ESSEX PLANNING COMMISSION

February 27, 2020

84 Susie Wilson Road: Planned Unit Development – Residential

Staff report prepared by Darren Schibler, Town Planner

Contents

Applicant.................................................................................................................................................. 2
Proposal.................................................................................................................................................... 2
Background.................................................................................................................................................. 2

I. Article II of the Subdivision Regulations: Subdivision Procedures........................................................................ 3
   (A) SR Section 2.2: Classification........................................................................................................ 3
   (B) SR Section 2.3: Review Process..................................................................................................... 3

II. Article IV of the Subdivision Regulations: Subdivision Standards................................................................. 4
   (A) SR Section 4.1: Standards Applicable to All Subdivisions............................................................... 4

III. Article VI of the Zoning Regulations: Planned Unit Development............................................................. 11
   (A) ZR Section 6.4: General Standards Applicable to All Planned Unit Developments......................... 12
   (B) ZR Section 6.8: Planned Unit Development – Residential................................................................. 13

IV. Article III of the Subdivision Regulations: Residential Phasing....................................................................... 16

V. Additional Findings by the Planning Commission ...................................................................................... 17

Conditions of Approval.................................................................................................................................... 17

List of Attachments....................................................................................................................................... 18

Summary

The applicant has proposed a PUD-R with 7 single-unit lots, including one existing single-unit home, on a 10.5-acre property that lies within the R-2, I-1, and C-2 districts. Approximately 6.16 acres of the property are undevelopable due to floodplains, wetlands, steep slopes, and a new private road; this land would be included in a shared common lot, and development would take place within the remaining 4.34 acres and primarily within the R-2 zone. The new lots would be served by municipal water and a shared on-site septic system.

The proposed layout would result in several lots without frontage along a public road, though shared driveways would provide deeded access. The applicant has requested a waiver from the frontage requirements, but also has presented an alternative lot layout which would provide the required frontage to each lot, though it would necessitate individual curb cuts, driveways, and septic systems. The applicant has also requested a reduction in the minimum required lot area to allow for a more clustered design, as well as an 11% density bonus for the provision of a publicly-accessible recreation area consisting of a trail to a scenic waterfall.

The proposed private road and nature trail are located within the state-mapped river corridor for Indian Brook, as well as within the riparian buffer area. Therefore, conditional use approval for encroachment in this buffer may be required prior to final approval, in addition to any permits through the Vermont Agency of Natural Resources. Finally, the driveway to Lot 4 is set on a steep (>20%) grade and must be relocated and redesigned.
Applicant

Kathy Pecue
36 Tyler Place
Jericho, VT 05465

Proposal

The applicant has proposed a Residential Planned Unit Development (PUD-R) on a 10.5-acre lot with an existing single-unit home at 84 Susie Wilson Road, tax map 9, Parcel 4. The proposal would result in seven residential lots with one shared open space lot for a total of eight lots. The new lots would be served by municipal water, a shared on-site septic system, and a mix of individual and shared driveways, as well as a new private road. The applicant has requested a 25% density bonus for provision of a public trail and natural area around a scenic waterfall on Indian Brook. The applicant has also requested waivers to frontage requirements and a reduction of the required minimum lot area.

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

Background

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

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

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

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

I. Article II of the Subdivision Regulations: Subdivision Procedures

The applicant has submitted the following plans:

- Sheet C1-01: “Overall Existing Conditions Plan, Pecue, 84 Susie Wilson, Essex, Vermont” prepared by Trudell Consulting Engineers, Inc., dated 01/22/2020;
- Sheet C2-01: “Sketch Plan, Pecue, 84 Susie Wilson, Essex, Vermont” prepared by Trudell Consulting Engineers, Inc., dated 01/22/2020;
- Unnumbered Sheet 1: “Site Map, Pecue, 84 Susie Wilson, Essex, Vermont” prepared by Trudell Consulting Engineers, Inc., dated 01/20/2020;

(A) SR Section 2.2: Classification

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

(B) SR Section 2.3: Review Process

As noted in SR Section 2.4, the purpose of sketch plan review is to explore the options for the overall subdivision concept and layout, including uses and open spaces, in relation to the objectives of the Town Plan, the characteristics of the site and characteristics of the surrounding area, and to determine that the proposed subdivision appears consistent with the requirements of these Regulations and the Town’s Zoning Regulations.

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

Upon sketch plan approval, the Planning Commission must also make a preliminary residential phasing allocation review in accordance with Article III. Because the project will not be developed in phases, and the remaining developable land is less than three times the district’s minimum lot size, a Master Plan is not required. Finally, as a planned unit development, the project may require site plan review at the final review stages per ZR Section 5.0(A).
II. Article IV 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. Sketch plan applications are reviewed against the General Standards in Section 4.1.

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

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

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

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

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

**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.

**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.

However, the location of the private road and public footpath conflict with Goal 6a:

**Goal 6a:** New development in floodplains, fluvial erosion hazard areas, and land adjacent to streams, wetlands, and upland forests is avoided.

**Specific Policy 3(S).3:** Development shall be designed to prevent the destruction of important natural resources, including wetlands, floodplains, unique geological features, primary agricultural soils, and slopes exceeding 15 percent.

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

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

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

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

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

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

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

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

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

The applicant has not proposed any conditional uses for the property, though conditional use approval is required for any riparian buffer encroachments.

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

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

<table>
<thead>
<tr>
<th>Dimensional Requirement</th>
<th>Required – off-site water and sewer</th>
<th>Required – on-site water or sewer</th>
<th>Proposed (on-site septic, off-site water)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Lot Area</td>
<td>20,000 sq. ft.</td>
<td>30,000 sq. ft.</td>
<td>16,988 sq. ft.</td>
</tr>
<tr>
<td>Minimum Lot Area per Dwelling Unit</td>
<td>20,000 sq. ft.</td>
<td>30,000 sq. ft.</td>
<td>65,340 sq. ft.</td>
</tr>
<tr>
<td>Minimum Lot Frontage (a)</td>
<td>75 ft.</td>
<td>75 ft.</td>
<td>0 ft.</td>
</tr>
<tr>
<td>Minimum Front Setback (from ROW) (a)</td>
<td>20 ft. (b)</td>
<td>20 ft. (b)</td>
<td>&lt; 20 ft.</td>
</tr>
<tr>
<td>Minimum Side Setback – Single Unit (a)</td>
<td>10 ft.</td>
<td>10 ft.</td>
<td>&lt; 10 ft.</td>
</tr>
<tr>
<td>Minimum Rear Setback (a)</td>
<td>15 ft.</td>
<td>15 ft.</td>
<td>&lt; 15 ft.</td>
</tr>
<tr>
<td>Maximum Height</td>
<td>40 ft.</td>
<td>40 ft.</td>
<td>&lt; 40 ft.</td>
</tr>
</tbody>
</table>
All but one of the proposed house lots have less than the minimum required lot area. The applicant has requested a reduction in the required minimum lot size under ZR Section 6.8(F), which is reviewed under Finding III(B)(3). However, the overall density of the development would be far below the maximum allowed under conventional subdivision.

None of the proposed house lots meet the minimum frontage requirements, even as reduced for PUD-Rs. The applicant has requested waivers to frontage requirements under ZR Sections 3.1(A) and 3.1(C)(3), which is reviewed under Finding III(B)(4).

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

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

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

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

The proposed development lies mostly outside these natural features and hazards. However, the proposed private road and nature path would lie within the state river corridor and the 50-foot riparian buffer required under ZR Section 3.12(C)(2)(a)(iii), which is measured from the top of the slope since there is no accessible floodplain or wetland on the southern side of the stream near the road. In addition, the plans show that the nature path as well as the driveway for Lot 4 would cut across a steep (>20% grade) embankment, which conflicts with ZR Section 3.12, ZR Section 5.6(B)(4), and Specific Policy 3(S).3 of the 2016 Town Plan. At minimum, the path and driveway must be relocated off the steep slopes, and any riparian buffer encroachments would require conditional use approval by the Zoning Board of Adjustment under ZR Section 3.12(F) prior to final approval. A stream alteration permit from the Vermont Rivers Program also may be required.
4. **SR Standard 4.1(N): Clustering of Lots**

The proposal in Sheet C2-01 uses a highly clustered lot layout that uses land efficiently and creatively as encouraged in PUD-Rs. However, waivers from frontage and minimum lot area requirements are necessary to achieve the proposed layout.

The alternative layout presented in Unnumbered Sheet 2 is somewhat less clustered, but still leaves a majority of the lot undeveloped while meeting all lot frontage and area requirements. However, it is unclear whether the alternative layout would accommodate individual septic systems and driveways.

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

The proposal shows that access to each lot would be provided as follows:

- Lot 1 (the existing dwelling) would utilize an existing curb cut and driveway;
- Lots 2 and 3 would share a new private driveway with a curb cut located approximately 100 feet south of the existing driveway;
- Lots 4 through 7 would utilize a new private road located approximately 180 feet north of the existing driveway. This road would be constructed to the Town’s Type 1 Urban Design Street Standard, and would run for approximately 260 feet in length and terminating in a cul-de-sac. From there, Lots 4 and 7 would utilize a shared driveway, and Lots 5 and 6 would each have their own driveway.

The driveway to Lot 4 would exceed the average maximum grade of 12%, and a section of it would exceed the maximum allowed grade of 14%. This driveway must be relocated and redesigned on the preliminary plans.

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

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

1. **As the proposed development includes fewer than ten living units, a completed traffic study is not required. However, subsequent submissions will, at a minimum, require curb cut site distance, estimate of traffic generation, drainage impact, and safety analysis as per Section 220 of the Town of Essex Standard Specifications for Construction. The applicants engineer shall provide a traffic analysis, pre and post development, and how the additional traffic will impact the Susie Wilson Road / Kellogg Road signalized intersection.**

2. **This is the second residential subdivision on the dead end portion of Susie Wilson Road that has come into the Town of Essex for review. Public Works has concerns that the additional traffic generated by both developments will accelerate the deterioration of the section of Susie Wilson Road between the intersection at Kellogg Road and the intersection of Abair Avenue. In the past the Town has used**
a pavement impact fee to offset the additional cost associated with mitigating the
deterioration caused by additional traffic caused by new development. A fee will
be calculated at a future review of this project.

3. Both the existing drive curb cut and the new drive curb cuts have adequate sight
distance for exiting and entering vehicles.

4. All drives internal to the project shall meet the requirements of the Town of Essex
Standard Specifications for Construction.

5. Additional comment will be provided after the Preliminary plans have been
submitted for this project.

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

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

As part of a density bonus request, the applicant has proposed a new publicly-
accessible trail to access a scenic waterfall within the proposed open space area.
However, as noted in Finding II(A)(3), the proposed path lies within the state-mapped
river corridor and riparian buffer required under ZR Section 3.12(C)(2). The trail
must be relocated above the top of slope (for the upstream portion) and top of bank
(for the downstream portion), and would require conditional use approval by the
Zoning Board of Adjustment and possibly a state stream alteration permit.

In an e-mail dated January 28, 2020, the Parks and Recreation Director stated that a
permanent easement to the Town would be required for the proposed nature trail. The
Director also requested further information regarding:

- where the trailhead would be located;
- whether there would be signage and mapping provided by the applicant;
- and whether the Town of property owners would bear responsibility for trail
  maintenance.

Because public access will be allowed through a portion of the property, the applicant
should consider the possible impact on landowner privacy, particularly for Lot 6. This
must be addressed in the preliminary plan submission and may include measures
including but not limited to landscaping, fencing, and signage.

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

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

8. SR Standard 4.1(L): Parking
The applicants have not proposed any specific plans for off-street parking. ZR
Section 3.9(B) requires an average of 2.3 parking spaces per dwelling for single-unit
homes; the required amount of parking can be modified by the Planning Commission
under ZR Section 3.9(I). The preliminary plans must indicate the parking layout for
the development.

9. SR Standard 4.1(R): Landscaping and Screening
No landscaping plans have been presented with the sketch plan application. As
required under SR Section 4.3(C), at minimum the preliminary plan must include one
street tree for every 50 feet of frontage along Susie Wilson Road where development
is proposed, as well as along the new private road.

10. SR Standard 4.1(K): Public Safety
In an e-mail dated January 24, 2020, the Police Chief stated that there were no
concerns with this proposal.
In an e-mail dated January 25, 2020, the Fire Chief expressed concern about
maintenance of the private road and driveways to ensure access for emergency
vehicles at all times. The Fire Chief also requested further information about
driveway length, width, clearance, parking areas, and turning radii.

11. SR Standard 4.1(J): Utilities
The applicant’s engineer has indicated that Lot 1 has an existing septic system and
water service connection, but all new lots will utilize municipal water (provided by an
existing 8-inch main on the south side of Susie Wilson Road) and a shared private
septic disposal area (which will be reviewed by the Vermont Water and Wastewater
Division). For Lots 2 and 3, a new shared water service line would run under the
proposed driveway, presumably with individual private connections. Lots 4-7 will use
individual connections off a new water service line running under the private road.
Full engineering details and information on water infrastructure must be provided
with the preliminary submission.

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

1. The 8 Lot PUD as proposed consists of 1 existing single family home currently
connected to municipal water, and 6 new single family units. The water services,
curb stops and existing water metering infrastructure must be upgraded to
current standards as part of this project.
2. Lots 2 and 3 can be served from a single corporation stop with individual curb stops to each lot. Public Works has some concern with servicing four units, (Lots 4-7), with one water service line. Line pressures in the area may require a larger diameter pipe, and with minimal flows from only 4 single family residential units or 800 GPD, there may not be enough turn over in the pipe to maintain water quality. This said, this may warrant a municipal water extension with a fire hydrant. Public Works will address this comment after further study and documentation is provided by the applicants engineer for review.

3. An analysis of the water distribution system will be required to determine issues of water pressure and flow caused by future demands of the proposed project within the Town’s service area. The Town will require the applicant to provide the data for the proposed water system to the Town’s design consultant for input into the water model. The model will be run by the Town’s consultant. Any deficiencies within the proposed or existing water distribution system shall be addressed by the applicants engineer prior to Preliminary review. All costs associated with running the Town’s water model shall be the responsibility of the applicant.

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

5. The project as proposed will require an additional 1,200 GPD of water allocation, (6 Houses X 200 GPD/House). The municipal water connection fees for the project as proposed will be as follows:

\[
a) \text{ Water: } (1,200 \text{ GPD } \times \$5.73) = \$6,876.00
\]

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

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

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

1. This project is located within the Indian Brook watershed. This has been identified as an impaired watershed by the State. The applicant shall make every effort to contain any additional storm water generated by this project onsite.
2. **This site will require a State General Permit for Construction as the area of disturbance will be more than one acre.**

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

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

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

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

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

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

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

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

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

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

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

As noted in Finding II(A)(2)(e), PUD-Rs are allowed in the R-2 district. ZR Section 6.3 lays out the review procedures for PUDs. When PUDs involve the subdivision of land, the Planning Commission must review the PUD as a major subdivision. Review of the project’s conformance with the subdivision standards appears above in Finding II.
(A) ZR Section 6.4: General Standards Applicable to All Planned Unit Developments

1. Conformance, Uses, and Purposes

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

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

2. Multiple Buildings

The proposal does not involve multiple buildings on a single lot.

3. Density Calculations

The 10.50-acre parcel contains 6.16 acres of private roadways, floodplains, and slopes greater than 20% that must be subtracted from the developable area, leaving 4.34 acres of developable area remaining.

4. Density

The proposed homes are clustered on the southwestern portion of the property, as is allowed under this section. Given a developable area of 4.34 acres, the base density of 30,000 square feet per dwelling unit would allow for creation of 6.3 (rounded down to 6) dwelling units, including the existing single-unit home.

5. Roads

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

6. Open Space

The applicant has proposed retaining 6.96 acres of the parcel as common land, which encompasses open space features including steep slopes, floodplains, and river corridor areas. The proposed public nature trail also would be located within this open space. The private road, shared driveway for Lots 2-3, and common septic area would occupy approximately 1.5 acres of the common land, leaving approximately 5.5 acres of undeveloped area.
7. Covenants

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

8. Impact Fees

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

9. Residential Density Bonuses

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

As noted in Finding III(A)(4), the maximum density for the project prior to calculation of density bonuses is 30,000 square feet per dwelling (using off-site water and on-site septic), or 0.689 acres per dwelling unit. Therefore, the property could accommodate up to 6.3 (rounded down to 6) dwelling units. In consideration of the provision of a scenic nature trail available to the public, the applicant has requested a density bonus of 11% pursuant to ZR Section 6.4(K)(4) to allow one additional lot to be created. This would result in a net density of 0.62 acres or 27,007 square feet per dwelling unit.

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

1. Purpose of PUD-R

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

2. General Requirements for PUD-R

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

3. Minimum Lot Size and Lot Area per Dwelling Reductions

The proposed house lots would range in size from 0.39 acres (16,988 square feet) to 0.77 acres (33,541 square feet); all except Lot 6 are less than the required minimum
lot size. Pursuant to ZR Section 6.8(F), the applicant has requested a reduction in the minimum lot size for Lots 1-5 and Lot 7. The proposed reduction would enable the clustered layout and use developable land efficiently while preserving open space. If the 11% density bonus requested under ZR Section 6.4(K) were granted, the reduced lot area would meet the required provisions of ZR Section 6.4(F) as well as all relevant health standards and the purpose and intent of the Zoning Regulations.

4. Setbacks and Frontage Minimums

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

As noted in Finding II(A)(2), most of the proposed lots do not have the required frontage along a public road, even under the reduced frontage requirements in ZR Section 6.8(G)(4) for PUD-Rs in the R-2 district. ZR Section 3.1(B) prohibits the creation of new lots without the minimum required frontage along a public road.

The applicant has presented an alternative lot layout in Unnumbered Sheet 2 that would conform to frontage and lot area requirements, but would result in less commonly-owned open space, as well as more curb cuts on Susie Wilson Road. In both layouts, the average frontage per lot (690 feet along Susie Wilson Road / 8 lots = 86.25 feet per lot) exceeds the minimum frontage per lot (75 feet), and each lot would be provided with sufficient access meeting the standards of ZR Section 3.1(G), except for the driveway to Lot 4, as noted in Findings II(A)(3) and II(A)(5). To allow for the design in Sheet C2-01, the applicant has requested waivers for the creation of lots without frontage under ZR Section 3.1(C)(3), and to instead use access easements at least 25 feet in width as allowed under ZR Section 3.1(A).

Section 3.1(C)(3) allows for exceptions to frontage requirements for PUDs. Specifically, ZR Section 6.8(G)(4) states that single-dwelling lots PUD-Rs in the R-2 district shall have a minimum of 75 feet of frontage, and ZR Section 6.8(G)(5) allows the Planning Commission to waive frontage requirements for multifamily townhouse development. Because the proposal involves development of single-unit detached dwellings, not multi-unit townhouses, each lot must have a minimum of 75 feet of frontage. Therefore, the requested waiver under ZR Section 3.1(C)(3) must be denied.

However, if the Commission finds that extraordinary and unnecessary hardships would result from strict compliance with the requirement that subdivisions to conform to frontage minimums, the Commission may modify this requirement under SR Section 2.1. The layout in Unnumbered Sheet 2, or even a layout with further reductions in the minimum lot frontage, likely would require extraordinary time and cost for obtaining stream alteration permits for driveways and designing individual septic systems. These hardships would be rendered unnecessary using the layout in
Sheet C2-01, which is the minimum modification necessary to afford relief. This waiver would not conflict with the purpose of the 2016 Town Plan, which is to balance future growth of housing and the economy with conservation and open space, ease traffic and improve safety, and provide sidewalk and bicycle connections throughout the Town. The waiver also would not conflict with the purposes of the Zoning and Subdivision Regulations, which are to ensure the Town’s orderly growth and development and promote the health, safety, and general welfare of the Town’s inhabitants.

These considerations, in addition to the proposal’s creative design and efficient use of land that conserves open space, make a compelling argument to grant a waiver under SR Section 2.1, but this would establish precedent for similar proposals in the future.

5. **Buffers**

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

6. **Mobile Home Parks**

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

7. **Open Space**

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

The 5.5 acres of open space would be included within Lot 8, which would be owned in common by all landowners within the development. Lot 8 also includes the common septic area, shared driveway for Lots 2 and 3, and private road for Lots 4-7. The proposed open space is at least one acre in area, and undevelopable areas have been excluded from density considerations under Finding III(A)(3).

The proposed open space is fully contiguous and generally flows around the proposed dwellings. Residents could access the open space and proposed nature trail either directly from their property or through the shared roads and driveways.

For Lots 2 and 3, a sidewalk connection along Susie Wilson Road would be required to provide access to the nature trail.

(b) **Management of Open Space**

Association bylaws and covenants will be required to govern protection of open space and maintenance of common property. Draft bylaws and covenants must be provided with the final plan submission, and should specify that open space will remain undisturbed except for the proposed road, driveway, and septic system.

There does not appear to be a need for the Town to appoint an ex-officio representative to the homeowners association.
8. Justification

In the project narrative dated January 22, 2020, the applicant’s engineer demonstrated that the PUD-R will be coordinated and compatible with the development of surrounding land, stating:

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

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

9. Flexibility

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

IV. Article III of the Subdivision Regulations: Residential Phasing

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

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

The proposed project lies inside the sewer core area and consists of six (6) new dwelling units. The applicant has not yet indicated how many bedrooms each will contain. For the purpose of assigning sufficient preliminary allocation, it is assumed that all the homes contain 4 bedrooms (translating to 4 EPEs each), and that the project would require a total of 24 EPEs, all of which would be constructed in 2020.

If granted final approval along with other projects seeking approval at present, this project would bring the town-wide total phasing allocation to 20 dwelling units with 34 EPEs in 2020. This is below the targeted mid-point of 205 EPEs and would leave 141 total EPEs available for allocation in 2020, 41 of which would be available outside the sewer core. A summary of the running phasing tabulation is attached.
V. Additional Findings by the Planning Commission

- Conditions of Approval

1. All construction shall be in conformance with the plans listed above as may have been amended by the Planning Commission and subject to other conditions and approvals.

2. All conditions from previous approvals shall continue to apply except as amended herein.

3. At the time of submission for Preliminary Review, the plans shall be revised as follows:
   a) The river corridor area for Indian Brook, as mapped by the Vermont Agency of Natural Resources, shall be depicted on the plans;
   b) The proposed nature trail shall be relocated beyond the top of slope for Indian Brook, and may be located within the 50-foot riparian buffer only if approved by Zoning Board of Adjustment;
   c) The driveway serving Lot 4 shall be relocated so as not to cross a slope of 20% or steeper, and shall conform to driveway grade requirements in Section 3.1(G) of the Zoning Regulations;
   d) Within Lot 8, the area of open space shall be depicted and calculated separately from other common land dedicated to roads, driveways, and shared septic systems;

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. The preliminary submission shall include evidence of a determination from the Vermont River Management Program of whether a stream alteration permit will be required for the proposed private road.

6. The preliminary submission shall include information on curb cut sight distances, estimates of traffic generation, drainage impact, and safety analysis as well as a pre- and post-development traffic analysis demonstrating how the additional traffic will impact the Susie Wilson Road / Kellogg Road signalized intersection.

7. The preliminary submission shall include data to be submitted to the Public Works Department for an analysis of the sufficiency of the water distribution system, including analysis of the turnover within the service line for Lots 4-7. The analysis shall be completed
by the Town’s consultant at the applicant’s expense. Any deficiencies within the proposed or
existing water distribution system shall be addressed by the applicant’s engineer prior to
Preliminary review.

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

9. The applicants shall be approved for a preliminary phasing allocation of 6 dwelling units
with 24 EPEs in 2020.

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

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

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

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

14. By acceptance of the conditions of this approval without appeal, the applicants confirm and
agree for themselves 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 would be binding
upon and enforceable against the applicants and all assigns and successors in interest.

List of Attachments

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

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

G:\PC\REPORTS\Susie Wilson Road 84 PUD-R Sketch 20200227.docx