

1 **ESSEX PLANNING COMMISSION**
2 **June 24, 2021**

3 **81 Susie Wilson Road: Residential Planned Unit Development (Final)**

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29 **Summary**

30 The applicant proposes a PUR-R with 12 new apartment units across 4 buildings on a
31 property with 12 existing apartments, 6 of which would be permanently affordable to qualify for
32 a 349% density bonus. Since preliminary, the proposal has changed to include footprint lots for
33 sale of the new units, as well as minor updates to the site designs. The project meets all
34 regulatory requirements, including for PUDs. The applicant has proposed an alternative path
35 design to avoid impacts of installing a full sidewalk on existing vegetation and fencing.

37 **Applicant**

38 Richard Bouffard
39 PO Box 1068
40 Jericho, VT 05465

41 **Proposal**

42 The applicant has proposed a 24-unit Residential Planned Unit Development (PUD-R) on an
43 8.4-acre property located in the R2 district at 81 Susie Wilson Road, tax map 54, parcel 3. There
44 are twelve (12) existing apartment units across three buildings (a duplex, 4-plex, and 6-plex) on
45 the property (as well as an existing garage that would be removed), served by a gravel driveway,
46 two private septic systems, and municipal water.

47 The proposal involves constructing twelve new dwellings on footprint lots across four new
48 buildings with three 2-bedroom units each, for a total of twenty-four (24) units. This represents a
49 349% density bonus, requested in exchange for provision of 6 permanently affordable housing
50 units (25% of the total). The existing driveway would serve 13 of the units, with a new driveway
51 serving the remaining units (including the existing duplex). Three new septic systems would be
52 installed for a total of five systems to serve all the units. Approximately 5.1 acres of common
53 land would be left undeveloped.

54 **Background**

55 The site is bounded to the north by Indian Brook. Neighboring properties to the east and south
56 are include moderate-density single-unit homes, while larger residential lots lie to the west.

57 It is unknown when the building at 81 Susie Wilson Road (currently a duplex) was constructed;
58 however, a dwelling is shown at this location on the 1913 Milton, VT USGS topographic map,
59 and warranty deeds from the 1970s refer to an existing dwelling on the site.

60 Zoning permit records indicated that the two existing buildings at 79 Susie Wilson Road (a 4-
61 plex and a 6-plex) were constructed in 1976, each with its own septic system.

62 The application received sketch plan approval on September 12, 2020. At the hearing, the
63 Planning Commission supported the 350% density bonus for affordable housing, and also
64 supported retaining the open space in a natural state. The Commission requested additional
65 details on landscaping, but noted that the 30-foot buffer normally required of multi-family
66 dwellings does not apply to the frontage along Susie Wilson Road. The Commission also
67 supported extension of sidewalk to the site.

68 The application received preliminary plan approval on August 13, 2020, at which the Planning
69 Commission supported the proposal for a partial concrete sidewalk within the municipal right-of-
70 way along with a gravel path cutting into the parcel to avoid removal of a mature tree.

71

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

73 The applicant has submitted the following plans:

- 74 • Plan Sheet 1: “Overall Plan, Bouffard Parcel, 81 Susie Wilson Road, Essex, Vermont”
75 prepared by O’Leary-Burke Civil Associates, PLC, dated 10/15/2020, revised
76 5/5/2021;
- 77 • Plan Sheet 2: “Existing Conditions Plan, Bouffard Parcel, 81 Susie Wilson Road, Essex,
78 Vermont” prepared by O’Leary-Burke Civil Associates, PLC, dated 10/15/2020,
79 revised 5/5/2021;
- 80 • Plan Sheet 3: “Site Plan, Bouffard Parcel, 81 Susie Wilson Road, Essex, Vermont”
81 prepared by O’Leary-Burke Civil Associates, PLC, dated 10/15/2020, revised
82 5/5/2021;
- 83 • Plan Sheet 4: “Details + Specifications (1 of 4), Bouffard Parcel, 81 Susie Wilson Road,
84 Essex, Vermont” prepared by O’Leary-Burke Civil Associates, PLC, dated
85 10/15/2020;
- 86 • Plan Sheet 5: “Details + Specifications (2 of 4), Bouffard Parcel, 81 Susie Wilson Road,
87 Essex, Vermont” prepared by O’Leary-Burke Civil Associates, PLC, dated
88 10/15/2020, revised 5/5/2021;
- 89 • Plan Sheet 6: “Details + Specifications (3 of 4), Bouffard Parcel, 81 Susie Wilson Road,
90 Essex, Vermont” prepared by O’Leary-Burke Civil Associates, PLC, dated
91 10/15/2020;
- 92 • Plan Sheet 7: “Details + Specifications (4 of 4), Bouffard Parcel, 81 Susie Wilson Road,
93 Essex, Vermont” prepared by O’Leary-Burke Civil Associates, PLC, dated
94 10/15/2020;
- 95 • Plan Sheet PL1-OF-1: “Boundary Plat of Lands Owned by Richard M. Bouffard, Easterly
96 Side of Susie Wilson Road, Town of Essex, County of Chittenden, State of Vermont”
97 prepared by O’Leary-Burke Civil Associates, PLC, dated 10/-/2020;

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

99 The applicant has requested approval for a Residential Planned Unit Development (PUD-
100 R). According to Section 2.2(D) of the *Town of Essex Outside the Village of Essex*
101 *Junction Official Subdivision Regulations (SR)*, planned unit developments and multiple-
102 unit housing projects are considered major subdivisions and require sketch, preliminary,
103 and final approval. Sketch plan approval was granted on September 12, 2019, and
104 preliminary approval was granted on August 13, 2020.

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

106 As noted in SR Section 2.4, the purpose of final plan review is

107 *to compare the plat for consistency with the approved Preliminary Plan or approved*
108 *Sketch Plan, to ensure that all engineering, survey and other data are complete, and*
109 *to ensure that the proposed subdivision is in compliance with all appropriate*
110 *regulations and standards.*

111 The Planning Commission must ensure that the plan conforms to the Subdivision
112 Standards SR Article IV. Planned Unit Developments must also conform to Article VI of
113 the *Zoning Regulations* (ZR)

114 Because the project will not be developed in phases, and the remaining developable land
115 is less than three times the district’s minimum lot size, a Master Plan is not required.

116 Finally, under ZR Section 5.0(A) planned unit developments and multi-family housing
117 developments must undergo site plan review at the final review stage.

118 **II. Section 4.2 of the Subdivision Regulations: Subdivision Standards**

119 The Planning Commission must evaluate any proposed subdivision according to the subdivision
120 standards in Article IV, and may require modification or phasing of the proposed subdivision in
121 light of findings relating to those standards.

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

123 All subdivisions must conform to the general standards in SR Section 4.1. Not all
124 provisions of this section are reviewed here, as some are not relevant to this development
125 or are addressed through other provisions of the *Zoning* and/or *Subdivision Regulations*.

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

127 The proposal complies with the following goals and policies of the *Essex Town Plan*:
128 **General Policy 1:** *Development shall occur in areas suitable for growth in a compact*
129 *manner as opposed to scattered development throughout Town.*

130 **Goal 2d:** *The attraction and retention of employers, and employees, is supported by*
131 *the increasing availability of affordable housing.*

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

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

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

138 **General Policy 6:** *Land shall be conserved, and development avoided, in particularly*
139 *vulnerable areas such as floodplains and river corridors.*

140 **2. SR Standard 4.1(G): Conformance to the Zoning Regulations**

141 The parcel is located in the Medium-Density Residential (R-2) zoning district and
142 must conform to the dimensional requirements and development standards listed in
143 Table 2.5 of the *Town of Essex Outside the Village of Essex Junction Official Zoning*
144 *Regulations* (ZR), as well as Article III, General Standards, and any applicable
145 provisions of Article IV, Specific Standards.

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

147 The project reflects the purpose of the R-2 district by promoting residential
 148 development within the sewer service core. It is noted that sewer service is not
 149 currently available to this location, and the applicant does not plan to connect to
 150 sewer because it would be cost-prohibitive to extend the line from its current
 151 terminus at Kellogg Road. However, these units will be able to connect to sewer
 152 in the future when it becomes available.

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

154 Multi-family dwellings are permitted in this district within residential planned
 155 unit developments (PUD-Rs).

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

157 Though multi-family dwellings are normally a conditional use within this district,
 158 they are classified as a permitted use within a PUD-R.

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

160 The proposal generally conforms to Table 2.5(D), District Dimensional
 161 Requirements of the R-2 District, with PUD provisions as noted below.

| Dimensional Requirement | 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. | 337,154 sq. ft. |
| Minimum Lot Area per Dwelling Unit | 20,000 sq. ft. | 30,000 sq. ft. | 627 sq. ft. |
| Minimum Lot Frontage ^(a) | 75 ft. | 75 ft. | 622 ft. |
| Minimum Front Setback (from ROW) ^(a) | 20 ft. ^(b) | 20 ft. ^(b) | 15 ft. |
| Minimum Side Setback – Multi-family ^(a) | 30 ft. | 30 ft. | 10 ft. |
| Minimum Rear Setback ^(a) | 15 ft. | 15 ft. | 156 ft. |
| Maximum Lot Coverage – Multi-family | 40 % | 40 % | 10.5 % |
| Maximum Height | 40 ft. | 40 ft. | 23.5 ft. |

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

163 (b) With creative design

164 Though the proposal exceeds the normal density requirements, this is because the
 165 applicant is requesting a density bonus for creation of permanently affordable
 166 housing, which is reviewed in Finding III(A)(9). The lot area per dwelling unit is
 167 reduced for the creation of footprint lots under ZR Section 6.8(G)(5), as described
 168 in Finding III(B). Units 11-12 do not meet the minimum front setback, but this is
 169 an existing non-conformity; all other structures conform.

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

171 The applicants have proposed a Residential Planned Unit Development (PUD-R),
 172 which is encouraged in the R-2 district and follows standards that supersede the
 173 normal district standards, as noted in Finding I(A)(2)(d).

174 **3. Protection of public health, safety, and welfare**

175 The proposed project will not impact public health, safety, or welfare. In an e-mail
176 dated May 14, 2021, the Police Chief stated that there were no concerns with the
177 proposal.

178 **4. Outstanding violations**

179 The property does not have any outstanding zoning violations.

180 In addition to the General Standards in SR Section 4.1, major subdivision applications are
181 reviewed against the standards in SR Sections 4.2 – 4.11.

182 **(B) SR Section 4.3: Preservation of Natural and Scenic Features**

183 The property contains several natural features that should be preserved or avoided during
184 development. Indian Brook forms the northern border of the parcel, and a state-
185 designated river corridor encompasses the northern quarter of the property. In addition,
186 there is a small tributary that runs southeast to northwest through the property, and the
187 areas around both streambanks are mapped flood hazard areas and Class II wetlands. The
188 Federal Emergency Management Agency (FEMA) has designated a flood hazard zone
189 within the property (Type A) that has a 1-percent annual chance of flooding, but no flood
190 elevations are mapped. The streambanks themselves have areas of steep slopes (greater
191 than 15% and some greater than 20%).

192 All proposed development would take place well outside these natural constraints, all of
193 which are encompassed in the proposed open space. As required during sketch approval,
194 the applicant has delineated the boundaries of the river corridors and wetlands on the
195 property and confirmed that no related state permits are required.

196 **(C) SR Section 4.4: Blocks and Lots – Planning and Design Standards**

197 The project is relatively small in scale and involves no subdivision, so no new blocks or
198 lots are proposed. The existing lot meets all the requirements of SR Section 4.4(B), and
199 the structures are as clustered as possible while allowing for adequate sewage disposal.

200 **(D) SR Section 4.5: Streets**

201 The proposed subdivision provides sufficient access to dwellings via two private shared
202 driveways connected to a Class 3 paved collector street (Susie Wilson Road). As the
203 development numbers fewer than 50 dwelling units, a second permanent connection
204 meeting the standard for a public road is not required.

205 The two driveways are considered private roads under the *Town of Essex Standard*
206 *Specifications for Construction*, and obtained approval from the E911 Coordinator on
207 February 3, 2020 for the proposed names (“Serene Place” and “Wilson’s End Place”). A
208 curb cut application will be required prior to issuance of a zoning permit.

209 In a memorandum dated June 14, 2021, Public Works staff stated:

- 210 1. *The applicant's engineer has performed an analysis to demonstrate that the Susie*
211 *Wilson Road/Kellogg Road intersection has adequate capacity to accommodate the*
212 *additional peak hour trips that will be generated by this Project without significant*
213 *impact to the existing or future traffic congestion and safety conditions. A total of 9*
214 *PM peak-hour trip ends will be generated by this project.*
215 2. *The traffic generated by this project will affect the signalized intersection of Susie*
216 *Wilson Road and Kellogg Road. The Town has an existing traffic impact fee for this*
217 *corridor that all new development pays based on additional PM VTE the project will*
218 *add to the corridor. It is the opinion of Public Works staff that the existing fee*
219 *structure associated with the Susie Wilson Corridor be utilized to calculate this fee.*
220 *The current traffic impact fee is \$391/PM Peak VTE. For this project, the fee is as*
221 *follows:*
- 222 a. *(9 PM trip ends) x \$391 = \$3,519.00*
223
- 224 3. *All drives internal to the project shall meet the requirements of the Town of Essex*
225 *Standard Specifications for Construction. All drives internal to the site must be*
226 *constructed in accordance with Detail A-11, Driveway (Type B), found in the Town of*
227 *Essex Standard Specifications for Construction. A copy of this detail has been*
228 *attached for reference.*

229 **(E) SR Section 4.6: Sidewalks**

230 As required under the sketch plan approval, the proposal includes extension of sidewalk
231 from the corner of Abare Avenue and Susie Wilson Road to the existing driveway
232 (tentatively named "Serene Place") to provide pedestrian access to Units 1-13. From
233 there, a 5-foot-wide paved path (shown as gravel on the preliminary plans) would extend
234 along the east side of Units 11-12 to serve the remaining units on the second drive
235 ("Wilson's End Place"). This path would be privately maintained (including winter snow
236 clearance) by the landowner, while the sidewalk would be maintained by the Town.

237 In a memorandum dated June 14, 2021, Public Works staff stated:

238 *The applicants engineer has provided a new 4' wide sidewalk provided along the east*
239 *side of Old Susie Wilson Road to link the pedestrian traffic from the new PUD to the*
240 *intersection of Abare Avenue and Susie Wilson Road. As stated in previous reviews,*
241 ***the existing sidewalks at the location will also need to be upgraded to meet ADA***
242 ***standards.** In addition to this, all new pedestrian infrastructure installed within the*
243 *Town of Essex will meet or exceed the requirements of the Town of Essex Standard*
244 *Specifications for Construction. Being this new sidewalk will be constructed within*
245 *the Town Right of way and will be taken over by the Town, a 5 foot wide sidewalk will*
246 *be installed. Detail A-5, Concrete Sidewalk, has been provided for reference.*

247 The latest revised plans submitted June 15, 2021 show that the municipal sidewalk along
248 Susie Wilson Road has been widened to 5 feet.

249

250 **(F) SR Section 4.7: Land for Public Open Space and Recreational Use**

251 The project involves retention of 5.27 acres of undeveloped open space, including areas
252 of river corridor, floodplain, and wetland as well as two areas of relatively flat and dry
253 sandplain forest. This open space would be available to residents of the development (but
254 not the public) for informal recreational use. The applicant has not proposed conveyance
255 of public recreation land in lieu of recreation impact fees; therefore, the multi-unit
256 dwelling recreation impact fee of \$473.00 will apply to each of the 12 new units for a
257 total of \$5,676.00. Open space is reviewed further in Finding III(B).

258 **(G) SR Section 4.8: Utility and Access Easements and Improvements**

259 The project will not require any public utility or access easements, as the stormwater
260 infrastructure, septic systems and water service lines will be privately owned and
261 maintained, and adequate pedestrian access is afforded by the sidewalk extension within
262 the public right-of-way. Record drawings must be submitted to the Town after
263 construction showing the locations of underground electric and gas lines.

264 **(H) SR Section 4.9: Water Supply and Wastewater Systems**

265 The final plan submission shows the changes required by Public Works at the preliminary
266 stage; the applicant has also submitted a review of the impacts of the project on the
267 Town's water supply system, which includes demand calculations and fixture counts.

268 In a memorandum dated June 14, 2021, Public Works staff stated:

- 269 1. *The 24 Unit PUD as proposed consists of 12 existing units currently connected to*
270 *municipal water, and 12 new units. The applicants engineer has acknowledged that*
271 *the water services, curb stops, and existing water metering infrastructure will be*
272 *upgraded to current standards as part of this project. Please incorporate these*
273 *upgrades to the existing units in the plan set as they are currently not shown.*
- 274 2. *The Town's engineering consultant has determined that this new development will not*
275 *introduce new hydraulic limitations within the Town of Essex distribution system and*
276 *will be sufficient to serve the proposed project. No additional fees or upgrades to the*
277 *existing infrastructure will be required as part of this project.*
- 278 3. *New water service connections for units 13, 14, and 15 will be direct wet-taps and*
279 *service saddles off the existing AC watermain. The applicants engineer has located*
280 *all the new curb stops for each unit outside of the pavement.*
- 281 4. *The applicants engineer has proposed an 8X4 wet tap off of the existing 8" AC*
282 *watermain located on Old Susie Wilson Road. Public Works does not allow wet taps*
283 *larger than 2 inches on AC watermains. The 4-inch service tap will require the*
284 *applicant to cut in a tee and service valve, Detail A-37, Transite Water Main*
285 *Connection, found in the Town of Essex Standard Specifications for Construction has*
286 *been attached for reference.*
- 287 5. *The water fee has increased from the last review. The previous fee was \$5.73 / 1,000*
288 *gallons of water. The new fee is now \$5.78 / 1,000 gallons. The project as proposed*
289

290 will require an additional 1,680 GPD of water allocation, (12 units X 140
291 GPD/Unit). The municipal water connection fees for the project as proposed will be
292 as follows;

293 a. Water: (1,680 GPD X \$5.78) = \$ 9,710.40

294 6. In addition to the water initiation fee based on flow, there is a component of the
295 initiation fee consisting of a connection cost of \$1000 per connection. With 12
296 individual water connections on the proposed plan, an additional \$12,000.00 in water
297 fees would be charged. The total water fee for the project as proposed is \$21,710.40.

298 The latest revised plans submitted June 15, 2021 show that the 8X4 wet tap has been
299 substituted with a Transite Water Main Connection.

300 **(I) SR Section 4.10: Stormwater Management and Erosion Control**

301 As required at preliminary review, the applicant has submitted calculations demonstrating
302 that the proposed stormwater infrastructure will handle a 10-year storm event.

303 In a memorandum dated June 17, 2021, Public Works staff stated:

- 304 1. This project is located within the Indian Brook watershed. This has been identified as
305 an impaired watershed by the State. The applicant shall make every effort to contain
306 any additional storm water generated by this project onsite.
- 307 2. The applicant shall verify whether a State General Permit for Construction is
308 required for the project. It appears that the land disturbance will be over an acre.
- 309 3. The total impervious area of the proposed project is less than an acre but greater
310 than one half acre. The applicant shall submit an operation and maintenance plan for
311 the proposed stormwater system. Dry wells will only work and remove the estimated
312 amount of phosphorus if they are maintained and cleaned regularly. Annual
313 inspections shall be submitted to Public Works and this should be made a condition of
314 approval.
- 315 4. EPA issued the Lake Champlain TMDL Implementation Plan which calls for higher
316 levels of phosphorus removal for all storm water discharges to the Lake or its
317 tributaries. The applicant submitted the stormwater calculations and estimated that
318 2.36 lbs. of phosphorus will be removed by the proposed system.

319 **(J) SR Section 4.11: Monuments and Lot Markers**

320 Upon approval of the amendment and recording of the mylar, the applicants must adjust
321 and/or install lot markers in accordance with SR Section 4.11.

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

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

325 *PUDs shall be allowed in order to fulfill the purpose of these Regulations as set forth in*

326 *Article I, and to meet the purposes, goals and objectives set forth in the Essex Town Plan –*
327 *specifically those goals and objectives relating to land use, clustering of development,*
328 *affordable housing, and protection of agricultural soils and natural features.*

329 As noted in Finding VI(A)(2)(e), PUD-Rs are allowed in the R-2 district. ZR Section 6.3 lays out
330 the review procedures for PUDs. When PUDs involve the subdivision of land, including
331 multiple-family housing projects as well as mixed-use development that includes housing, the
332 Planning Commission must review the PUD as a major subdivision. Review of the project’s
333 conformance with the subdivision standards appears above in Finding II.

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

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

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

341 The proposal fulfills the purpose of PUDs by promoting clustered development that
342 advances the Town’s affordable housing goals and uses land efficiently while
343 protecting agricultural potential, natural features, and open space. The proposal
344 involves multiple buildings on a single lot, which is expressly allowed under this
345 section to achieve the purposes of planned unit development.

346 **2. Residential Density Calculations and Bonuses**

347 The 7.74-acre parcel contains 3.00 acres of private roadways, floodplains, wetlands,
348 and slopes greater than 20% that must be subtracted from the developable area. This
349 leaves a developable area of 4.74 acres, thus the base density would allow for 6.88
350 (rounded down to 6) dwelling units to be constructed.

351 ZR Section 6.4(K) allows the Planning Commission to grant density bonuses of up to
352 25% of the normal district density for provision of affordable housing, construction of
353 energy-efficient buildings, contribution to the Conservation Reserve Fund, and
354 construction of extra public recreation facilities. This section also allows for a bonus
355 of up to 400% of the density normally allowed in the zoning district if the
356 development consists of exclusively multi-family housing, and 25% of the units are
357 perpetually affordable.

358 The applicant has requested a density bonus for 349% of the normal density allowed
359 in the R2 district for a total of 24 units by making them exclusively multi-family and
360 providing 25% of them at a perpetually affordable rate. This would provide 6 new
361 units of much-needed affordable housing in a desirable neighborhood that is
362 conveniently located to transit lines, shopping and services, and community
363 resources.

364 As noted in Finding II(A)(1), this would advance several goals in the *2016 Town Plan*

365 related to affordable housing, including Goal 2d, Specific Policy 2(S).15, Goal 4b,
366 and Goal 4c. The provision of affordable housing, particularly 2-bedroom dwellings
367 (rental or owner-occupied), helps fill the gap in this market identified in the *Essex*
368 *Housing Needs Assessment and Action Plan*, since the number of smaller households
369 seeking rental housing will continue to increase for the foreseeable future.

370 **3. Roads**

371 Two shared driveways are proposed to serve the new residences; there is no need for
372 these to be public roads dedicated to the Town at this time.

373 **4. Covenants**

374 The applicant has submitted draft bylaws and association declarations stating that
375 Units 2, 4, 7, 9, 11, and 12 will remain permanently affordable, meeting the
376 definitions in 24 V.S.A. §4303(1)(a) (which supersedes the Town's outdated
377 regulations) and as required for the density bonus. The units may be rented or sold at
378 the landowner's preference, though the applicant has stated that negotiations are
379 underway to sell the affordable units to Champlain Housing Trust. Regardless of the
380 result, the affordability covenant (Article VIII of the Planned Community
381 Declaration) will require some form of oversight and compliance monitoring by a
382 qualified nonprofit organization.

383 Specifically: if rented, the units must be occupied by households whose gross annual
384 income does not exceed 80% of the Chittenden County median income, or that of the
385 Burlington-South Burlington Metropolitan Statistical Area (MSA) as defined by the
386 U.S. Department of Housing and Urban Development. If sold as condominium units,
387 the buyers' gross income also must not exceed 120% of the median income for the
388 Burlington-South Burlington MSA, and the total annual cost of the housing
389 (including principal and interest on a 30-year mortgage, taxes, insurance, utilities, and
390 condominium association fees) may not exceed 30% of the household's income.

391 As noted in the preliminary findings, since no further development is planned, or
392 indeed possible without approval of the Planning Commission, there is no need to
393 provide any protective covenants to ensure orderly development of the PUD.

394 **5. Impact Fees**

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

397 **(B) ZR Section 6.8: Residential Planned Unit Developments (PUD-Rs)**

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

399 The proposal conforms to the purposes of PUD-Rs in that it respects topography and
400 natural features by minimizing the physical and visual impact of the development by
401 locating buildings, parking areas, and septic systems in a smaller portion of the
402 parcel, thus preserving a significant amount of open space. The proposal also uses
403 land efficiently and creatively to provide greater housing opportunities and a greater

404 variety of development types in the Pinecrest neighborhood.

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

406 Though the proposal does not meet normal density requirements, the applicants have
407 requested a density bonus supported by the Planning Commission as noted in Finding
408 III(A)(9). The proposal also meets the minimum requirement for dwelling units (2)
409 and consists of multiple-family dwellings, which are permitted uses within PUD-Rs
410 in the R2 district. Building elevations have been submitted as part of the preliminary
411 plan application.

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

413 Separate footprint lots that are reduced below the normal lot requirements are
414 proposed for the new dwellings (Units 13-24). Furthermore, the effective lot area per
415 dwelling is reduced by clustering the development in a small portion of the parcel and
416 through the requested 349% density bonus.

417 **4. Setbacks and Frontage Minimums**

418 The proposal conforms to the lot setbacks and frontage requirements for PUD-Rs in
419 the R2 district. The proposal involves the creation of footprint lots for the new
420 dwellings (Units 13-24) under ZR Section 6.8(G)(5) as explicitly allowed for
421 multifamily townhouse development, and the existing apartments could be converted
422 to condominiums with footprint lots in the future through a final plan amendment.

423 **5. Buffers**

424 The proposal includes multiple family dwellings adjacent to existing single-family
425 dwellings; therefore, a 50-foot landscaped buffer is required on the periphery of the
426 project. Two of the existing buildings (the 6-plex and duplex) are located within this
427 50-foot buffer area. These are considered existing non-conformities, and an existing
428 mature hedge of white pine and other trees serves to screen the buildings from
429 adjacent dwellings.

430 **6. Open Space**

431 The applicant has proposed retaining 5.27 acres of the parcel as common open space,
432 covering the wetlands, floodplains, and river corridor areas and the remaining
433 undeveloped lands. At the sketch plan hearing on September 12, 2019, the Planning
434 Commission and applicant agreed that this open space should be maintained in a
435 natural state, rather than developed for active recreational use, to provide for wildlife
436 habitat and retain a sense of serenity for the residents.

437 In an e-mail dated June 14, 2021, the Parks & Recreation Director stated that there
438 were no concerns with the proposal.

439 **7. Justification and Flexibility**

440 The maintenance of existing tree cover and landscaped buffers, as well as the
441 extension of sidewalk from Abare Avenue, serves to coordinate the PUD-R with
442

443 surrounding land development and ensure its compatibility with adjacent uses. The
444 impact of the proposed development on the community will be moderated through the
445 residential phasing policy, reviewed in Finding IV, and financially recaptured through
446 impact fees. No further conditions are needed to ensure protect the interests of
447 surrounding property, the neighborhood, or the municipality.

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

449 Planned Unit Developments and multi-family housing structures are subject to Site Plan Review
450 pursuant to Section 5.0(A) of the *Town of Essex Outside the Village of Essex Junction Official*
451 *Zoning Regulations*. The purpose of site plan review is to ensure the project's compliance with
452 the *Town Plan*, the *Zoning Regulations*, and conditions of previous approvals. Site Plan review
453 standards specifically include preservation of natural and scenic features, layout of development,
454 access, internal circulation, parking, landscaping, lighting, and utilities and fire protection.

455 Most of these elements are incorporated into the subdivision and PUD standards, which appear
456 in Findings II and III, respectively; other elements include parking, landscaping, and lighting.
457 The final plan submission must demonstrate conformance to these site plan standards under ZR
458 Sections 5.6(E), (F), and (G).

459 **(A) ZR Section 5.6(E), Parking**

460 ZR Section 3.9(B) requires provision of 1.67 off-street parking spaces per multi-unit
461 dwelling; the proposal exceeds this requirement by providing a total of 45 dimensionally
462 conforming parking spaces for the 24 proposed dwellings. The proposed parking also
463 meets the requirements of ZR Section 3.9(H)(1) for the provision of spaces meeting
464 standards of the Americans with Disabilities Act.

465 However, the proposal does not show any bicycle parking as may be required under ZR
466 Section 3.9(H)(2); it is recommended that the applicant install bicycle parking for at least
467 one bicycle per dwelling (total of 24), preferably in a covered and secured location,
468 though uncovered metal racks will suffice.

469 **(B) ZR Section 5.6(F), Landscaping**

470 The Planning Commission can require landscaping to achieve the objectives of the
471 *Zoning Regulations* and the *Town Plan*. The landscaping objectives in residential districts
472 relate to street trees, parking areas, and lawn and building enhancements.

473 **1. Street Trees**

474 Although the applicant has not proposed any new street trees, the site plan shows the
475 retention of as much existing mature vegetation as possible, including several large
476 pines and a wooded area to the north of the site along Susie Wilson Road. The
477 Planning Commission determined during preliminary review that these will meet the
478 street tree requirement.

479 **2. Parking Areas**

480 The applicant plans to retain several existing mature trees along the first driveway

481 (“Serene Place”) to meet this requirement. Due to the clustered layout of buildings
482 and in-ground septic systems, there is insufficient space along Wilson’s End Place for
483 additional landscaping, but the landscaping around the building entries and the
484 retention of forested open space opposite the buildings will provide some
485 enhancement.

486 **3. Lawn and Building Enhancements**

487 At the request of the Planning Commission, the applicant has proposed additional
488 landscaping around the front porch of each dwelling which serves to enhance the
489 buildings’ appearance as required under the landscaping objectives in ZR Section
490 5.6(F). The retention of existing tree cover and buffers serves to meet the requirement
491 for street trees, and the parking areas are not so large as to require landscaped islands.
492 Additional evaluation of landscaping and lighting under site plan standards will be
493 included in the final plan review.

494 It is noted that the area behind (north and east of) Units 1-4 is maintained as lawn.
495 This area would make an attractive community space for lawn games, picnics, yard
496 sales, or even garden beds (as long as septic systems are avoided).

497 **(C) ZR Section 5.6(G), Lighting**

498 The *Zoning Regulations* call for an exterior lighting plan that provides “site lighting and
499 lighting levels that are appropriate for the anticipated activities on the site and the
500 property’s surrounding context, and that maximize the efficiency of site lighting and
501 energy demand, while minimizing up-light glare, and unnecessary spillover light or light
502 diffusion onto adjacent properties.”

503 In a memorandum dated June 15, 2021, the applicant’s engineer requested a waiver to the
504 requirement for a lighting plan under ZR Section 5.6(G), stating that only residential-
505 scale lighting would be used around individual unit entries, and no lights (including pole-
506 mounted) would be used for the parking areas. The Planning Commission finds that such
507 lighting would indeed have a negligible impact on adjacent properties and rights-of-way;
508 nevertheless, the site shall conform to all requirements of ZR Section 5.6(G).

509 **(D) ZR Section 5.6(I), Fire Protection**

510 During preliminary review, the Fire Department required that the roads be marked as fire
511 lanes to ensure that a clear width of 20 feet is maintained for use of aerial trucks. This has
512 been noted on the final site plans.

513 In an e-mail dated June 14, 2021, the Fire Chief also required that building and unit
514 addresses be posted conspicuously from approach angles, and that all utilities for each
515 building have reflective signage posted on the exterior of each building above the snow
516 line to rapidly identify each location.

517 **V. Article III of the Subdivision Regulations: Residential Phasing**

518 Any proposed development that contains dwelling units and requires subdivision approval is

519 subject to Article III, Residential Development Phasing. The goal of residential phasing is to
520 maintain an annual population growth rate set forth in the *2016 Town Plan* of between 184 and
521 226, aiming for the midpoint of the range at 205. Population growth is allocated to new
522 developments through Estimated Population Equivalents (EPEs), essentially equivalent to the
523 number of bedrooms in new dwelling units (5-bedroom units are counted as 4.5 EPEs).

524 Any single project within the sewer core may add 20 dwelling units per calendar year. The
525 Planning Commission must act on a preliminary phasing request when a proposed development
526 obtains sketch plan approval. Final allocation is granted if the development secures final plan
527 approval.

528 The proposed project lies inside the sewer core area and consists of twelve (12) new dwelling
529 units, all of which would contain 3 bedrooms (translating to 3 EPEs each). The applicant
530 received preliminary phasing for 6 of the units in 2021 and the remaining 6 in 2022.

531 If granted final approval along with other projects seeking approval at present, this project would
532 bring the town-wide total phasing allocation to 69 dwelling units with 201 EPEs in 2021 and 36
533 units with 142 EPEs in 2022. This includes two projects (a subdivision at 108 Center Road and
534 Town Center Buildings G, G1, and H) which have not yet received sketch plan approval or
535 preliminary phasing allocation, as well as one project (Pinewood Manor Section I) which is
536 unlikely to receive final allocation in time to construct in 2021. Regardless, this is below the
537 targeted mid-point of 205 EPEs, leaving 4 EPEs unallocated in 2021 (all of which could be
538 allocated within the sewer core) and 63 EPEs in 2022 (41 of which could be allocated within the
539 sewer core). A summary of the running phasing tabulation is attached.

540 Given the above, the proposed project is granted final residential phasing allocation as requested.

541 The 12 new dwellings would be subject to recreation impact fees.

542 **VI. Additional Findings by the Planning Commission**

- 543 •

544 **VII. Proposed Conditions**

- 545 1. All conditions from previous approvals shall remain in effect except as modified herein.
- 546 2. All construction shall be in conformance with the plans listed above as may be amended
547 herein.
- 548 3. Prior to the issuance of a zoning permit, the plans shall be revised as follows:
 - 549 a. Bicycle parking accommodating at least 24 bicycles shall be added to the site plans in
550 one or more locations accessible to all residents;
 - 551 4. An electronic copy of the plans as may have been revised shall be submitted to the E911
552 coordinator in .PDF file format. Another copy shall be submitted in geodatabase or
553 shapefile in Vermont State Plane Meters, NAD83 (NSRS or most current); alternatively,
554 coordinated CAD data – Vermont State Plane Coordinates, US Survey Feet, Grid Zone

- 555 4400, NAD 83 (2011) epoch 2010.0, NAVD 88 (geoid12b); alternatively, paper showing
556 three (3) values of State Plane Coordinates.
- 557 5. Prior to the issuance of a zoning permit, the applicant shall pay a traffic impact fee of
558 \$3,519.00 (\$391 per PM Peak vehicle trip end).
- 559 6. Prior to the issuance of a zoning permit, the applicant shall pay water allocation and
560 connection fees totaling \$21,626.40, or the fees in place at the time of submittal.
- 561 7. Prior to the issuance of a zoning permit, the applicant shall pay recreation impact fees of
562 \$473.00 per new multi-unit dwelling for a total of \$5,676.00.
- 563 8. Prior to the issuance of a zoning permit, the applicant shall obtain all applicable state
564 approvals and permits, including a State General Permit for Construction if required, and
565 shall submit copies to the Community Development Department.
- 566 9. The applicant shall submit the mylar and three (3) paper copies to the Zoning
567 Administrator for review and Planning Commission signature at least two weeks prior to
568 the 180-day statutory recording deadline, otherwise the subdivision is void.
- 569 10. Prior to the filing of the mylar, all easements, deeds, and other legal documents shall be
570 submitted to the Community Development Department for review by the Town Attorney
571 at the expense of the applicant.
- 572 11. Prior to the recording of the mylar, the applicant shall install concrete monuments and lot
573 markers to the standards specified in Section 4.11 of the *Subdivision Regulations* and
574 shall submit a certified statement from the surveyor verifying the installation.
- 575 12. Upon recording of the mylar, the applicant shall submit to the E911 coordinator a
576 shapefile or PDF file of the plans containing all information specified in Section 2.10(H)
577 and 2.10(I) of the *Subdivision Regulations*.
- 578 13. All utility lines shall be installed underground.
- 579 14. All water, sewer, and storm water infrastructure shall be installed, and existing
580 infrastructure upgraded, in accordance with the specifications and details provided within
581 the *Town of Essex Standard Specifications for Construction*. All fire hydrants shall use a
582 5-inch Storz valve on the main steamer connection.
- 583 15. Each of the 12 new units shall be metered and billed off its own meter. The applicant's
584 engineer shall provide peak domestic water demand calculations, based on the number of
585 fixture units, for properly sizing the water meter for the proposed building. The Town of
586 Essex will not size the meter based on line pressure in the building.
- 587 16. At the discretion of the Zoning Administrator, as-built plans shall be submitted to the
588 Community Development Department prior to the issuance of a certificate of occupancy.
- 589 17. No occupancy of the structures shall occur until a certificate of occupancy inspection and
590 sign off is issued by the Zoning Administrator.

- 591 18. Prior to the issuance of a certificate of occupancy, all proposed sidewalks and paths shall
592 be constructed, and existing sidewalks upgraded, to ADA standards, including the
593 sidewalk extension along Susie Wilson Road from the corner of Abare Avenue.
- 594 19. Prior to the issuance of a certificate of occupancy, the address of each building and unit
595 (both existing and new) shall be marked conspicuously from the approach angle, and all
596 utilities shall have reflective signage posted on the exterior of each building above the
597 snow line.
- 598 20. All landscaping shall be guaranteed for the life of the project. Any dead or diseased
599 plantings shall be replaced as soon as seasonally possible.
- 600 21. Any site lighting shall comply with the provisions of Section 5.6(G) of the *Town of Essex*
601 *Outside the Village of Essex Junction Official Zoning Regulations*.
- 602 22. The proposed private roads shall be marked as fire lanes, and a clear width of 20 feet
603 shall be maintained at all times along the access ways.
- 604 23. All pavement shall be maintained in a state of good repair for the life of the project;
605 pavement markings shall be maintained to be visible at all times.
- 606 24. Within one year of the issuance of the first certificate of occupancy, the applicant shall
607 submit an operation and maintenance plan for the proposed stormwater system which
608 shall include regular cleaning and maintenance of the dry wells and submission of an
609 annual maintenance report to the Public Works Department.
- 610 25. By accepting the conditions of this approval without appeal, the applicant confirms and
611 agrees for itself and all assigns and successors in interest that the conditions of this
612 approval shall run with the land and the land uses herein permitted, and will be binding
613 upon and enforceable against the applicant and all assigns and successors in interest.

614 **VIII. Attachments**

- 615 • “Declaration of Wilson End Estates, a Planned Community,” prepared by Bergeron,
616 Paradis, & Fitzpatrick, LLP, submitted 06/18/2021
- 617 • Draft “Bylaws of Wilson End Estates Homeowners Association, Inc.,” prepared by
618 Bergeron, Paradis, & Fitzpatrick, LLP, submitted 06/18/2021
- 619 • Draft Warranty Deed, Bouffard to Wilson End, LLC, prepared by Bergeron, Paradis, &
620 Fitzpatrick, LLP, submitted 06/18/2021
- 621 • Draft Warranty Deed, Unit 2 of Wilson End Estates, prepared by Bergeron, Paradis, &
622 Fitzpatrick, LLP, submitted 06/18/2021
- 623 • Residential phasing allocation record, dated 06/24/2021

624 copy: Dan Heil, P.E. and David Burke, O’Leary-Burke Civil Associates, PLC
625 Edward Fitzpatrick, Esq., Bergeron, Paradis, & Fitzpatrick, LLP
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