

1 **ESSEX PLANNING COMMISSION**

2 **May 14, 2020**

3 **1 LeClerc Woods: Planned Unit Development – Residential (Sketch)**

4 Staff report prepared by Darren Schibler, Town Planner

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31 **Summary**

32 The applicant has proposed an 8-unit PUD-R within a 4.7-acre portion of a 153.75-acre

33 parcel, with shared on-site water and wastewater systems. The proposal involves protection of

34 99.1 acres of open space, including state-mapped priority conservation areas, but the applicant’s

35 future development plans may conflict with the current proposal and the Town’s planning goals.

36 Also, it is unclear how residents would access and utilize the open space. A public trail easement

37 is proposed along a route identified in the *2016 Town Plan*, but building and maintaining such a

38 trail would be challenging and costly. Though the new dead-end road is proposed as public, in an

39 earlier review of the project, the Planning Commission decided it should be private – this should

40 be resolved. Finally, though the dwellings are proposed for lease rather than sale, it may be

41 prudent to ensure the layout allows for future subdivision and sale of the dwellings, which would

42 be challenging under current regulations.

43 **Applicant**

44 Leclerc Ridge LLC c/o Patrick Leclerc  
45 324 South Bay Circle  
46 Colchester, VT 05446

47 **Proposal**

48 The applicant has proposed a Residential Planned Unit Development (PUD-R) on Lot 20  
49 (103.5 acres) as shown on the master plan for a 153.75-acre parcel currently addressed as 1  
50 Leclerc Woods, tax map 73, parcel 1, lot 17. The proposal involves developing eight single-unit  
51 rental dwellings on a public cul-de-sac road with shared on-site water supply, wastewater  
52 disposal, and stormwater treatment. The developed portion of the site covers approximately 4.7  
53 acres of the entire 105.7-acre parcel, leaving 99.1 acres of open space. The applicant has  
54 proposed a 20-foot-wide public pedestrian path along the property’s boundary with VT-289. The  
55 proposal also involves a boundary adjustment with a parcel at 11 Lamore Road which would not  
56 result in a change in acreage to either lot.

57 The site is bounded to the south by Vermont Route 289 and to the west by the New England  
58 Central Railroad, beyond which is an automotive service station and convenience store.  
59 Neighboring properties to the north and east are occupied with single-unit detached dwellings.

60 **Background**

61 The original lands of Armand LeClerc totaled approximately 326 acres bounded by the New  
62 England Central Railway, Lamore Road, and Lost Nation Road (with land on both sides of  
63 Discovery Road). Over the years, numerous subdivisions were approved by the Planning  
64 Commission, which are shown in the table below.

Date	Lot Number	Address	Date	Lot Number	Address
7/13/1978	2	11 Lamore Road	9/22/1994	14	15 Lamore Road
7/13/1978	3	156 Lost Nation Road	9/22/1994	15	33 LeClerc Woods
8/14/1980	4	166 Lost Nation Road	6/11/2009	16	23 LeClerc Woods
8/14/1980	5	176 Lost Nation Road	6/11/2009	19	43 Discovery Road
8/14/1980	7	11 Discovery Road	2/10/2011	49	190 Lost Nation Road
8/14/1980	8	7 Discovery Road	2/10/2011	50	186 Lost Nation Road
8/14/1980	9	10 Discovery Road	10/13/2016	17	17 LeClerc Woods
8/14/1980	11	22 Discovery Road	10/13/2016	22	190 Lost Nation Road
8/14/1980	12	32 Discovery Road	10/13/2016	23	186 Lost Nation Road
8/14/1980	13	36 Discovery Road	10/13/2016	24	176 Lost Nation Road

65 Note that some lots may have been created from the LeClerc lands that were not formally  
66 approved by the Commission. Also, the address of the remaining lands parcel was originally 35  
67 Discovery Road, but was changed to 1 LeClerc Woods in 2016.

68 Lots 14 and 15 originally shared a driveway off Lamore Road, but when a zoning permit was  
69 issued in in April 2002 for the single-unit home on Lot 15, access was provided a driveway off  
70 Discovery Road (now a private road named Leclerc Woods). Lots 49 and 50 originally shared a  
71 driveway, but a final plan amendment was issued on July 28, 2011 for separate driveways.

72 On November 10, 2011, the Planning Commission approved a Sketch and Master Plan  
73 application for a Planned Unit Development-Residential (PUD-R) that included eight rental units  
74 on western corner of the property, with 76 acres of open space. The approval included a  
75 boundary adjustment between the Leclerc lands (1 Leclerc Woods) and 11 Lamore Road. The  
76 final plan hearing on June 28, 2012 was continued pending resolution to legal issues, but the  
77 continued hearing was never scheduled and the application expired on June 28, 2013.

78 The Planning Commission permitted another Final Plan Amendment on March 22, 2012,  
79 allowing the applicant to remove the access easement benefiting Lot 19 (43 Discovery Road)  
80 from Lots 49 (186 Lost Nation Road) and Lot 50 (190 Lost Nation Road).

81 On June 13, 2013 the Planning Commission approved a Minor Subdivision-Boundary  
82 Adjustment between 176 Lost Nation Road and the remaining Leclerc lands (1 Leclerc Woods).  
83 However, no mylar was recorded, so the approval expired on December 10, 2013.

84 On August 8, 2013 the Planning Commission approved a Final Plan Amendment to build a  
85 single-family home at 35 Discovery Road (now 17 Leclerc Woods). The Planning Commission  
86 also approved a waiver allowing the home to use an existing private drive that was already being  
87 used by two homes, which were re-addressed to 23 and 35 Leclerc Woods.

88 The five-lot subdivision on October 13, 2016 (creating Lots 17, 22, 23, and 24) left the  
89 remaining lands on Lot 20 with 153.75 acres. Future Lots 21 and 25-29 shown on the master  
90 plan left 105.7 acres for the remaining lands of the current proposal.

91 It is noted that there are discrepancies in calculations of acreage for the remaining lands parcel  
92 on the approved subdivisions and master plans.

### 93 **Findings**

#### 94 **I. Article II of the *Subdivision Regulations*: Subdivision Procedures**

95 The applicant has submitted the following plans:

- 96 • Sheet M1: “Master Plan, Lands of Armand Leclerc, 35 Discovery Road + 186 Lost  
97 Nation Road,” prepared by O’Leary-Burke Civil Associates, PLC, dated 02/18/2020;
- 98 • Sheet 1: “Site Plan, Lands of Armand Leclerc, 7 Lamore Road & 35 Discovery Road,  
99 Essex Junction, VT,” prepared by O’Leary-Burke Civil Associates, PLC, dated  
100 10/01/2019;
- 101 • Sheet 2: “Existing Conditions & Boundary Line Adjustment Plan, Lands of Armand  
102 Leclerc, 7 Lamore Road & 35 Discovery Road, Essex Junction, VT, Lot 20 Planned  
103 Unit Development,” prepared by O’Leary-Burke Civil Associates, PLC, dated  
104 10/01/2019;

- 105 • Sheet 3: “Plan and Profile, Lands of Armand Leclerc, 7 Lamore Road & 35 Discovery  
106 Road, Essex Junction, VT, Lot 20 Planned Unit Development,” prepared by O’Leary-  
107 Burke Civil Associates, PLC, dated 10/01/2019;
- 108 • Sheet 4: “Details, Lands of Armand Leclerc, 7 Lamore Road & 35 Discovery Road,  
109 Essex Junction, VT, Lot 20 Planned Unit Development,” prepared by O’Leary-Burke  
110 Civil Associates, PLC, dated 10/01/2019;
- 111 • Sheet 5: “Stormwater Plan & Details, Lands of Armand Leclerc, 7 Lamore Road & 35  
112 Discovery Road, Essex Junction, VT, Lot 20 Planned Unit Development,” prepared  
113 by O’Leary-Burke Civil Associates, PLC, dated 10/01/2019;
- 114 • Sheet 6: “Erosion Control Plan, Lands of Armand Leclerc, 7 Lamore Road & 35  
115 Discovery Road, Essex Junction, VT, Lot 20 Planned Unit Development,” prepared  
116 by O’Leary-Burke Civil Associates, PLC, dated 10/01/2019;
- 117 • Drawing 2 of 4, “Water and Wastewater Site Plan, Linda LeClerc, Lamore Road, Essex,”  
118 prepared by JH Stuart Associates, dated 10/30/2019.

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

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

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

126 Because the Planning Commission approved a sketch plan for a project that is  
127 substantially the same as the current proposal, the applicant has requested combined  
128 sketch and preliminary review for the current submittal. Sketch plan applications must  
129 conform to the General Requirements in SR Section 4.1; preliminary plan applications  
130 must meet the standards in SR Sections 4.2-4.11. Though the applicant has not provided a  
131 draft survey plat due to the size of the lot, all other preliminary plan elements have been  
132 reviewed.

133 Planned unit developments must also conform to Article VI of the *Zoning Regulations*  
134 (ZR). The proposal also involves an amendment to an approved master plan, and future  
135 lots are planned for the remaining lands; therefore, the future lots will also be considered  
136 against the subdivision standards at a sketch level of review. As stated in SR Section 2.7,  
137 approval of this project does not constitute approval of the master plan as a subdivision.

138 Upon sketch plan approval, the Planning Commission also must make a preliminary  
139 residential phasing allocation review in accordance with Article III.

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

141 The Planning Commission must evaluate any proposed subdivision according to the Subdivision  
142 Standards in Article IV, and may require modification or phasing of the proposed subdivision in  
143

144 light of findings relating to those standards. Preliminary plan applications are reviewed against  
145 the General Standards in SR Section 4.1 as well as the Subdivision Standards in SR Section 4.2.

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

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

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

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

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

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

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

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

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

161 The parcel is located in the Agricultural Residential (AR) zoning district. Therefore,  
162 the development must conform to the dimensional requirements and development  
163 standards listed in Table 2.5 of the *Town of Essex Outside the Village of Essex*  
164 *Junction Official Zoning Regulations (ZR)*, as well as Article III, General Standards,  
165 and any applicable provisions of Article IV, Specific Standards.

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

167 The project reflects the purpose of the Agricultural-Residential district in that it is  
168 a low-density PUD which limits the reduction of agricultural production potential  
169 of the land, and it does not require an extension of public roads or water supply  
170 and sewage disposal systems.

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

172 Single-unit dwellings are permitted in this district within residential planned unit  
173 developments (PUD-Rs).

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

175 The applicant has not proposed any conditional uses for the property.  
176

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

178 The proposal conforms to Table 2.5(D), District Dimensional Requirements of the  
179 AR District, with PUD provisions as noted below.

<b>Dimensional Requirement</b>	<b>Required</b>	<b>Proposed</b>
Minimum Lot Area	3 acres	103.8 acres
Minimum Lot Area per Dwelling Unit	3 acres	13 acres
Minimum Lot Frontage <sup>(a)</sup>	100 ft.	361 ft. <sup>(c)</sup>
Minimum Front Setback (from ROW) <sup>(a)</sup>	20 ft. <sup>(b)</sup>	128 ft.
Minimum Side Setback – Single-family <sup>(a)</sup>	10 ft.	20 ft.
Minimum Rear Setback <sup>(a)</sup>	25 ft.	39 ft.
Maximum Height	40 ft.	<40 ft.

180 (a) PUD-R standards supersede normal district standards

181 (b) With creative design

182 (c) Frontage along Lamore Road only; open space area has an additional 511 feet of frontage  
183 on Discovery Road

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

185 The applicants have proposed a Residential Planned Unit Development (PUD-  
186 Rs). PUD-Rs are encouraged in the AR district and follow standards that  
187 supersede the normal district standards.

188 **(B) SR Section 4.2: Standards Applicable to Minor Subdivisions**

189 The project has been classified as a major subdivision and must therefore also meet the  
190 standards of SR Sections 4.3 – 4.11, applicable to minor subdivisions.

191 **(C) SR Section 4.3: Preservation of Natural and Scenic Features**

192 **1. Scenic Features**

193 The proposed development does not lie within the Scenic Resource Protection  
194 Overlay District (SRPO), so this provision does not apply to the project.

195 **2. Natural Features**

196 The property contains several natural features that should be preserved or avoided  
197 during development, most of which are included in the 99.1-acre open space area.

198 **(a) Natural contours, soil erosion control, and topsoil removal**

199 Except for grading of house sites and construction of the shared access drive, the  
200 proposal will retain existing contours and topsoil. Stormwater and erosion are  
201 discussed in Finding VI(J).

202

203           **(b) Wetlands**

204           Wetlands occupy approximately 32 acres of the parcel, including a portion of Lost  
205           Nation Swamp, a 39-acre red maple-sphagnum acidic basin swamp identified as a  
206           high-priority natural community on the Agency of Natural Resources BioFinder.  
207           The proposal complies with management recommendations in the Town’s 2007  
208           Natural Heritage Element Inventory and Assessment to maintain a 100-foot buffer  
209           from Class II wetland boundaries, except for the existing shared private road  
210           (Leclerc Woods) that encroaches on a portion of wetland buffer.

211           **(c) Lot Sizes**

212           Separate lots are not proposed for each dwelling, but the 4.7-acre portion of the  
213           lot dedicated to development is the minimum possible to accommodate the  
214           primary uses and accessory needs.

215           **(d) Forested areas**

216           The applicant has not submitted recommendations from a professional forester  
217           regarding the proposed development; however, the Agency of Natural Resources’  
218           BioFinder tool provides information and recommendations on forest resources.

219           The majority of the open space is also mapped as a high-priority travel corridor  
220           connecting core habitat areas (such as the Champlain Hills region around Indian  
221           Brook Reservoir) with riparian areas (including Indian Brook and Lost Nation  
222           Swamp) and physically diverse landscapes on the site. This connectivity ensures  
223           that far-ranging species can access feeding areas and promote genetic diversity  
224           within their populations, even in the face of climate change.

225           The proposed 8-unit PUD is located outside of these priority conservation areas,  
226           and the inclusion of these areas as part of the lot’s undeveloped open space helps  
227           meet the Town’s open space and natural resource protection goals. However, the  
228           proposed future lots 18, 21 and 25-29 further encroach upon these priority  
229           conservation areas, and the note that the open space is subject to future  
230           development casts doubt on this effort. These elements are not supported by the  
231           Town and should be removed from the plans.

232           **3. Street Trees**

233           SR Section 4.3(C) requires planting of street trees every 50 feet along a public or  
234           private road, with a minimum of two street trees per new lot. With 485 feet of  
235           frontage along Gentes and Lamore Roads, the applicant must provide 7 street trees  
236           along the existing public road frontage. The proposed road (tentatively named Kodiak  
237           Lane) provides approximately 240 feet of frontage on its west side (requiring 4 trees),  
238           275 feet on its east side (requiring 5 trees), and 450 feet around the cul-de-sac  
239           (requiring 7 trees). Therefore, the applicant must plant a total of 18 trees along  
240           Kodiak Lane.

241 The applicant has provided a total of 11 street trees along Kodiak Lane only; under  
242 SR Section 4.3(C), 2 more are required along the west side, 1 more along the east  
243 side, and 4 more around the cul-de-sac, in addition to the 7 required along Lamore  
244 and Gentes Roads. It appears that trees were not proposed along the west side due to  
245 the proposed stormwater swale; an acceptable substitute would be to include a dense  
246 planting strip within the swale. The central swale of the cul-de-sac provides another  
247 excellent opportunity to substitute green stormwater infrastructure for conventional  
248 street trees. The Vermont Green Streets Guide provides examples of vegetated swales  
249 and green gutters for residential areas.

250 Along the east side, locations for street trees are limited by the locations of  
251 underground septic tanks and forcemains. However, there are still some locations that  
252 would accommodate additional street trees, particularly if smaller-growing species  
253 are used. Regardless of the number of trees that are planted, the applicant has  
254 proposed only red maple (*Acer rubrum*). The *Town of Essex Street Tree Management*  
255 *Plan (2016)* strongly recommends planting no more than 10% of a single species and  
256 20% of a single genus of trees within an area to reduce the impact of infestation by a  
257 single pest or disease. This also adds more variety and interest to plantings in an area.

#### 258 **4. Floodplain**

259 The property is not located within the Floodplain (C2) District.

#### 260 **5. Water Bodies and Adjacent Buffer Areas**

261 There are no mapped streams on the site that have a watershed area greater than 0.5  
262 square miles, to which riparian buffer requirements under ZR Section 3.11 would  
263 apply. Wetlands and associated buffer areas are reviewed in Finding II(C)(2)(b).

#### 264 **(D) SR Section 4.4: Blocks and Lots – Planning and Design Standards**

265 No new blocks are proposed as part of this subdivision.

266 One new lot is proposed as part of the subdivision, and includes both the developed  
267 portion of the PUD and the open space area. The proposed lot meets the minimum  
268 dimensional requirements of the *Zoning Regulations*, though may exceed the  
269 maximum depth-to-width ratio of 5:1. However, this is due primarily to the  
270 configuration of the open space lot, and the 4.7-acre development area would meet  
271 the width-to-depth ratio requirement at 1.27:1. Drainage and stormwater are reviewed  
272 in Finding II(J).

#### 273 **(E) SR Section 4.5: Streets**

274 A new public street tentatively named Kodiak Lane is proposed as part of this project  
275 which meets the minimum requirements of ZR Section 3.1(G) and the Type II Paved  
276 Rural Road Standard in SR Section 4.5(B)(2).

277 During review of the 2011 PUD proposal, Public Works stated that the proposed road  
278 cannot be approved as a private road because it is a non-looped road more than 300 feet  
279 in length, and because it is the principal entry to the PUD. At the sketch plan hearing on  
280 November 10, 2011, the Planning Commission made a finding that the road may remain a  
281 private road, but must be constructed to the Public Works Specifications (i.e., a Type A  
282 Paved Rural Road).

283 **(F) SR Section 4.6: Sidewalks**

284 Lamore Road is not located within a medium or high-density residential zone, and the  
285 volume of pedestrian traffic on Lamore Road does not necessitate construction of new  
286 sidewalks there. The applicant has proposed a new public road (tentatively named Kodiak  
287 Lane); SR Section 4.6(A) requires installation of sidewalks or paved paths on both sides  
288 of new major and minor streets, and on one side of dead-end roads or roads with low  
289 traffic volumes. No sidewalk has been proposed for this project, but since the nearest  
290 connecting sidewalk to the development is more than ½ mile away and no sidewalks or  
291 paths are planned for Lamore Road, provision of a sidewalk may not be necessary.

292 **(G) SR Section 4.7: Land for Public Open Space and Recreational Use**

293 In an e-mail dated May 8, 2020, the Parks & Recreation Director noted that the new  
294 dwellings are subject to recreation impact fees. The applicant has not proposed any  
295 facilities or equipment in lieu of said fees.

296 Map 7 of the 2016 Town Plan (*Proposed Footpath Network*) indicates a planned trail  
297 along the Circumferential Highway (VT-289) along the property's southern boundary.  
298 Following a request by the Planning Commission and Trails Committee during the  
299 project's 2011 review, the applicant's proposal includes a 20-foot-wide pedestrian path  
300 easement to the Town of Essex at this location for development of a future path. Though  
301 in theory this would provide public access to the 99.1-acre open space area, the proposed  
302 easement runs over rugged terrain, and the applicant has not provided details on how a  
303 trail would be laid out over the easement. Furthermore, there is no parking area for non-  
304 residents or nearby trail or path to provide access to the public. Even if a trail were  
305 constructed, it would require long-term maintenance and access management by Parks &  
306 Recreation, further stretching the Town's limited resources for these services. The  
307 inclusion of this trail easement should be reconsidered for the preliminary submission.

308 Public access to the 99.1-acre open space area is not requested or recommended, as  
309 significant public trail use in this area likely would have a negative impact on the  
310 wetlands, core habitats, and wildlife corridors.

311 The proposal's conformance to open space standards for PUDs is reviewed in Finding  
312 III(B)(7).

313

314 **(H) SR Section 4.8: Utility and Access Easements and Improvements**

315 The proposed PUD-R will utilize shared on-site water supply and wastewater disposal  
316 systems. The applicant has not provided details of connections to non-municipal utility  
317 services, but the plans show that a Green Mountain Power distribution line runs along the  
318 site's frontage on Lamore Road, and Vermont Gas's coverage map appears to show a  
319 distribution line entering the southwestern corner of the property from Colchester Road /  
320 VT-2A. All utility lines must be installed underground unless approved by the Planning  
321 Commission and Town Engineer, and easements must be shown on the final mylar.

322 The plans show that the septic system and forcemain for the neighboring property at 11  
323 Lamore Road (now or formerly owned by Dealton Jarvis III) is located on the northwest  
324 corner of the project site. The applicant must ensure that a septic easement benefiting the  
325 Jarvis lot is executed and its location shown on the final mylar for the proposed PUD-R  
326 as a condition of approval.

327 The applicants have proposed a 20-foot-wide pedestrian path easement to the Town of  
328 Essex along the property's southern boundary, providing access from the PUD area to the  
329 open space area. As noted in Finding II(G), it is unlikely that this easement will be used.

330 In an e-mail dated May 4, 2020, the Fire Chief requested that the proposed roadway be  
331 named; that each of the proposed units be labeled with their respective street address. He  
332 also requested that rounded or mountable curbs be used on the circular portion of the  
333 roadway; this would allow emergency vehicles to navigate around any vehicles parked on  
334 the road. Alternatively, vehicle parking could be prohibited in this area and re-directed to  
335 the straight portion of the road.

336 **(I) SR Section 4.9: Water Supply and Wastewater Systems**

337 Extension of public water and sewer service to the area is inconsistent with the Town  
338 Plan. Therefore, each new lot will be served by a private well and septic system as shown  
339 on Drawing 4 of the plans, which will require Potable Water Supply and Wastewater  
340 System permits from the State of Vermont.

341 **(J) SR Section 4.10: Stormwater Management and Erosion Control**

342 In the project narrative dated January 31, 2020, the applicant's engineer stated:

343 *Stormwater will be treated by two gravel wetlands and detained by a dry pond before*  
344 *discharging into an existing culvert beneath Lamore Road. The two gravel wetlands*  
345 *and dry pond have been designed per the 2017 Vermont Stormwater Management*  
346 *Manual (VSMM) Gravel Wetlands are Tier 2 treatment practices per the VSMM. Tier*  
347 *1 (infiltration) practices were not feasible because the project site is [predominantly]*  
348 *Hydrologic Soil Group (HSG) soils. The only HSG A soils on the project site are*  
349 *upland of the proposed development and/or where the on-site sewage disposal system*  
350 *is located.*

351 The project will disturb more than 1 acre of soil and therefore must obtain a state erosion  
352 control permit; in addition, the project will create more than 0.5 acres of impervious area;  
353 this does not require a state stormwater permit, but a Town stormwater permit will be  
354 required.

355 **(K) SR Section 4.11: Monuments and Lot Markers**

356 Upon approval of the subdivision and recording of the mylar, the applicants must install  
357 lot markers in accordance with section.

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

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

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

365 When PUDs involve the subdivision of land, the Planning Commission must review the PUD as  
366 a major subdivision. Review of the project’s conformance with the subdivision standards appears  
367 above in Finding II.

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

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

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

375 The proposal fulfills the purpose of PUDs by promoting clustered development that  
376 advances the Town’s housing goals and uses land efficiently while protecting natural  
377 features and open space.

378 **2. Multiple Buildings**

379 The proposal involves multiple buildings on a single lot, which are expressly allowed  
380 under ZR Section 6.4(D).

381 **3. Density Calculations**

382 According to the “Residential Density Calculations” table on Sheet M1, the parcel in  
383 question totals 152.56 acres, which approximates the area listed by the Town  
384 Assessor. However, the “Project Statistics” on this sheet states that the parcel is 176

385 acres in area, and the acreages of the proposed lots total only 147.41 acres. These  
386 discrepancies must be corrected on a revised master plan.

387 Assuming the parcel is in fact 152.56 acres, approximately 71.81 acres include areas  
388 of roadways, wetlands, and slopes greater than 20% that must be subtracted from the  
389 developable area, leaving 80.75 acres of developable area remaining.

#### 390 **4. Density**

391 The proposed homes are clustered on the southwestern portion of the property, as is  
392 allowed under ZR Section 6.4(F). Given a developable area of 80.75 acres, the base  
393 density of 3 acres (130,680 SF) per dwelling would allow for creation of 26.9  
394 (rounded down to 26) dwellings. The applicant has proposed 8 units within the PUD-  
395 R, leaving 18 units for possible future development; six of these would be allocated to  
396 the proposed Lots 18 and 25-29 as single-unit lots, leaving 12 units for Lot 21.

#### 397 **5. Roads**

398 The road which serves as the principal entry to the development is proposed as  
399 public, as may be required under ZR 6.4(G). Therefore, it will be constructed to the  
400 standards in SR Section 4.5 and the *Standard Specifications for Construction (2017)*.

#### 401 **6. Open Space**

402 The applicant has proposed retaining 99.1 acres of the parcel as common land, which  
403 encompasses open space features including steep slopes, wetlands, and priority  
404 conservation areas. Most of the proposed public trail also would be located within this  
405 open space. This is reviewed further under Finding III(B)(7).

#### 406 **7. Covenants**

407 The final plan submission should include a draft warranty deed stating the restrictions  
408 on the use of the designated open space area, including a prohibition on development.  
409 This may take the form of a conservation easement to a certified land trust.

#### 410 **8. Impact Fees**

411 The proposed homes would be subject to recreation impact fees, and the applicants  
412 have not proposed construction of facilities in lieu of fees.

#### 413 **9. Residential Density Bonuses**

414 ZR Section 6.4(K) allows the Planning Commission to grant density bonuses of up to  
415 25% of the normal district density for provision of affordable housing, construction of  
416 energy-efficient buildings, contribution to the Conservation Reserve Fund, and  
417 construction of extra public recreation facilities. The applicant has not requested any  
418 density bonuses.

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

420 **1. Purpose of PUD-Rs**

421 The proposal exemplifies the purposes of PUD-Rs in that it respects topography and  
422 natural features by minimizing the physical and visual impact of the development by  
423 locating buildings, parking areas, and septic systems in a smaller portion of the  
424 parcel, thus preserving a significant amount of open space. Except for the proposed  
425 future Lots 18, 21, and 25-29 shown on the master plan, the proposal also uses land  
426 efficiently and creatively to provide greater housing opportunities and diversity of  
427 housing types in a rural area of the Town.

428 **2. General Requirements for PUD-Rs**

429 Though the proposal meets maximum density requirements as well as the minimum  
430 required number of dwelling units (2), and consists of single-unit dwellings, which  
431 are a permitted use within PUD-Rs in the AR district.

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

433 The proposed PUD-R would involve only one lot that meets dimensional standards,  
434 as the proposed dwellings would be leased rather than sold.

435 It is noted that the average lot area for the 4.7-acre PUD-R site would be 0.5875 acres  
436 or 25,591.5 SF. Should the landowner wish to subdivide separate lots from this area  
437 in the future, current regulations would require a reduction in minimum lot size and  
438 area per dwelling under ZR Section 6.8(F). Further considerations under this scenario  
439 are detailed in Finding III(B)(4).

440 **4. Setbacks and Frontage Minimums**

441 The proposed dwellings would meet all PUD-R requirements for setbacks from the  
442 lot's boundaries. The dwellings also meet setback requirements from each other and  
443 the proposed private road. The lot meets PUD-R frontage requirements for the AR  
444 district.

445 However, it is noted that if the landowner wishes to subdivide the development into  
446 lots for sale in the future, the proposed layout would make it impossible to meet  
447 current frontage requirements along the new road for PUDs in the AR district. The  
448 project cannot be considered a multifamily townhouse development under ZR Section  
449 6.8(G)(5), which would qualify it for a waiver to create footprint lots, because the  
450 dwellings are detached and do not meet the definition of "townhouse." The only  
451 alternative way to sell the units would be as interior-wall condominiums.

452 **5. Buffers**

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

455           **6. Mobile Home Parks**

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

457           **7. Open Space**

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

459           The proposed 99.1-acre open space area meets the requirements that open space  
460           be at least one acre and somewhat contiguous, and any areas unsuitable for  
461           development have been excluded from density calculations. The proposed open  
462           space also includes significant natural features and priority conservation areas.

463           However, the open space is not located to provide equal access or benefit to  
464           residents of the development. The proposed dwellings are located at least a third  
465           of a mile (approximately 2,000 feet) from the bulk of the open space area;  
466           furthermore, the route would traverse extremely rugged terrain, starting with a 40-  
467           foot cliff face. In contrast, residents of future Lots 21 and 25-29 (but not Lot 18)  
468           would have direct abutting access to this open space, though they are not part of  
469           the PUD. Finally, without a navigable trail system (which is not recommended  
470           anyway due to possible impacts on sensitive habitats), it is unclear what benefit  
471           the open space would provide the residents of the PUD beyond the conservation  
472           of natural areas already protected under state and local requirements.

473           The applicant should consider providing open space within the 4.7-acre PUD-R  
474           area such as community gardens and gathering spaces, ball fields, or recreation  
475           equipment.

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

477           Because the dwellings will be leased and managed by one landowner, the open  
478           space should be protected by a deed restriction rather homeowners' association  
479           covenants and bylaws. Given the size and conservation value of the open space, it  
480           is recommended that the applicant convey a conservation easement on the open  
481           space area to a certified land trust. Any draft deed restriction or conservation  
482           easement must be presented with the final plan submission.

483           Leases for the proposed dwellings should include a provision ensuring that  
484           tenants have the right to access and use any designated open space within the 4.7-  
485           acre PUD-R area. The leases should specify responsibilities and costs for  
486           maintenance of any associated infrastructure.

487           **8. Justification**

488           The applicant did not provide justification that the PUD-R would be coordinated with  
489           adjacent development; however, the use of a master plan for the remaining lands and  
490           conformance to the PUD-R and subdivision standards demonstrates compatibility  
491           with adjacent development. The impact of the proposed development on community

492 services will be moderated through the residential phasing policy and financially  
493 recaptured through impact fees.

494 **9. Flexibility**

495 No conditions beyond those required under other provisions are needed to ensure  
496 protect the interests of surrounding property, the neighborhood, or the municipality.

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

498 Any proposed development that contains dwelling units and requires subdivision approval is  
499 subject to Article III, Residential Development Phasing. The goal of residential phasing is to  
500 maintain an annual population growth rate set forth in the *2016 Town Plan* of between 184 and  
501 226, aiming for the midpoint of the range at 205. Population growth is allocated to new  
502 developments through Estimated Population Equivalents (EPEs), essentially equivalent to the  
503 number of bedrooms in new dwelling units (5-bedroom units are counted as 4.5 EPEs).

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

508 The proposed project lies inside the sewer core area and consists of eight (8) new dwelling units.  
509 The applicant has requested phasing for four units in 2020 and four units in 2021; however, the  
510 applicant did not include the number of bedrooms proposed for each unit. Based on the  
511 applicant's previous submittal of this project, it is assumed that all units will include one  
512 bedroom, and therefore would require 4 EPEs each in 2020 and 2021.

513 If granted final approval along with other projects seeking approval at present, this project would  
514 bring the town-wide total phasing allocation to 24 dwelling units with 68 EPEs in 2020 and 16  
515 dwelling units with 37 EPEs in 2021. This is below the targeted mid-point of 205 EPEs and  
516 would leave 137 total EPEs available for allocation in 2020, 37 of which would be available  
517 outside the sewer core. A summary of the running phasing tabulation is attached.

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

519 •

520 **Conditions of Approval**

- 521 1. All construction shall be in conformance with the plans listed above as may have been  
522 amended by the Planning Commission and subject to other conditions and approvals.
- 523 2. All conditions from previous approvals shall continue to apply except as amended herein.
- 524 3. At the time of submission for final review, the plans shall be revised as follows:

- 525 a) All calculations of acreage for parcels and portions thereof shall be accurate and  
526 consistent;
- 527 b) The note stating “the open space is subject to change with possible future development as  
528 approved by the Planning Commission” shall be removed.
- 529 c) Seven (7) street trees shall be added along Gentes and Lamore Roads. Eight (8)  
530 additional street trees shall be added along the new road serving the development, though  
531 the applicant may substitute green stormwater plantings for up to four (4) trees.
- 532 4. The final plan submission shall include a draft mylar with the following elements:
- 533 a) Surveyed perimeter measurements and calculation of area for the entire parcel prior to  
534 subdivision and for the subdivided PUD parcel, including the boundary adjustment with  
535 the Jarvis lot at 11 Lamore Road;
- 536 b) All existing and proposed access easements, including the private road known as Leclerc  
537 Woods;
- 538 c) All utility easements, including but not limited to electric, natural gas, and septic systems  
539 (including the forcemain and leach field for the Jarvis lot at 11 Lamore Road);
- 540 d) Delineation of the open space area noting restrictions on development;
- 541 5. The final plan submission shall include a draft deed stating the restrictions on the designated  
542 open space area, which may take the form of a conservation easement to a certified land trust.
- 543 6. An electronic copy of the plans as may have been revised shall be submitted to the E911  
544 coordinator in .PDF file format. Another copy shall be submitted in geodatabase or shapefile  
545 in Vermont State Plane Meters, NAD83 (NSRS or most current); alternatively, coordinated  
546 CAD data – Vermont State Plane Coordinates, US Survey Feet, Grid Zone 4400, NAD 83  
547 (2011) epoch 2010.0, NAVD 88 (geoid12b); alternatively, paper showing three (3) values of  
548 State Plane Coordinates.
- 549 7. The applicants shall be approved for a preliminary phasing allocation of 4 dwelling units  
550 with 4 EPEs in 2020 and 4 dwelling units with 4 EPEs in 2021.
- 551 8. Any curbing on the circular portion of the roadway shall be rounded or mountable for  
552 emergency vehicles; alternatively, parking shall be prohibited in the circle.
- 553 9. By acceptance of the conditions of this approval without appeal, the applicants confirm and  
554 agree for themselves and all assigns and successors in interest that the conditions of this  
555 approval shall run with the land and the land uses herein permitted, and would be binding  
556 upon and enforceable against the applicants and all assigns and successors in interest.

557 **List of Attachments**

558       • Residential Phasing Record, dated 05/14/2020

559

560 copy: Paul O’Leary, P.E. and Shawn Cunningham, E.I., O’Leary-Burke Civil Associates, PLC

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