PLANNING COMMISSION (PC) PRESENT: Dustin Bruso, Chair; Joshua Knox, Vice Chair; John Mangan, Clerk; David Raphael; Jonathan Schumacher; Ned Daly; and John Alden.

OTHERS PRESENT: Sharon Kelley, Zoning Administrator; Darren Schibler, Planner; Dan Mellinger; Elberta Bergeron; Dick Bergeron; Rick & Chris Sheftic; Darryl Koch; Jon Lang; Victor May; Brian Bertsch; Mike Nosek; Al Senecal; Pete & Maureen Sandon; Jason Gershon; and Peter Edelman.

Chairman Bruso called the meeting to order at 6:30 p.m., and provided the oath to the public.

AGENDA ITEM 1: AMENDMENTS TO AGENDA (if applicable): Chairman Bruso called out the following changes to the Agenda:
- Agenda Item 4, the word 'Determination' was eliminated; and the Subzone was corrected to read, "Mixed Use (MXD);
- Agenda Item 5: The January 9, 2020 minutes were added;
- Agenda Item 6: New item added, 'Conceptual Discussion Essex Experience - Peter Edelmann; and
- Agenda Item 7: Added 'Annual Residential Phasing Report.'

Chairman Bruso noted that the PC received a letter from William Dodge, President of the Homeowner's Association, dated February 11, 2020. Bruso instructed the audience who were in attendance for Agenda Item 4 (the Lang Parcel D-2 Open Space) not to repeat points that have already been stated in this letter, rather echo agreement with the comments submitted. Bruso welcomed additional information to add the written comments. He instructed the audience to provide their name for the record.

Commissioner Mangan stated that he would recuse himself from the application for Lang Farm as he was a resident in the development.

AGENDA ITEM 2: PUBLIC COMMENTS: None.

AGENDA ITEM 3: CONSENT AGENDA:
- Final Plan Amendment: Allen Brook Development, LLC: Request to reroute previously approved sewer plans for 21 Pinecrest Drive via a new pump station. The property is located in the Mixed Use (MXD) District. Tax Map 69, Parcel 7.

Vice-Chair Knox MOVED and Commissioner Mangan SECONDED a MOTION to approve the Consent Agenda application as written. The MOTION passed 7-0.

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AGENDA ITEM 4: FINAL PLAN AMENDMENT-PUBLIC HEARING: LANG FAMILY, LLC; DISCUSSION TO DETERMINE IF “PARCEL D-2-OPEN SPACE.” LOCATED BETWEEN THE ESSEX AND THE WOODLANDS, CAN BE DEVELOPED TO ACCOMMODATE TWO SINGLE-FAMILY HOMES. THE PROPERTY IS LOCATED AT 74 ESSEX WAY IN THE MIXED USE DISTRICT-PLANNED UNIT DEVELOPMENT (MXD-PUD) MIXED USE (MXD) ZONE. TAX MAP 93, PARCELS 1 & 2.

Commissioner Mangan recused himself and left the PC table for this application.

Darren Schibler provided comments on this application. He stated that the original proposal was a 2-lot PUD application for 2 single-family homes. He brought the site plan on the overhead and pointed to Essex Way, The Essex, the 2.34-acre parcel under review, and the Woodlands. He noted the original Lang Farm subdivision designated a 100' setback from The Essex and the Woodlands neighborhood along Lang Drive. The setback was later labeled as 'Open Space' on the Master Plan.

Schibler stated the applicant wanted to change the designation of an 'Open Space Lot' to a 'Developable Lot'. He stated that if the Planning Commission determines that the parcel is developable, a new site plan application would come before the PC. Schibler reinforced that the application under review is strictly for the PC to determine if the lot was developable or not.

Jon Lang provided the following points:

- His intent is not to be a developer, rather it is to do something with this parcel as it has been sitting between two lots for the sole purpose of space between two developed areas;
- His parents have been paying taxes on this parcel all along and it does not make sense to pay taxes and not be able to do something with the parcel;
- In the past they were required to give land as open space, or donate land, and it was a part of the PC approval process. This was always clear and had an effectual way of working;
- There is no definition, or a very vague definition of this land, noting that there is a lot of "contradictory statements on this piece of property";
- His goal is to use this piece of property and suggested that if the landowners wanted to buy their own slice of the property to combine with their lot, he would be agreeable. He would sell it to a developer, or to "The Inn at Essex."
- He called out a letter that was in the application packet, from former Zoning Administrator Jerry Firkey, dated 1995, wherein Firkey is talking to the then owners of The Inn at Essex about potential development on this property. He said, "There is no real clear definition of why it should be open space." He stated it was easy to understand the concept of why they wanted it, but asked why they did not go through with turning it over to the Town, or turn it over to somebody. He said, "We own land and we can't do a thing with it."
- His parents do not want to pay taxes on this land in perpetuity.
- His job is to clean things up and make this a good piece of land.

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- He said, "The Langs have been extremely generous to this community. To date, we have deeded over 50-acres of land." He listed the locations of the donations, noting this is what they had to do in order to continue to do development on the Lang Family lands.

- He stated his proposal is the least path, 2 single-family homes on 2 parcels, and he is trying to do the right thing. It is because of him "and only him" as to why there is a golf course on the property.

- He said this should have been determined along time ago, and he is trying to clean up corners.

Darren Schibler requested that when the PC is reviewing the documents, they look at the evidence. Schibler believes it is clearly intended to leave this parcel as undeveloped and to serve as a buffer between 'The Essex' and the Woodlands since even before the original development conception. It is shown on the plat. Subsequent approvals show it was meant to be a buffer. The land is being assessed as vacant land.

Commissioner Raphael asked about the approval process for Lot D-2-1. Schibler replied that the Lang’s conveyed 2.25-acres to the developers of the Inn at Essex for the tennis courts, but it did not include the open space lot. He noted that it was unclear how this lot received approval.

Commissioner Schumacher stated the proposal for a 2-lot PUD does not meet the requirements of a PUD. Commissioner Knox said, "ditto." Schibler replied that the application would need to be redesigned.

Commissioner Alden stated it seemed clear as to what the process is for a subdivision amendment. Alden believes the parcel was meant to be a buffer.

Schibler read a portion of Section 2.12 of the Subdivision Regulations,

When a subdivision has received final approval in accordance with the provisions of this Article, the approved plans may not be amended without approval in accordance with the provisions of this section. Before granting approval it must be determined that the proposed amendments are consistent with the intent of the original subdivision approval.

He stated if the PC approved the application, they would need to find that the proposal is consistent with the original subdivision approval.

Jonathan Lang read a portion of a letter to Jim Lamberti and Bill Meckert, (previous owners of The Inn at Essex), as follows:

I have researched the files for Parcel H subdivision and I have found that there is no mention of this area found in the Planning Commission finding. The only reference is in the Master Plan approval which says that the Open Space parcel was the only option for the Inn to purchase.

Lang said, "If the Inn would have been interested in purchasing it that would make a lot of sense too." He was not looking to dictate what happens, but said that one way or the other, he will

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continue to push this issue.

Commissioner Schumacher MOVED and Vice Chair Knox SECONDED a MOTION to open the Public Hearing. The MOTION passed 6-0.

The following people provided comments on this application:

Dick Bergeron, 14 Lang Drive, Essex, stated that he bought his lot 14 years ago and the intent was that the area was to remain as open space.

Dan Mellinger, 6 Lang Drive, Essex, supported the Dodge letter. He referenced one of the attachments letters dated 1-15-88 to John & Nancy Lang, Finding 5 wherein parcel D2 was to convey a 15' pedestrian easement to the Inn to gain access to the open space lot as it was landlocked land. He noted that the intent in 1988 was to have a trail corridor thru the buffer to access the open space. He stated that as an abutter he does not like the idea of a trail, but likes it better than a house. He stated he was sympathetic for the tax burden, but noted it was only $303.00 per year.

Rick Sheftic, 18 Lang Drive, Essex, stated that he bought his house personally from Nancy Lang as she was the realtor. They were told by John & Nancy Lang that the land would never be built upon. He bought the lot in 1994 with this intention from the landowners.

Jason Gershon, 2 Lang Drive, Essex, stated that he supports the Dodge letter. He noted that he purchased his lot in June with the expectation that no one would be living behind their house.

Peter Sandon, 4 Lang Drive, Essex, stated he supports the Dodge letter and he has the same story. The realtor was very clear that the parcel was to remain as open space and never be developed.

Chris Sheftic, 18 Lang Drive, Essex, said this was nerve wracking and is concerned that something may end up behind his house when they were led to believe it would remain open. He asked what recourse they have. He noted the Association Bylaws state no multi-family housing, and no common drives. He repeated this has been a worry. He supports the letter.

Schibler verified that the Bylaws do not include this parcel as the parcel is not a part of the Association.

Elberta Bergeron, 14 Lang Drive, supports the Dodge letter. She stated when they bought the property, the Lang parcel was to remain open. Twenty years later, this comes as a surprise.

Dan Mellinger noted that the 1988 subdivision letter stated "no additional curb cuts on Essex Way."

Peter Edelmann was provided the oath as he was a late arriver. He stated that when someone gets approval for a large piece of land, concessions are made. He offered a simple solution. If the concern is taxes, and if the land has no value, he would be willing to pay the taxes, with an agreement that the land stays as open space, so that everyone can move on.

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Jonathan Lang said he wants to do what is right and has never been the person to take the money and run. He would be happy with a single-family lot. He will get legal counsel if needed as he believes the point is what is right and what is wrong.

Vice-Chair Knox MOVED and Commissioner Daly SECONDED a MOTION to close the Public Hearing. The MOTION passed 6-0.

Chairman Bruso asked the PC if they were in support of the Staff Report. The PC agreed.

Commissioner Alden MOVED and Commissioner Schumacher SECONDED a MOTION to deny the Final Plan Amendment for 74 Essex Way, and uphold the Findings in the Staff Report dated February 13, 2020, as written. The MOTION passed 6-0.

AGENDA ITEM 5: MINUTES 1/09/2020 & 1/23/2020:

Commissioner Schumacher MOVED and Commissioner Mangan SECONDED a MOTION to approve the 1/9/2020 minutes as written. The MOTION passed 7-0.

Commissioner Schumacher MOVED and Commissioner Alden SECONDED a MOTION to approve the 1/23/2020 minutes as written. The MOTION passed 7-0.

AGENDA ITEM 6: CONCEPTUAL DISCUSSION ESSEX EXPERIENCE – PETER EDELMANN:

Peter Edelmann proposed an indoor recreation use being an “immersive art experience” that he was considering to come to the Essex Experience. It would require a new building and an addition. Edelmann was aware he would need to come before the PC with a site plan application. However, since this was a new use to the area, he wanted an opportunity to describe the use and allow the potential tenant to provide information on how immersive art works. He asked if the potential applicant could provide comment.

Robert Davis, stated that he is doing health research and collecting evidence on how these experiences help people. It is good for the elderly, cognitive decline and he wants to document the affects.

The PC thanked them for coming and was appreciative of the conceptual discussion.

AGENDA ITEMS 7: OTHER BUSINESS: None.

• ANNUAL REVIEW OF RESIDENTIAL PHASING REPORT

Commissioner Raphael MOVED and Commissioner Schumacher SECONDED a MOTION to approve the Annual Phasing Report. The MOTION passed 7-0.

Sharon Kelley reported that she received two requests for minor amendments, however she believes they are below the threshold for a PC review. The first being a request to enlarge a daycare at 27 River Road. Kelley stated that the applicants will be going to the Zoning Board,
and that no changes are proposed to the exterior of the site. The PC agreed that no application was needed.

The second was a very minor adjustment to a building envelope. No setback were being disturbed. Kelley requested a Motion to allow the PC Chair to sign a mylar showing this change.

Commissioner Raphael MOVED and Commissioner Daly SECONDED a Motion for the PC Chair to sign a mylar for a slight change to the building envelope for property located at 9 Evergreen Drive. The MOTION passed 7-0.

The meeting adjourned at 7:50 p.m.

PLANNING COMMISSION

By: _____________________________

Dustin R. Bruso, Chair