

1 TOWN OF ESSEX  
2 PLANNING COMMISSION  
3 DRAFT MINUTES  
4 AUGUST 26, 2021  
5

6 **Note: This meeting was in-person and virtual on Teams.**  
7

8 **PLANNING COMMISSION (PC) PRESENT:**

9 **In Person:** Jonathan Schumacher.

10 **Virtual:** Dustin Bruso, Chair; Josh Knox, Vice-Chair; John Mangan, Clerk; and David Raphael.  
11

12 **OTHERS PRESENT:**

13 **In Person:** Owiso Makuku, Community Development Director; Sharon Kelley, Zoning  
14 Administrator; Darren Schibler; Joseph Flynn; Bryan Currier, P.E.; Fernando Kuch; Paula Duke;  
15 Donna Mathieu; Sally Fleury; and Community T.V.

16 **Virtual:** Ryan Morse; Patty Davis; and Ken Signorello.  
17

18 Chairman Bruso called the meeting to order at 6:30 p.m.; called out the Commissioners who were  
19 in attendance virtually and in person; and provided the oath to the public.  
20

21 **AGENDA ITEM 1: DISCUSSION & ELECTION OF OFFICERS:** Chairman Bruso  
22 reminded the PC that they previously decided to table this item until a full Commission was  
23 present and asked the PC if they wanted to continue to table this item. The PC decided to wait on  
24 this matter.  
25

26 **AGENDA ITEM 2: PUBLIC COMMENTS:** None.  
27

28 **AGENDA ITEM 3: CONTINUED PUBLIC HEARING (from 12/10/2020): Fleury Lands on**  
29 **Center Rd & Towers Rd:**

- 30 • **BOUNDARY LINE ADJUSTMENT: Towers Trust and Sally Fleury A**  
31 **Revocable Living Trust:** Proposal for two minor boundary line adjustments for  
32 properties located at 108 Center Road & 18 Towers Road in the Center (CTR) &  
33 Business Design Control (B-DC) Overlay. Tax Map 58, Parcels 1 & 1-3.
- 34 • **SKETCH PLAN: Towers Trust:** Proposal for a 6-lot subdivision located at 108  
35 Center Road in the Center (CTR) & Business Design Control (B-DC) Overlay. Tax  
36 Map 58, Parcel 1.  
37

38 Chairman Bruso noted that the Public Hearing for this application remained open.  
39

40 Darren Schibler spoke on this application and made the following points:  
41

- 42 • He stated the proposal was to redevelop property located at 108 Center Road to create a 6-  
43 lot residential subdivision. In order to accomplish this subdivision, it would require a few  
44 boundary line adjustments, which will come later in the approval stages. He that the  
45 boundary adjustments would not be included as part of this Sketch Plan approval.
- 46 • He noted that proposed lots 1, 2, and 3 would accommodate no more than a duplex; and  
47 lots 4, 5, and 6 could create 30 new dwellings according to the zoning district, however  
48 development may be limited by sewer capacity and wetlands. He also noted that the  
49 development of more than a duplex would require a separate site plan review.

- 50 • He informed the PC that the application was continued because Fleury Road is  
51 recognized as a Town road on the public road map, however no formal delineation was  
52 ever done. Therefore, the Town hired a surveyor to secure the boundaries and formalize  
53 same with a deed.
- 54 • He noted that staff and the applicant are working to determine how to distribute the  
55 equivalent units (EUs). A single-family home requires 200 EUs.
- 56 • He noted that if Lot 5 was developed as residential, then staff would want some  
57 recreation or civic space proposed. This was consistent with the Town Center Master  
58 Plan.

59  
60 Chairman Brusco asked about road frontage for Lot 5 if a future subdivision were proposed.  
61 Schibler replied that he would expect to see an extension of the public road and would expect  
62 nothing less.

63  
64 Joe Flynn and Bryan Currier, O’Leary-Burke Civil Associates, represented the applicant. Flynn  
65 spoke on the following points:

- 66 • He questioned why the subdivision was classified as a major subdivision and requested to  
67 skip preliminary review and go straight to final review. Flynn informed the PC that they  
68 can’t schedule the next PC hearing until after the October 5<sup>th</sup> Selectboard hearing  
69 wherein they will review and hopefully approve the increase in WW allocation;
- 70 • The only issues he has with the Staff Report is with Conditions 3a in that a right-of-way  
71 was different than an access easement. He stated a right-of-way was a fee simple; and an  
72 easement is a reservation for certain rights on the property. He stated the purview of all  
73 roads is through the Selectboard. He has worked with staff and the abutters. They all  
74 came to an agreement that will allow the Selectboard to sign-off. He asked to have this  
75 condition removed;
- 76 • He appreciated Schibler’s foresight with a request for an easement, however he noted that  
77 the application before the PC was for a subdivision, not a site plan development. He  
78 stated that they have no idea who would purchase the land, nor the use proposed at this  
79 time; and
- 80 • As this is sketch review, he stated that they will be prepared to discuss EUs at final  
81 application.

82  
83  
84 Chairman Brusco asked if Fleury Road, in its current condition, was acceptable as a road to  
85 accommodate Lot 5. Schibler replied that he has not yet looked at the current conditions of the  
86 road, however it would be fine for Lots 1 and 2. He believes the road would need upgrades to  
87 develop Lot 5.

88  
89 Chairman Brusco asked if there is space to bring the road to meet Public Work Specifications.  
90 Schibler replied that the applicant’s engineer has been working closely with Public Works; and  
91 noted that Public Works has rights to modify the width of the road. Brusco asked if Public Works  
92 has thrown up any flags. Schibler replied, “no.”

93  
94 Chairman Brusco noted the Public Hearing was still open and asked for comments.

95  
96 Fernando Kuck, 22 Towers Road, stated that he was concerned about traffic congestion.

97 Currently he lives on the road and his daughter is planning to purchase the Fleury house. He  
98 noted that the driveway entrance is located very close to Meadow's Edge, which is a large  
99 development. Kuck informed the PC that Towers Road is very busy and there have been many  
100 accidents and close calls. He believed that the 40 mph should be moved further down Towers  
101 Road to alleviate the existing problems. He asked to keep the project road as narrow as possible,  
102 while noting that it would need serious update for the future proposal.

103  
104 Chairman Bruso confirmed that the traffic element would be reviewed with the next  
105 development application.

106  
107 Schibler noted that the existing 2-rod (33') road should not have impacts for Kuch's lots  
108 however Lots 4 & 5 requires a full traffic study and upgrades to the road. Schibler stated that  
109 he would need to confirm with Public Works on the size of the road. He noted that current State  
110 maps list the road as 3 rods.

111  
112 Joe Flynn noted that parcels A & B (Kuck lot and his daughter's future lot) will get 8 ¼ feet of  
113 property because of narrowing the rod.

114  
115 Chairman Bruso requested the following to be added to the PC Finding, "The PC recognizes that  
116 a future study will be required based on the level of development proposed."

117  
118 Joe Flynn requested that it just state Lot 5, not 1, 2 & 6. Chairman Bruso replied that this was  
119 not a condition, just a finding to assist with the review going forward.

120  
121 Chairman Bruso took a straw poll to combine preliminary and final review. The PC agreed.

122  
123 **Vice-Chair Knox MOVED and Commissioner Schumacher SECONDED a MOTION to**  
124 **close the Public Hearing. The MOTION passed 5-0.**

125  
126 Joe Flynn reminded the PC that the next level of review can't happen until after October 5<sup>th</sup> due  
127 to Selectboard review of the road.

128  
129 Commissioner Raphael stated a waiver for street trees is based on scenic reasons. The PC either  
130 supports this or not. He suggested adding "Staff recommends" to the sentence on Line 183.

131  
132 **Commissioner Schumacher MOVED and Commissioner Raphael SECONDED a**  
133 **MOTION to approved the Sketch application as warned, subject to the Findings and**  
134 **Conditions of a Staff Report dated August 26, 2021, including the following changes:**

135  
136 Line 59: In the table, correct the spelling to read "Doane"

137 Line 104: Change "Minor" to "Major."

138 Line 183: Change "No development" to "Staff recommends that no development ...";

139 Line 213: Change "Lot 4" to read "Lots 4 & 5";

140 Line 338: Add the following: "The PC agrees with the sentiment that a traffic study will be  
141 required for site development of the lots and instructed staff not to get too specific on this subject  
142 during preliminary/final review; and "The PC finds that the larger lots have potential for larger  
143 development and the PC will have the ability to capture conditions at that time."

144 Condition 3a: Line 346: Change "right-of-way" to "access easement"; and

145 Condition 3b: Line 348: “Delete “Sally Fleury Revocable Trust and”.

146

147 **The MOTION passed 5-0.**

148

149 **AGENDA ITEM 4: SITE PLAN-PUBLIC HEARING: Forestdale Heights, Inc. & WT**  
150 **Builders, LLC: Proposal to construct 2 warehouse buildings totaling 11,200SF on a 2.38-**  
151 **acre parcel located at 22 Corporate Drive in the Resource Preservation District-**  
152 **Industrial (RPD-I) zone. Tax Map 72, Parcel 3-22.**

153

154 Darren Schibler, Planner, presented this application. He noted a former fitness building was  
155 approved for this lot, however fell through. The current proposal was for two warehouse  
156 buildings, each with 4 bays. The proposal was straight-forward. He discussed with the applicant  
157 that the snow storage located towards the rear of the lot along the parking area was concern for  
158 fire and rescue and asked them to relocate or re-arrange same; he pointed to Condition 3a, which  
159 resolves the issue; he asked the applicant to confirm the crossing of sewer/water and confirm the  
160 fire flow; he noted that staff was fine with the street tree to be smaller or be a shrub; he reported  
161 that the Staff Report was updated showing Condition 5 as struck as it was a carry-over from a  
162 previous application; and Finding II, language was inserted regarding a waiver for the 50’ buffer.

163

164 Bryan Currier, P.E., represented his client. He had “nothing to add” with regard to the  
165 presentation. He had nothing to add to Staff’s presentation, however made the following  
166 observations regarding the Staff Report:

167

168 Condition 24, Line 408: He found this condition odd as he has not seen it in past applications.  
169 He noted that the parcel is private.

170

171 Schibler stated that the concern is for public access into the site; ensuring that the parking spaces  
172 are maintained with line striping and the pavement in good condition for everyone, including for  
173 ADA purposes.

174

175 **Commissioner Schumacher MOVED and Vice-Chair Knox SECONDED a MOTION to**  
176 **open the Public Hearing. The MOTION passed 5-0.**

177

178 There were no comments.

179

180 **Vice-Chair Knox MOVED and Commissioner Schumacher SECONDED a MOTION to**  
181 **close the Public Hearing. The MOTION passed 5-0.**

182

183 **Commissioner Mangan MOVED and Commissioner Schumacher SECONED a**  
184 **MOTION to approve the application as warned and subject to a Staff Report dated**  
185 **August 26, 2021, including the following changes:**

186

187 Finding 2(a)(iii), Line 114: Change 30 ft. to  $\leq 45'$ ;

188 Finding II, Line 329: Add the following language, “The Commission supports a waiver to clear  
189 the 50’ buffer along Corporate Drive to replace the fragmented vegetation with street trees  
190 similar to Corporate Drive lots 13, 14, 16, 18, 19 and 20. The objective is to maintain a  
191 consistent appearance throughout Corporate Drive. There will be no structures built within the  
192 50 ft. buffer area.”

193 Condition 5, Line 349: Delete.  
194 Condition 9, Line 364: Change “zoning permit” to “Certificate of Occupancy”;

195

196 **The MOTION passed 5-0.**

197

198 **AGENDA ITEM 5: MINUTES 8/12/2021:**

199

200 **Commissioner Mangan MOVED and Commissioner Schumacher SECONDED a**  
201 **MOTION to approve the 8/12/21 minutes as written. The MOTION passed 5-0.**

202

203 **AGENDA ITEM 6: OTHER BUSINESS:**

204

205 Sharon Kelley reported that the ZBA has an AirBnB application scheduled for its 9/2/2021  
206 hearing and reminded the PC that they requested that Staff inform them of this type of use and  
207 that they had no comments.

208

209 Kelley requested that the PC allow her to administratively approve a boundary adjustment for  
210 Patrick LeClerc pertaining to a 2014 Zoning Violation wherein the house construction at 15  
211 Lamore Road, at the time owned by Armand & Linda LeClerc, was built with a small portion  
212 being off its boundary and onto the remaining lands owned by LeClerc. Kelley reported that a  
213 cell tower was leasing some of the lands located off LeClerc Woods and an administrative  
214 approval would fast track the process. Kelley reported that a 2014 survey from Peatman would  
215 be used, however it had language on the mylar that referenced possible easements and future  
216 road. Kelley reported that the landowners of 15 Lamore Road agreed that deeds would not be  
217 recorded that has any reference to the easements. Kelley reported that both Patrick LeClerc and  
218 Surveyor Joe Flynn have been unsuccessful in reaching Mr. Peatman so that the easement  
219 language could be removed. Kelley reported that the landowners of 15 Lamore had some  
220 personal issues and wanted to sell the house. She noted that when the landowners purchased the  
221 house, they paid cash, which is why the dispute was not resolved at that time. Commissioners  
222 Raphael and Schumacher are aware of the parcel and have knowledge of many issues on the  
223 LeClerc lands over the years. The PC was not comfortable going forward with an administrative  
224 review and instructed staff to bring the application before the PC.

225

226 Kelley noted that the packets included information on the Town of Williston By-Laws, as  
227 required statutorily. Schibler noted that the information has changes that staff will be looking for  
228 with its proposed amendments, such as bike parking and EDU chargers.

229

230 Schibler reported that Staff is starting work on zoning updates and described the changes, which  
231 were mostly due to statutory updates.

232

233 The Planning Commission meeting adjourned at 8:03 p.m.

234

235

PLANNING COMMISSION

236

237

By: \_\_\_\_\_

238

Dustin R. Brusio, Chair

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