
66 used to determine the current property boundaries and area of approximately 10.5 acres. This
67 survey was not recorded in the Land Records.

68 The Planning Commission held a public hearing on the proposal on February 27, 2020. During
69 the hearing, the Commission expressed a desire for further clustering of lots and dwellings, as
70 the current layout was not innovative or creative enough to justify the requested waivers to
71 minimum lot area and frontage requirements. The public and the Commission also expressed
72 concern over how access, parking, signage, and maintenance of the public nature trail would be
73 managed, concluding that access should be limited to residents and neighbors of the PUD. The
74 applicant has submitted a revised layout based on those comments, including eliminating the
75 public nature path.

76 **Findings**

77 **I. Article II of the *Subdivision Regulations*: Subdivision Procedures**

78 The applicant has submitted the following plans:

- 79 • Sheet C1-01: “Overall Existing Conditions Plan, Pecue, 84 Susie Wilson, Essex,
80 Vermont” prepared by Trudell Consulting Engineers, Inc., dated 01/22/2020;
- 81 • Sheet C2-01: “Sketch Plan, Pecue, 84 Susie Wilson, Essex, Vermont” prepared by
82 Trudell Consulting Engineers, Inc., dated 01/22/2020, revised 03/16/2020 (received);

83 **(A) SR Section 2.2: Classification**

84 The applicants have requested approval for a Residential Planned Unit Development
85 (PUD-R). According to Section 2.2(D) of the *Town of Essex Outside the Village of Essex*
86 *Junction Official Subdivision Regulations* (SR), planned unit developments and multiple-
87 unit housing projects are considered major subdivisions and require sketch, preliminary,
88 and final approval.

89 **(B) SR Section 2.3: Review Process**

90 As noted in SR Section 2.4, the purpose of sketch plan review is

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

96 The Planning Commission must also study the plan to ensure that it conforms to the
97 General Requirements in SR Article IV. Planned unit developments must also conform to
98 Article VI of the *Zoning Regulations* (ZR).

99

100 **II. Article IV of the Subdivision Regulations: Subdivision Standards**

101 The Planning Commission must evaluate any proposed subdivision according to the Subdivision
102 Standards in Article IV, and may require modification or phasing of the proposed subdivision in
103 light of findings relating to those standards. Sketch plan applications are reviewed against the
104 General Standards in Section 4.1.

105 (A) **SR Section 4.1: Standards Applicable to All Subdivisions**

106 Not all provisions of this section are reviewed here, as some are not relevant to this
107 development or are covered by other provisions of the *Zoning Regulations (ZR)* and/or
108 *Subdivision Regulations (SR)*.

109 **1. SR Standard 4.1(P): Conformance with the Essex Town Plan**

110 The proposed project complies with the following goals and policies of the *Essex*
111 *Town Plan*:

112 **General Policy 1:** *Development shall occur in areas suitable for growth in a compact*
113 *manner as opposed to scattered development throughout Town.*

114 **Specific Policy 2(S).15:** *New housing shall be directed to areas identified as suitable*
115 *for growth, specifically the Town Center and the Susie Wilson Road corridor.*

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

118 **Goal 4c:** *Housing is located in areas convenient to employment, shopping, schools,*
119 *and public transportation.*

120 However, the location of the private road conflicts with the following policies:

121 **Specific Policy 3(S).3:** *Development shall be designed to prevent the destruction of*
122 *important natural resources, including ... slopes exceeding 15 percent.*

123 This issue is reviewed further in Finding II(A)(3).

124 **2. SR Standard 4.1(G): Conformance with the Zoning Regulations**

125 The parcel is located in three different zoning districts: Medium-Density Residential
126 (R-2), Industrial (I-1), and Floodplain Overlay (C-2). Pursuant to ZR Section 2.2(E),
127 when a zoning district boundary divides a lot, the Planning Commission may apply
128 the dimensional requirements for the more restrictive zoning district, taking into
129 consideration site conditions and the layout of house sites and septic systems.

130 Most of the proposed development would take place within the R-2 portion of the lot,
131 with portions of some lots located within 175 feet of the I-1 / R-2 boundary, and no
132 development within the C-2 zone. The proposed development and abutting properties
133 are residential; in addition, the parcel's developable area within the I-1 zone
134 (approximately 1.5 acres) is small, may not accommodate septic disposal, and does
135 not have street access except through the residential neighborhood. Given these
136 considerations, the requirements of the R-2 zone are more applicable to the parcel.
137 Therefore, the development must conform to the dimensional requirements and
138 development standards listed in Table 2.5 of the *Town of Essex Outside the Village of*
139 *Essex Junction Official Zoning Regulations (ZR)*, as well as Article III, General
140 Standards, and any applicable provisions of Article IV, Specific Standards.

141

142 **(a) ZR Table 2.5(A): District Purpose**

143 The project reflects the purpose of the R-2 district by promoting residential
 144 development within the sewer service core. It is noted that sewer service is not
 145 currently available to this location, and the applicant does not plan to connect to
 146 sewer because it would be cost-prohibitive to extend the line from its current
 147 terminus at Kellogg Road. However, these units would be eligible to connect to
 148 sewer should service become available in the future.

149 **(b) ZR Table 2.5(B): Permitted Uses**

150 Single-unit dwellings and duplexes are permitted in this district within residential
 151 planned unit developments (PUD-Rs).

152 **(c) ZR Table 2.5(C): Conditional Uses**

153 The applicant has not proposed any conditional uses for the property.

154 **(d) ZR Table 2.5(D): District Dimensional Requirements**

155 The table below evaluates the revised proposal’s conformance to Table 2.5(D),
 156 District Dimensional Requirements of the R-2 District, including PUD provisions.
 157 Calculations of developable area for PUDs are detailed in Finding III(A).

Dimensional Requirement (a) denotes where PUD standards supersede normal district standards	Required – off-site water and sewer	Required – on-site water or sewer	Proposed (on-site septic, off-site water)
Minimum Lot Area	20,000 sq. ft.	30,000 sq. ft.	13,068 sq. ft.
Minimum Lot Area per Dwelling Unit	20,000 sq. ft.	30,000 sq. ft.	65,340 sq. ft.
Minimum Lot Frontage ^(a)	75 ft.	75 ft.	0 ft.
Minimum Front Setback (from ROW) ^(a)	20 ft. ^(b)	20 ft. ^(b)	> 20 ft.
Minimum Side Setback – Single Unit ^(a)	10 ft.	10 ft.	> 10 ft.
Minimum Rear Setback ^(a)	15 ft.	15 ft.	> 15 ft.
Maximum Height	40 ft.	40 ft.	< 40 ft.

158
 159 All but one of the proposed building lots have less than the minimum required lot
 160 area. The applicant has requested a reduction in the required minimum lot size
 161 under ZR Section 6.8(F), which is reviewed under Finding III(B)(3). However,
 162 the overall density of the development would be far below the maximum allowed
 163 under conventional subdivision.

164 None of the proposed house lots meet the minimum requirements for frontage on
 165 public roads, even as reduced for PUD-Rs; however, the revised layout shows lots
 166 that would have sufficient frontage on the proposed private road. The applicant
 167 has requested a waiver to frontage requirements, which is reviewed under Finding
 168 III(B)(4).

169

170 (e) **ZR Table 2.3(E): PUD Requirements**

171 The applicants have proposed a Residential Planned Unit Development (PUD-
172 Rs). PUD-Rs are encouraged in the R-2 district and follow standards that
173 supersede the normal district standards, with potential waivers and reductions as
174 noted above in Finding I(A)(2)(d).

175 **3. SR Standards 4.1(B), 4.1(C), 4.1(H), and 4.1(M): Natural Features**

176 The property contains several natural features that should be preserved or avoided
177 during development. Certain areas of the property have steep slopes of at least 20%
178 grade. A state-designated river corridor encompasses the northern border of the
179 property around Indian Brook, which flows through the property from northeast to
180 northwest and provides an important riparian habitat connection, according to the
181 Vermont Department of Fish and Wildlife. Mostly included within the river corridor,
182 and coinciding with the Town’s Floodplain Overlay (C2) zoning district, is a Federal
183 Emergency Management Agency (FEMA) flood hazard zone (Type A), which has a
184 1-percent annual chance of flooding, though no flood elevations are mapped. There
185 are no mapped wetlands or open meadows on the property.

186 The proposed development lies mostly outside these natural features and hazards. The
187 revised plans show that the proposed private road has been relocated outside the state
188 river corridor and the 50-foot riparian buffer required under ZR Section
189 3.12(C)(2)(a)(iii), which is measured from the top of the slope since there is no
190 accessible floodplain or wetland on the southern side of the stream near the road. In
191 addition, the plans show that part of the cul-de-sac and the driveways for Lots 3 and 4
192 would cut across steep (>20% grade) embankments, which are in conflict with ZR
193 Section 3.12, ZR Section 5.6(B)(4), and Specific Policy 3(S).3 of the *2016 Town*
194 *Plan*. Road construction at these locations would require significant changes to
195 existing topography and would create the risk of erosion. Despite the fact that these
196 driveways meet grade requirements in ZR Section 3.1(G)(4), the layout of the road,
197 driveways, and lots must be revised to avoid these steep slope areas.

198 **4. SR Standard 4.1(N): Clustering of Lots**

199 As noted by the Planning Commission at the February 27, 2020, though the initial
200 proposal demonstrates a more clustered layout than conventional lots, further
201 clustering and location of dwellings closer to Susie Wilson Road was strongly
202 encouraged to support the requested waivers from frontage and lot area requirements.

203 The revised proposal improves upon this somewhat by combining two single-unit lots
204 into one duplex lot, but still consumes most of the developable land by distributing it
205 among the single-unit lots. This contributes to a sense of isolation between the
206 dwellings, especially compared to lots in the surrounding neighborhood, which are
207 spaced regularly along streets. Considering that most lots in the neighborhood are
208 sized to accommodate individual septic systems, it is recommended that the proposed
209 dwellings be relocated to better relate to each other. This may also reduce the area
210 dedicated to roads and avoid development on steep slopes.

211 **5. SR Standards 4.1(D) and 4.1(I): Access**

212 The proposal provides sufficient access to dwellings off a Class 3 paved collector
213 street (Susie Wilson Road). As the development numbers fewer than 50 dwelling
214 units, a second permanent public road connection is not required.

215 However, as noted in Finding II(A)(3), the driveways for Lots 3 and 4 as well as a
216 portion of the cul-de-sac would be located on a slope exceeding 20% grade. These
217 routes must be redesigned to avoid steep slopes.

218 In a memorandum dated February 11, 2020 Public Works staff stated:

- 219 *1. As the proposed development includes fewer than ten living units, a completed*
220 *traffic study is not required. However, subsequent submissions will, at a*
221 *minimum, require curb cut site distance, estimate of traffic generation, drainage*
222 *impact, and safety analysis as per Section 220 of the Town of Essex Standard*
223 *Specifications for Construction. The applicants engineer shall provide a traffic*
224 *analysis, pre and post development, and how the additional traffic will impact the*
225 *Susie Wilson Road / Kellogg Road signalized intersection.*
- 226 *2. This is the second residential subdivision on the dead-end portion of Susie Wilson*
227 *Road that has come into the Town of Essex for review. Public Works has concerns*
228 *that the additional traffic generated by both developments will accelerate the*
229 *deterioration of the section of Susie Wilson Road between the intersection at*
230 *Kellogg Road and the intersection of Abare Avenue. In the past the Town has*
231 *used a pavement impact fee to offset the additional cost associated with mitigating*
232 *the deterioration caused by additional traffic caused by new development. A fee*
233 *will be calculated at a future review of this project.*
- 234 *3. Both the existing drive curb cut and the new drive curb cuts have adequate sight*
235 *distance for exiting and entering vehicles.*
- 236 *4. All drives internal to the project shall meet the requirements of the Town of Essex*
237 *Standard Specifications for Construction.*
- 238 *5. Additional comment will be provided after the Preliminary plans have been*
239 *submitted for this project.*

240 **6. SR Standard 4.1(E) and 4.1(L): Pedestrian and Recreation Facilities**

241 The proposal does not include any provisions for pedestrian connections to existing
242 sidewalks on the west side of Susie Wilson Road. In a memorandum dated February
243 11, 2020, Public Works required that the applicant extend the sidewalk along the west
244 side of Susie Wilson Road from the corner of Abare Avenue, and upgrade existing
245 sidewalk along this segment to ADA standards. This must be included in the
246 preliminary plans.

247

248 **7. SR Standard 4.1(F): Street Planning Standards**

249 This standard requires that subdivisions fronting on a major or collector street must
250 provide access to lots via a new minor road. This section of Susie Wilson Road is
251 classified as a collector street, but because it is a dead-end with few residences, it
252 currently functions more as a local minor road. In any case, the proposal would meet
253 this standard by providing a new private road to serve four of the new lots and a
254 shared private driveway to serve the remaining two.

255 **8. SR Standard 4.1(L): Parking**

256 The applicants have not proposed any specific plans for off-street parking. ZR
257 Section 3.9(B) requires an average of 2.3 parking spaces per dwelling for single-unit
258 homes; the required amount of parking can be modified by the Planning Commission
259 under ZR Section 3.9(I). The preliminary plans must indicate the parking layout for
260 the development.

261 **9. SR Standard 4.1(R): Landscaping and Screening**

262 No landscaping plans have been presented with the sketch plan application. As
263 required under SR Section 4.3(C), at minimum the preliminary plan must include one
264 street tree for every 50 feet of frontage along Susie Wilson Road where development
265 is proposed, as well as along the new private road.

266 **10. SR Standard 4.1(K): Public Safety**

267 In an e-mail dated January 24, 2020, the Police Chief stated that there were no
268 concerns with this proposal.

269 In an e-mail dated January 25, 2020, the Fire Chief expressed concern about
270 maintenance of the private road and driveways to ensure access for emergency
271 vehicles at all times. The Fire Chief also requested further information about
272 driveway length, width, clearance, parking areas, and turning radii.

273 In an e-mail dated April 15, 2020, the Fire Chief also stated:

274 *Is there a purpose for Lots 2 and 3 sharing a driveway, or could they each have*
275 *their own curb cut off the Private Roadway? We recommend not sharing a*
276 *driveway off the private roadway.*

277 *Lot 1 is proposing to move the driveway onto the Private Roadway from its*
278 *current location. If this is approved, then it must have an address listed on the*
279 *Private Roadway.*

280 *All building lots should have their respective street address labeled in reflective*
281 *numbering and visible from the Private Road (It appears that the houses will not*
282 *necessarily be visible from the street, so roadside numbers will be essential.*

283 *The proposed location of the fire hydrant at the end of the cul-de-sac is*
284 *acceptable, however the fire department requests an additional hydrant at the*
285 *beginning of the private roadway to serve the first four houses on that private*
286 *road. The reason is that since this section of Susie Wilson Road is dead-end, we*
287 *cannot connect to the existing hydrant and lay a line across the street upon our*

288 *initial approach as this would shut that road down to all further traffic (including*
289 *subsequent fire apparatus).*

290 **11. SR Standard 4.1(J): Utilities**

291 The applicant’s engineer has indicated that Lot 1 has an existing septic system and
292 water service connection. The water service will remain, but the septic system will be
293 removed and all lots will utilize a shared private septic disposal area (which will be
294 reviewed by the Vermont Water and Wastewater Division). Lots 2-6 will use
295 individual connections off a new water service line running under the private road.
296 Full engineering details and information on water infrastructure must be provided
297 with the preliminary submission.

298 In a memorandum dated February 11, 2020, Public Works staff stated:

- 299 1. *The 8 Lot PUD as proposed consists of 1 existing single family home currently*
300 *connected to municipal water, and 6 new single family units. The water services,*
301 *curb stops and existing water metering infrastructure must be upgraded to*
302 *current standards as part of this project.*
- 303 2. *Lots 2 and 3 can be served from a single corporation stop with individual curb*
304 *stops to each lot. Public Works has some concern with servicing four units, (Lots*
305 *4-7), with one water service line. Line pressures in the area may require a larger*
306 *diameter pipe, and with minimal flows from only 4 single family residential units*
307 *or 800 GPD, there may not be enough turn over in the pipe to maintain water*
308 *quality. This said, this may warrant a municipal water extension with a fire*
309 *hydrant. Public Works will address this comment after further study and*
310 *documentation is provided by the applicants engineer for review.*
- 311 3. *An analysis of the water distribution system will be required to determine issues*
312 *of water pressure and flow caused by future demands of the proposed project*
313 *within the Town’s service area. The Town will require the applicant to provide*
314 *the data for the proposed water system to the Town’s design consultant for input*
315 *into the water model. The model will be run by the Town’s consultant. Any*
316 *deficiencies within the proposed or existing water distribution system shall be*
317 *addressed by the applicants engineer prior to Preliminary review. All costs*
318 *associated with running the Town’s water model shall be the responsibility of the*
319 *applicant.*
- 320 4. *New water service connections with curb stops will be required for each of the 6*
321 *new residential units proposed. All service curb stops must be located outside*
322 *pavement and concrete. Each individual water service shall have a Town water*
323 *meter.*
- 324 5. *The project as proposed will require an additional 1,200 GPD of water*
325 *allocation, (6 Houses X 200 GPD/House). The municipal water connection fees*
326 *for the project as proposed will be as follows:*
 - 327 a) *Water: (1,200 GPD X \$5.73) = \$ 6,876.00*

328 *In addition to water initiation fee based on flow, there is a component of the*
329 *initiation fee consisting of a connection cost of \$1000 per connection. With 6*
330 *individual water connections on the proposed plan, an additional \$6,000.00 in*
331 *water fees would be charged. The total water fee for the project as proposed is*
332 *\$12,876.00.*

333 *6. Public Works will review technical content at the Preliminary submittal of this*
334 *project.*

335 The proposal must also meet Town and State requirements for stormwater treatment,
336 plans for which must be presented with the preliminary application. In a
337 memorandum dated February 11, 2020, Public Works staff stated:

338 *1. This project is located within the Indian Brook watershed. This has been*
339 *identified as an impaired watershed by the State. The applicant shall make every*
340 *effort to contain any additional storm water generated by this project onsite.*

341 *2. This site will require a State General Permit for Construction as the area of*
342 *disturbance will be more than one acre.*

343 *3. EPA issued the Lake Champlain TMDL Implementation Plan which calls for*
344 *higher levels of phosphorus removal for all storm water discharges to the Lake or*
345 *its tributaries. Because of this Plan, the applicant will need to provide the pounds*
346 *of phosphorus to be removed by the proposed system with the permit applications.*

347 *4. The applicant's engineer will need to meet with the Town staff regarding the*
348 *storm water design during development of the preliminary plans. Detailed storm*
349 *calculations shall be provided to public works for review. A "Pre" and "Post"*
350 *build out impact study on the existing infrastructure must be provided for review.*

351 *5. Public Works Staff would like to review and offer input before any storm water*
352 *application is made to the state for a storm water permit.*

353 *6. Additional comment will be provided after the Preliminary plans have been*
354 *submitted for this project.*

355

356 **12. SR Standard 4.1(S): Over-Sized Improvements and Future Expansion**

357 No future development is planned for the subject area that would require over-sized
358 improvements or future expansions of proposed facilities. There are several nearby
359 lots that could be further developed, but except for the industrial lot at 68 Susie
360 Wilson Road, each has sufficient area and frontage along Susie Wilson Road to meet
361 their full development potential under the current development regulations. In the
362 unlikely event that future regulatory changes allowed significantly higher densities in
363 this area, it is noted the shared driveway corridor for Lots 2 and 3 could be upgraded
364 to a full public road to provide additional access and frontage to the area.

365 **13. SR Standard 4.1(O) and 4.1(T): Municipal Services and Impact Fees**

366 The new homes will be subject to recreation impact fees as well as new water service
367 connection fees and road impact fees.

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

369 As a Residential Planned Unit Development (PUD-R), the project must conform to Article VI of
370 the *Zoning Regulations (ZR)*. ZR Section 6.0(B) describes the purpose of PUDs:

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

375 As noted in Finding II(A)(2)(e), PUD-Rs are allowed in the R-2 district. ZR Section 6.3 lays out
376 the review procedures for PUDs. When PUDs involve the subdivision of land, the Planning
377 Commission must review the PUD as a major subdivision. Review of the project's conformance
378 with the subdivision standards appears above in Finding II.

379 **(A) ZR Section 6.4: General Standards Applicable to All Planned Unit Developments**

380 **1. Conformance, Uses, and Purposes**

381 PUDs are required to conform to the town plan of record and the *Zoning and*
382 *Subdivision Regulations*, including uses and purposes of the district in which the PUD
383 is located, except where allowed under PUD regulations. Findings II(A)(1) and (2)
384 respectively address conformance to the *2016 Essex Town Plan* and the provisions of
385 the *Zoning Regulations*.

386 The proposal fulfills the purpose of PUDs by promoting clustered development that
387 advances the Town's housing goals and uses land efficiently while protecting natural
388 features and open space.

389 **2. Multiple Buildings**

390 The proposal includes one lot with two rental dwellings and owner-occupied single-
391 unit dwellings on the remaining lots, as allowed under ZR Section 6.8(E).

392 **3. Density Calculations**

393 The 10.50-acre parcel contains 6.3 acres of private roadways, floodplains, and slopes
394 greater than 20% that must be subtracted from the developable area, leaving 4.2 acres
395 of developable area remaining.

396 **4. Density**

397 The proposed homes are clustered on the southwestern portion of the property, as is
398 allowed under this section. Given a developable area of 4.2 acres, the base density of
399 30,000 square feet per dwelling unit would allow for creation of 6.1 (rounded down to
400 6) dwelling units, including the existing single-unit home.

401 **5. Roads**

402 The proposed private road serves as the principal entry to the development. Under ZR
403 6.4(G), the Planning Commission may require the proposed private road to be
404 dedicated as a public road if necessary to advance specifically-stated policies of the
405 2016 Town Plan. No road or transportation policies apply to this development that
406 would require dedication of the proposed road.

407 **6. Open Space**

408 The applicant has proposed retaining 7.22 acres of the parcel as common land, which
409 encompasses open space features including steep slopes, floodplains, and river
410 corridor areas. The proposed public nature trail also would be located within this open
411 space. The private road, shared driveway for Lots 2-3, and common septic area would
412 occupy approximately 1.08 acres of the common land, leaving approximately 6.14
413 acres of undeveloped area.

414 **7. Covenants**

415 Protective covenants to ensure orderly and controlled development of the PUD must
416 be included no later than the final plan submission.

417 **8. Impact Fees**

418 The proposed homes would be subject to recreation impact fees, and the applicants
419 have not proposed construction of facilities in lieu of fees. In addition, the
420 development will be subject to a pavement impact fee as noted in Finding II(B)(5).

421 **9. Residential Density Bonuses**

422 ZR Section 6.4(K) allows the Planning Commission to grant density bonuses of up to
423 25% of the normal district density for provision of affordable housing, construction of
424 energy-efficient buildings, contribution to the Conservation Reserve Fund, and
425 construction of extra public recreation facilities.

426 As noted in Finding III(A)(4), the maximum density for the project prior to
427 calculation of density bonuses is 30,000 square feet per dwelling (using off-site water
428

429 and on-site septic), or 0.689 acres per dwelling unit. Therefore, the property could
430 accommodate up to 6.1 (rounded down to 6) dwelling units. In consideration of the
431 provision of two permanently affordable dwelling units (as defined in 24 V.S.A.
432 §4303(1)), the applicant has requested a density bonus of 14.75% pursuant to ZR
433 Section 6.4(K)(4) to allow one additional lot to be created. This would result in a net
434 density of 0.60 acres or 26,136 square feet per dwelling unit.

435 If the density bonus is granted, the applicant must execute a deed restriction limiting
436 the rent or sale price of the dwellings. A draft deed restriction must be provided with
437 the final plan application, and the affordability of the units will be monitored through
438 annual reports by a public housing agency or non-profit organization.

439 **(B) ZR Section 6.8: Planned Unit Development – Residential**

440 **1. Purpose of PUD-R**

441 The proposal conforms to the purposes of PUD-Rs in that it respects topography and
442 natural features by minimizing the physical and visual impact of the development by
443 locating buildings, parking areas, and septic systems in a smaller portion of the
444 parcel, thus preserving a significant amount of open space. The proposal also uses
445 land efficiently and creatively to provide greater housing opportunities in the
446 Pinecrest neighborhood, though further clustering of dwellings is needed to avoid
447 environmental impacts and improve neighborhood design.

448 **2. General Requirements for PUD-R**

449 Though the proposal exceeds the maximum allowed density, the applicants have
450 requested a density bonus as noted in Finding III(A)(9). The proposal also meets the
451 minimum requirement for dwelling units (2) and consists of single-unit dwellings,
452 which are a permitted use within PUD-Rs in the R-2 district.

453 **3. Minimum Lot Size and Lot Area per Dwelling Reductions**

454 The proposed house lots would range in size from 0.39 acres (16,988 square feet) to
455 0.87 acres (37,897 square feet); all except Lot 3 are less than the required minimum
456 lot size. Pursuant to ZR Section 6.8(F), the applicant has requested a reduction in the
457 minimum lot size for Lots 1, 2, 4, 5, and 6. The proposed reduction would enable the
458 clustered layout and use developable land efficiently while preserving open space. If
459 the 14.75% density bonus requested under ZR Section 6.4(K) were granted, the
460 reduced lot area would meet the required provisions of ZR Section 6.4(F) as well as
461 all relevant health standards and the purpose and intent of the *Zoning Regulations*.

462 **4. Setbacks and Frontage Minimums**

463 Though exact building sites have not been identified (except for the existing single-
464 unit dwelling), there appears to be sufficient area for the anticipated structures within
465 the minimum required setbacks for each proposed lot. The required setbacks under
466 PUD-R standards are depicted on Sheet C2-01. The proposal does not involve
467 creation of footprint lots.

468 As noted in Finding II(A)(2), most of the proposed lots do not have the required
469 frontage along a public road, even under the reduced frontage requirements in ZR
470 Section 6.8(G)(4) for PUD-Rs in the R-2 district. ZR Section 3.1(B) prohibits the
471 creation of new lots without the minimum required frontage along a public road. The
472 applicant has requested a waiver for the creation of lots without frontage along a
473 public road, but with sufficient frontage along a private road to meet the standards in
474 ZR Section 6.8(G)(4) (frontage in PUD-Rs) and ZR Section 3.1(C)(2).

475 If the Commission finds that extraordinary and unnecessary hardships would result
476 from strict compliance with the requirement that subdivisions conform to frontage
477 minimums, the Commission may modify this requirement under SR Section 2.1.
478 Alternative layouts that meet the requirement for frontage along public roads likely
479 would require extraordinary time and cost for obtaining stream alteration permits for
480 driveways and designing individual septic systems. These hardships would be
481 rendered unnecessary using the proposed layout, which is the minimum modification
482 necessary to afford relief. This waiver would not conflict with the purpose of the
483 *2016 Town Plan*, which is to balance future growth of housing and the economy with
484 conservation and open space, ease traffic and improve safety, and provide sidewalk
485 and bicycle connections throughout the Town. The waiver also would not conflict
486 with the purposes of the *Zoning and Subdivision Regulations*, which are to ensure the
487 Town's orderly growth and development and promote the health, safety, and general
488 welfare of the Town's inhabitants.

489 These considerations, in addition to the fact that the road would meet the Town's
490 specifications for a public road and allow easy assumption of public ownership, make
491 a compelling argument to grant a waiver under SR Section 2.1.

492 **5. Buffers**

493 The proposal includes only single-unit dwellings; therefore, no landscaped buffer is
494 required.

495 **6. Mobile Home Parks**

496 The proposal does not involve development of mobile homes or mobile home parks.

497 **7. Open Space**

498 **(a) General Requirements of Open Space**

499 The 6.14 acres of open space would be included within Lot 7, which would be
500 owned in common by all landowners within the development. Lot 7 also includes
501 the common septic area and private road. The proposed open space is at least one
502 acre in area, and undevelopable areas have been excluded from density
503 considerations under Finding III(A)(3). The proposed open space is fully
504 contiguous and generally flows around the proposed dwellings. Residents could
505 access the open space either directly from their property or through the shared
506 road, though it is recommended that the applicant identify a suitable route for

507 residents to access the scenic waterfall area along Indian Brook from the shared
508 road.

509 **(b) Management of Open Space**

510 Association bylaws and covenants will be required to govern protection of open
511 space and maintenance of common property. Draft bylaws and covenants must be
512 provided with the final plan submission, and should specify that open space will
513 remain undisturbed except for the proposed road, driveway, and septic system.
514 There does not appear to be a need for the Town to appoint an ex-officio
515 representative to the homeowners association.

516 **8. Justification**

517 In the project narrative dated March 13, 2020, the applicant’s engineer demonstrated
518 that the PUD-R will be coordinated and compatible with the development of
519 surrounding land, stating:

520 *This application proposes to uphold the values outlined in the Essex Town Plan*
521 *by creating a residential planned unit development (PUD-R) which will continue*
522 *to balance the mix of urban and rural development, provide housing opportunities*
523 *in an area convenient to employment, shopping, schools, and public*
524 *transportation, and conserve open space, protecting the community’s natural*
525 *resources.*

526 As noted in Finding II(A)(12), the future development of abutting properties would
527 not be impacted by the proposed development. The impact of the proposed
528 development on community services will be moderated through the residential
529 phasing policy and financially recaptured through impact fees.

530 **9. Flexibility**

531 No further conditions are needed to ensure protect the interests of surrounding
532 property, the neighborhood, or the municipality.

533 **IV. Article III of the Subdivision Regulations: Residential Phasing**

534 Any proposed development that contains dwelling units and requires subdivision approval is
535 subject to Article III, Residential Development Phasing. The goal of residential phasing is to
536 maintain an annual population growth rate set forth in the *2016 Town Plan* of between 184 and
537 226, aiming for the midpoint of the range at 205. Population growth is allocated to new
538 developments through Estimated Population Equivalents (EPEs), essentially equivalent to the
539 number of bedrooms in new dwelling units (5-bedroom units are counted as 4.5 EPEs).

540 Any single project within the sewer core is allowed to add 20 dwelling units per calendar year.
541 The Planning Commission must act on a preliminary phasing request when a proposed
542 development obtains sketch plan approval. Final allocation is granted if the development secures
543 final plan approval.

544 The proposed project lies inside the sewer core area and consists of six (6) new dwelling units.
545 The applicant has not yet indicated how many bedrooms each will contain. For the purpose of
546 assigning sufficient preliminary allocation, it is assumed that the single-unit homes contain 4
547 bedrooms (translating to 4 EPEs each) and each duplex unit contains 2 bedrooms (translating to
548 2 EPEs each), and that the project would require a total of 22 EPEs (not counting the existing 3-
549 bedroom dwelling), all of which would be constructed in 2020.

550 If granted final approval along with other projects seeking approval at present, this project would
551 bring the town-wide total phasing allocation to 24 dwelling units with 66 EPEs in 2020. This is
552 below the targeted mid-point of 205 EPEs and would leave 139 total EPEs available for
553 allocation in 2020, 37 of which would be available outside the sewer core. A summary of the
554 running phasing tabulation is attached.

555 **V. Additional Findings by the Planning Commission**

- 556 •

557 **Conditions of Approval**

- 558 1. All construction shall be in conformance with the plans listed above as may have been
559 amended by the Planning Commission and subject to other conditions and approvals.
- 560 2. All conditions from previous approvals shall continue to apply except as amended herein.
- 561 3. At the time of submission for Preliminary Review, the plans shall be revised as follows:
 - 562 c) The private road and driveways serving Lots 3 and 4 shall be relocated so as not to cross
563 a slope of 20% or steeper;
 - 564 d) A route or trail for residents to access the scenic waterfall area from the shared road shall
565 be identified.
- 566 4. An electronic copy of the plans as may have been revised shall be submitted to the E911
567 coordinator in .PDF file format. Another copy shall be submitted in geodatabase or shapefile
568 in Vermont State Plane Meters, NAD83 (NSRS or most current); alternatively, coordinated
569 CAD data – Vermont State Plane Coordinates, US Survey Feet, Grid Zone 4400, NAD 83
570 (2011) epoch 2010.0, NAVD 88 (geoid12b); alternatively, paper showing three (3) values of
571 State Plane Coordinates.
- 572 6. The preliminary submission shall include information on curb cut sight distances, estimates
573 of traffic generation, drainage impact, and safety analysis as well as a pre- and post-
574 development traffic analysis demonstrating how the additional traffic will impact the Susie
575 Wilson Road / Kellogg Road signalized intersection.
- 576 7. The preliminary submission shall include data to be submitted to the Public Works
577 Department for an analysis of the sufficiency of the water distribution system, including
578 analysis of the turnover within the service line for Lots 2-7. The analysis shall be completed
579 by the Town's consultant at the applicant's expense. Any deficiencies within the proposed or

580 existing water distribution system shall be addressed by the applicant’s engineer prior to
581 Preliminary review.

582 8. Prior to submission for preliminary review, the applicant shall meet with Public Works staff
583 regarding the stormwater management design. The preliminary submission shall include
584 detailed storm calculations, a “pre“ and “post“ build out impact study on existing
585 infrastructure, and the pounds of phosphorus removed by the stormwater treatment system.

586 9. The applicants shall be approved for a preliminary phasing allocation of 6 dwelling units
587 with 22 EPEs in 2020.

588 10. The final plan submission shall include draft association bylaws and restrictive covenants for
589 the management of the open space area, and a deed restriction ensuring perpetual
590 affordability for both dwellings on Lot 1 pursuant to 24 V.S.A §4303(1). The applicant shall
591 pay any fees associated with legal reviews of said documents.

592 11. Prior to the issuance of a zoning permit, the applicant shall pay a water connection fee
593 totaling \$12,876.00.

594 12. Prior to the issuance of a zoning permit, the applicant shall pay a pavement impact fee to be
595 calculated by the Public Works Department.

596 13. New water service connections with curb stops will be required for each of the 6 new
597 residential units proposed. All service curb stops must be located outside pavement and
598 concrete. Each individual water service shall have a Town water meter.

599 14. Prior to the issuance of the first certificate of occupancy, the applicant shall construct a
600 sidewalk connection on the north side of Susie Wilson Road from Abare Avenue to the
601 proposed private road that meets the standards of the Americans with Disabilities Act.

602 15. By acceptance of the conditions of this approval without appeal, the applicants confirm and
603 agree for themselves and all assigns and successors in interest that the conditions of this
604 approval shall run with the land and the land uses herein permitted, and would be binding
605 upon and enforceable against the applicants and all assigns and successors in interest.

606 **List of Attachments**

- 607 • Project narrative, from Colen Johnson, P.E., Trudell Consulting Engineers, Inc., dated
608 06/20/2019
- 609 • Residential Phasing Record, dated 02/27/2020

610
611 cc: Colen Johnson, P.E., Jeremy Matosky, P.E., and Abby Derry, P.E., Trudell Consulting
612 Engineers, Inc.

613
614 G:\PC\REPORTS\Susie Wilson Road 84 PUD-R Sketch 20200514.docx