Proposed

The applicant has proposed alterations to a previously approved, but not yet constructed, 71-unit assisted living facility, the final phase of a mixed-use development known as Freeman Woods. The proposed amendments include:

- a decrease in the building footprint from 39,243 square feet (SF) to 39,177 SF;
- an increase the number of beds from 71 to 79 (to include 33 studio units, 30 one-bedroom units, and 8 two-bedroom units);
- changes to pedestrian access and landscaped civic space;
- alterations to parking layout;
- relocated water and sewer service;
- revised lighting plan;
- and updated building elevations.

The property is located in the Mixed-Use Development (MXD) subzone of the Mixed Use Development – Planned Unit Development (MXD-PUD) zoning district. The entire development has a parcel number of 2-094-001-000, and the footprint lot for the assisted living building has a parcel number of 2-094-001-001.

Background

On February 28, 1985, the Planning Commission granted final subdivision approval for an 11-lot subdivision of the Lang Farm. Parcel D of this subdivision included approximately 12.6 acres along what is now Essex Way between VT-289 and the Woodlands subdivision. A public right-of-way now known as Freeman Woods was planned as part of the commercial subdivision of Parcel D (all the properties north of Parcel D-1, which contained the Inn at Essex). Parcel D was further subdivided on September 8, 1988, and was the location of an outdoor recreation facility (Northern Lights Rock and Ice) from November 8, 2007 to 2016.

On February 27, 2014 the Planning Commission approved a Sketch and Master Plan for 600 square feet of office space, a 78-bed assisted living facility, a 50-bed memory care facility, and 18 townhomes on Freeman Woods. The Commission classified the assisted living and memory...
care facilities as commercial uses.

On August 7, 2014 the Zoning Board of Adjustment granted conditional use approval for the project’s residential care facilities and multi-family dwellings. On August 14, 2014, the Planning Commission approved a Preliminary Plan for 6,000 square feet of office space, a 71-bed assisted living facility, a 56-bed memory care facility, and 17 three-bedroom townhomes.

The Planning Commission approved the Master Plan, Final Subdivision Plan, and PUD on September 25, 2014, including a boundary adjustment to combine all of the original six subdivided lots in Parcel D into one parcel, with footprint lots for each building.

On June 25, 2015, the Planning Commission approved Final Plan Amendment for changes to the site, including relocating the office building and assisted living facility and associated changes to parking, landscaping, stormwater, and site circulation.

On June 8, 2017, the Planning Commission approved another Final Plan Amendment to eliminate the 6,000-square-foot office building and modify the assisted living facility’s footprint.

On April 26, 2018, the Planning Commission approved a Master Plan / Final Plan Amendment for the Freeman Woods PUD in combination with a 0.91-acre Boundary Adjustment to the Essex Resort property and Site Plan application to allow construction of a 27-unit apartment building known as the Essex Residences on the conveyed property. This reduced the available residential density to the Freeman Woods PUD such that no further units can be added. The Freeman Woods PUD and the Essex Residences share numerous utilities, including the stormwater pond located east of the Residences.

Surrounding land uses to the east include a memory care facility and 17 townhouses, as well as a 33-acre Town-owned open space area; to the south are a 27-unit apartment building and a resort hotel; to the west are a golf course and neighborhood park; to the north is Vermont Route 289.

I. Article II of the Subdivision Regulations: Subdivision Procedures

The applicant has requested an amendment to an approved Final Subdivision Plan, including a Master Plan, pursuant to Section 2.12 of the Town of Essex outside the Village of Essex Junction Official Subdivision Regulations (SR). In support of the application, the applicant has submitted the following plans and documentation:

- E-mail narrative, “RE: 2 Freeman Woods,” from Dan Heil, P.E., O’Leary-Burke Civil Associates, PLC, dated 10/08/2019;
- Plan Sheet #1, “Master Plan, Freeman Woods Assisted Living Facility, Freeman Woods, Essex, VT,” prepared by O’Leary-Burke Civil Associates, PLC, dated 03/29/2017, revised 09/05/2019;
The Zoning Administrator has determined that the proposed changes qualify as Substantial Amendments because they will result in changes to internal circulation patterns, pedestrian circulation patterns, and exterior lighting. For substantial subdivision amendments, Section 2.12(C) of the Zoning Regulations (ZR) requires review and approval by the Planning Commission as a Final Subdivision.

Because the proposed changes pertain primarily to site plan standards, conformance to those standards are reviewed first, and only selected subdivision and PUD standards that are not otherwise covered under site plan review are reviewed subsequently.

II. Section 5.5 of the Zoning Regulations: Site Plan Amendments

The applicant has requested a Site Plan Amendment pursuant to Section 5.5 of the Town of Essex Outside the Village of Essex Junction Official Zoning Regulations (ZR). The Zoning

2 Freeman Woods
Master, Final, & Site Plan Amendment
November 14, 2019

- Plan Sheet #4, “Road Details & Specifications, Freeman Woods Assisted Living Facility, Freeman Woods, Essex, VT,” prepared by O’Leary-Burke Civil Associates, PLC, dated 03/29/2017, revised 09/05/2019;
Administrator has determined that the proposed changes qualify as substantial amendments because they will result in changes to internal circulation patterns and pedestrian circulation patterns. ZR Section 5.5(B) requires submission of “a revised application for review and approval by the Planning Commission” for substantial site plan amendments.

(A) ZR Section 5.6(A), General Requirements

1. Conformance to the Essex Town Plan

The project complies with the following goals and objectives of the 2016 Town Plan:

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

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

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

Specific Policy 2(S).16: The housing stock shall serve residents of all income levels, ages, and special needs.

2. Dimensional limitations and provisions of the Zoning Regulations

This project is located in the Mixed-Use (MXD) subzone of the Mixed-Use Development – Planned Unit Development (MXD-PUD) district, and must conform to the standards listed in Table 2.13 of the Zoning Regulations. For mixed use development, the MXD-PUD standards refer to Table 2.11, the Mixed Use Development (MXD) district standards. The project will continue to conform to the purpose and allowed uses within these districts, and the 2014 conditional use approval for residential care facilities is still valid. Except for building height and front setback, the proposed assisted living facility conforms to Table 2.9(D), Dimensional Requirements of the B1 district, as noted below:

<table>
<thead>
<tr>
<th>Dimensional Requirements</th>
<th>Required (with off-site water and sewer)</th>
<th>Previously approved</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Lot Area – Nonresidential</td>
<td>30,000 sf</td>
<td>467,083 sf</td>
<td>419,630 sf</td>
</tr>
<tr>
<td>Minimum Lot Frontage</td>
<td>150 ft.</td>
<td>720 ft.</td>
<td>720 ft.</td>
</tr>
<tr>
<td>Minimum Front Setback (from ROW)</td>
<td>50 ft.</td>
<td>25 ft.</td>
<td>25 ft.</td>
</tr>
<tr>
<td>Minimum Setback from VT-289</td>
<td>150 ft.</td>
<td>&gt; 150 ft.</td>
<td>&gt; 150 ft.</td>
</tr>
<tr>
<td>Minimum Setback from VT-289 entrance/exit ramps</td>
<td>50 ft.</td>
<td>75 ft.</td>
<td>75 ft.</td>
</tr>
<tr>
<td>Minimum Side Setback</td>
<td>None</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Minimum Rear Setback</td>
<td>None</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Minimum Buffer/Residential Districts</td>
<td>30 ft.</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Maximum Lot Coverage – All</td>
<td>70%</td>
<td>45.0 %</td>
<td>45.0 %</td>
</tr>
<tr>
<td>Maximum Height</td>
<td>40 ft.</td>
<td>&lt;40 ft.</td>
<td>50 ft.</td>
</tr>
</tbody>
</table>
In April 2014, the Planning Commission determined that flexibility in lot requirements applied to PUD-MUs, and the Final Plan approval allowed the applicant to have smaller setbacks than required from the Freeman Woods right-of-way (ROW) and VT Route 289. The proposed amendments would not further encroach on the setbacks. There are no existing residential districts abutting the development, and therefore no landscaped buffer is required.

The proposed assisted living building would conform to the maximum height above grade of 40 feet allowed in this district if not for the three cupolas that rise above the roofline to a maximum height of 49 feet 8 inches above grade. The applicant has requested a waiver to the maximum height pursuant to ZR Section 3.6(B) to achieve visual compatibility with the neighboring memory care facility. The Planning Commission may grant this waiver because the parts of the proposed structure exceeding 40 feet are ornamental towers that will not constitute a hazard to an established airport; no additional conditions are necessary to meet the purpose and intent of the Zoning Regulations.

3. Protection of public health, safety, and welfare

The proposed changes will not impact public health, safety, or welfare. Further review of fire and life safety considerations are in Finding I(I).

4. Outstanding violations

The property does not have any outstanding zoning violations.

(B) ZR Section 5.6 (B), Natural features

The proposed changes will not result in any impacts or changes to natural features.

(C) ZR Section 5.6 (C), Access

The proposed amendments will result in no changes to site access or traffic impacts. In a memorandum dated October 29, 2019, Public Works staff stated that all previous findings regarding transportation remain valid.

(D) ZR Section 5.6(D), Site Circulation

The Zoning Regulations require the Planning Commission to consider on-site vehicular and pedestrian circulation, and allow the Commission to impose conditions to ensure adequate circulation. The Planning Commission must also carefully consider safety and accessibility, as required by the Americans with Disabilities Act.

The amendments include relocating the waste storage containers from the eastern side of the building to the northeastern corner of the parking area, as well as removing the previously-approved service entry at the northwestern corner of the building to allow for additional civic space and to avoid deliveries through the residential corridor. In an email dated October 9, 2019, the applicant’s consultants indicated that loading would instead take place along the access road east of the building. This would have forced...
delivery trucks to block the main fire lane on this side of the building, or else mount the sidewalk and block pedestrian access.

At staff’s recommendation, the applicants submitted revised plans showing the conversion of four parking spaces located east of the loading entries into a loading area with associated signs and striping. This will allow deliveries to be made at the same location without blocking pedestrian movement or access through the service road.

Two snow storage locations are shown: one to the west of the building on either side of the access road, and one around the northern portion of the parking area (behind and to the side of the waste storage area). The western snow storage area will be occupied by dense landscaping that would suffer from salt exposure. Only the northern snow storage area shall be used, and it has adequate capacity for a typical winter.

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

Parking must be provided in accordance with Section 3.9 of the *Zoning Regulations*, and no more than 50 percent of a front-yard setback can be devoted to parking.

Sheets 1 and 3 of the plans show a proposed rearrangement of parking layout, creating a new row of twelve spaces to the northwest side of the building (formerly approved for potential future expansion) to compensate for the removal of eleven spaces to the northeast of the building for the expansion of the civic space. The loading dock would be eliminated; instead, a loading area would be located east of the building in place of four existing parking spaces. The “no-parking” area across from the eliminated loading dock would be eliminated to create five parking spaces, and the waste storage area would replace four parking spaces at the northernmost part of the site.

Despite the rearrangement of spaces, the number of spaces for the overall development would remain the same at 122 (Sheet 1 of the previously-approved plans indicated that there were only 117 spaces, but 122 were depicted). This meets the minimum number of spaces required per ZR Section 3.9(B), using a ratio of three spaces for every five beds for residential care facilities (34 spaces for 79 assisted living beds and 48 spaces for 56 memory care beds) and 2.3 spaces for each townhouse dwelling unit (40 spaces for 17 units). Most of the surface parking would still be located near the residential care facilities, with some overflow parking located near the townhouses (which each have two garage spaces). The parking layout also shows the required number of spaces that meet ADA standards (five), all of which would be van-accessible (only one van-accessible space is required).

No bicycle parking would be provided. Though residents of the facility are not likely to utilize bicycle parking, it is recommended that the applicant install at least one bicycle rack for use by facility employees, preferably within the landscaped drop-off area at the main entrance. This would help advance the Town’s goals for reducing energy consumption of motorized transportation.

(F) **ZR Section 5.6(F), Landscaping and Screening**
The Planning Commission can require landscaping to achieve the objectives of the
Zoning Regulations and the Town Plan. The landscaping objectives for multi-family
residential and business uses involve street trees, a planting strip, and enhancements of
parking areas, lawns, and buildings.

The proposed landscaping changes would continue to achieve the noted landscaping
objectives and primarily involve changes to lawn and building enhancements. These
include redesigned civic areas to the northeast and south of the building for patio areas
and accessory recreation space (bocce court or putting green). Several other minor
alterations to tree and shrub locations and species are included. No changes to street trees
or the planting strips are proposed.

As noted in Finding II(D), the proposed snow storage location west of the building would
likely impact the proposed plantings. This area should not be used for snow storage.

(G) ZR Section 5.6(G), Lighting

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

The revised lighting plan utilizes the same number and type of fixtures, but has relocated
some to reflect changes to the main entry, loading dock, service entrance, and patio
spaces to the north and south of the building. Furthermore, the revised plan achieves a
uniformity ratio below the maximum of five recommended by ZR Section 5.6(G)(3).

(H) ZR Section 5.6(H), Utilities and Services

The applicant has proposed minor changes to the previously approved water and sewer
service lines, primarily relocating the water service north near the new service entry.

In an e-mail dated October 29, 2019, Public Works staff stated that all previous reviews
and conditions regarding water, sewer, and transportation remain valid, provided that the
standard details shown on the plan conform to the latest revision of the Town of Essex
Standard Specifications for Construction, January 2017. In addition, Public Works
required that the applicant submit a maintenance plan and annual inspection reports to
Public Works for the permeable pavers proposed for the patio area south of the building
to ensure that they are functioning properly. The applicant’s engineer agreed to this in an
e-mail dated October 29, 2019.

(I) ZR Section 5.6(I), Fire Protection

In an e-mail dated October 22, 2019, the Fire Chief required that the building meet the
Fire Department’s list of building standards dated January 2015 (attached). Due to the
size of the assisted living facility and the fact that the resident population will have
limited mobility, requiring first responders to defend in place, the building shall be
equipped with NFPA Class 1 wet standpipes. In addition, the Fire Chief required that the
Fire Department Connection be located on the eastern façade facing the memory care building at 6 Freeman Woods.

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

The Freeman Woods project, including the townhouses, memory care facility, and proposed assisted living facility, are part of a mixed-use planned unit development (PUD-MU). The proposed amendment must conform to the general standards for PUDs and the specific standards for PUD-MUs. Only the standards applicable to the proposed amendment that are not included under site plan review are discussed here.

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

The proposed amendments do not conflict with the purpose of PUDs or the uses and densities allowed in the MXD subzone of the MXD-PUD district, and no density bonus has been requested. The assisted living facility would have its own footprint lot, and the principal entry to the PUD (Freeman Woods) will be dedicated to the Town as a public road. Protective covenants for the controlled development of the PUD have been in place since final approval; bylaws governing the multiple layers of homeowners’ associations within the PUD will become effective upon completion of the assisted living facility.

The proposed amendments include expanded non-public civic spaces totaling approximately 0.3 acres for use by the assisted living facility’s residents and visitors, such as landscaped patio areas to the north and south of the building and an inner courtyard.

(B) ZR Section 6.7: Mixed-Use Planned Unit Developments

The proposed amendments conform with the purpose of PUD-MUs and the associated standards. Though the 2018 boundary adjustment with 70 Essex Way for the Essex Residences project altered the use mix and density calculations per ZR Section 6.7(D)(3) for the Freeman Woods PUD-MU, both projects and the proposed amendments remain in conformance with this provision.

IV. Article II, Section 2.7 of the Subdivision Regulations: Master Plan

The Subdivision Regulations require a master plan “for any project which is intended to be developed in phases and for which approval of only one phase is currently requested, or for any project where development of only part of the parcel is proposed and the remaining land exceeds in area three times the minimum lot size in the district in which the subdivision is located.”

The final plan was approved to serve as the master plan for the property. The proposed amendment would change the master plan to show the decreased footprint of the assisted living facility, the increased area of civic space, and the changes to parking and loading layout. These changes are consistent with the intent of the currently approved master plan.

V. Section 4.2 of the Subdivision Regulations: Subdivision Standards
The Planning Commission must evaluate any proposed subdivision according to the Subdivision Standards in Article IV, and may require modification or phasing of the proposed subdivision in light of findings relating to those standards. As noted in Finding I, only standards that are applicable to the proposed changes and not already addressed under site plan review or planned unit development review are discussed in detail under this finding.

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

No blocks or lots are proposed except for the footprint lot of the assisted living building, which has been slightly modified to reflect changes to the building design.

(B) **SR Section 4.5: Streets**

The applicant has not proposed any changes from the previous approval to the new public road known as Freeman Woods.

(C) **SR Section 4.6: Sidewalks**

The applicant has proposed no changes are proposed to the main sidewalk along Freeman Woods and around the perimeter of the building. Additional paved paths through the civic spaces would provide access to the patio areas and gardens. Sidewalks have also been added to the eastern side of the building to provide access to the service entry.

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

Though the proposal includes non-public civic spaces, the applicant has not proposed any public open space or recreation areas, and would therefore be subject to recreation impact fees at the multi-family dwelling rate based on the number of units or rooms in the assisted living facility.

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

No changes to utility lines are proposed except those reviewed under Finding II(H). The plans include a revision to the property plat for the Freeman Woods project (currently filed under Land Records slide 505A) to reflect the 2018 boundary adjustment to allow construction of the Essex Residences project. The plat associated with that approval, slide 510F shows the mutual utility and access easements between the 6 Freeman Woods property and the 70 Essex Way property. The revised plat for 6 Freeman Woods will supersede slide 505A and reference slide 510F.

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

The proposed changes to water wastewater systems are discussed under Finding II(H).

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

The proposed changes to stormwater management are discussed under Finding II(H).
(H) SR Section 4.11: Monuments and Lot Markers

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

VI. Planning Commission Comments

While reviewing the project on November 14, 2019, the Planning Commission commented:

- “The Commission supports a waiver exceed the maximum district height of 40 feet above finished grade for the construction of ornamental towers up to 50 feet above finished grade. The Commission finds that the design of the towers is consistent with the purposes and goals of the Mixed Use Development district and the neighborhood of the proposed building, and that the towers will not constitute a hazard to an established airport.”

VII. Proposed Conditions

1. All conditions from previous approvals shall remain in effect except as modified herein.
2. All construction shall be in conformance with the plans listed above as may be amended herein.
3. Prior to the issuance of a zoning permit, the plans shall be revised as follows:
   a) On Sheet 1, the snow storage area west of the building shall be removed.
4. An electronic copy of the plans as may have been revised shall be submitted to the E911 coordinator in .PDF file format. Another copy shall be submitted in geodatabase or shapefile in Vermont State Plane Meters, NAD83 (NSRS or most current); alternatively, coordinated CAD data – Vermont State Plane Coordinates, US Survey Feet, Grid Zone 4400, NAD 83 (2011) epoch 2010.0, NAVD 88 (geoid12b); alternatively, paper showing three (3) values of State Plane Coordinates.
5. Prior to the issuance of a zoning permit, the applicant shall obtain any and all applicable state approvals and permits required as a result of this approval and shall submit copies to the Community Development Department for review.
6. Prior to the issuance of a certificate of occupancy, the applicant shall submit to the Public Works Department a maintenance plan for the permeable pavers proposed for the southern patio area. Thereafter, the applicant shall submit an annual inspection report to Public Works.
7. All water, sewer, and storm water infrastructure shall be installed in accordance with the specifications and details provided within the Town of Essex Standard Specifications for Construction, January 2017.
8. The proposed building shall conform to all standards listed in the Essex Fire Department Building Standards, January 2015 (attached). In addition, NFPA Class 1 wet standpipes are required. The Fire Department Connection shall be located on the eastern façade facing the memory care facility (6 Freeman Woods).
9. No occupancy of the structure shall occur until a certificate of occupancy inspection and sign
off is issued by the Zoning Administrator. A copy of the State’s occupancy approval shall be
filed and attached to the Town’s inspection approval.

10. Landscaping shall be completed and maintained in accordance with the approved plans.
Existing street trees that suffer life-threatening construction damage shall be replaced. Street
trees shall be guaranteed for five years from the date the Town takes over Freeman Woods as
a public road. All other landscaping shall be guaranteed for the life of the project. Any dead
or diseased plantings shall be replaced as soon as seasonally possible.

11. By accepting the conditions of this approval without appeal, the applicant confirms and
agrees for itself and all assigns and successors in interest that the conditions of this approval
shall run with the land and the land uses herein permitted, and will be binding upon and
enforceable against the applicant and all assigns and successors in interest.

VIII. Attachments

- Project narrative, “2 Freeman Woods – Assisted Living Facility, Essex, Final Plan
  Amendment,” from Dan Heil, P.E., O’Leary-Burke Civil Associates, PLC, dated 10/01/2019;
- Project narrative, “RE: 2 Freeman Woods,” from Dan Heil, P.E., O’Leary-Burke Civil
  Associates, PLC, dated 10/08/2019;
- Essex Fire Department Building Standards, revised January 2015.

cc: Dan Heil, P.E., O’Leary-Burke Civil Associates, PLC
    Benjamin Avery, BlackRock Construction

G:\PC\REPORTS\Freeman Woods 2 Master-Final Plan Amd 20191114.docx