

1 **ESSEX PLANNING COMMISSION**

2 **December 9, 2021**

3 **137 Towers Road – Major Subdivision and Residential Planned Unit**
4 **Development (PUD-R) (Sketch)**

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21 **Summary**

22 After discussion of whether the original proposal for a 4-unit / 5-lot subdivision should be
 23 considered a PUD, the applicant revised the proposal to include four additional duplex units.
 24 While this undoubtedly increases the intensity of land use compared to what could be achieved
 25 under conventional subdivision, it fits better with the PUD criteria and provides additional
 26 housing opportunities with minimal additional impacts on natural and scenic resources.
 27 Community Development staff are also satisfied that the revised plan also includes a mix of
 28 active and passive shared open spaces and would request details in future submittal stages
 29 regarding how these and other shared amenities would be designed and managed.

30 However, concerns remain from the Fire Chief about the adequacy of the shared driveway
 31 for Units 1-4, and from Public Works regarding sufficiency of water supply for all dwellings
 32 (likely requiring extension of municipal water). Community Development staff and the
 33 Conservation & Trails Committee also recommend that the applicant include mitigation
 34 strategies for wetland impacts. Though staff recommend approval of the sketch plan, these issues
 35 must be addressed in the preliminary submittal.

37 **Applicants**

38 Negesse and Juanita Gutema
39 137 Towers Road
40 Essex, VT 05452

41 **Proposal**

42 The proposal is for a residential planned unit development (PUD-R) on a 37.84-acre parcel with
43 an existing single-unit home. A total of 7 new dwellings, including 4 duplexes on footprint lots
44 and 3 single-unit homes on approximately 1-acre lots; the existing dwelling would sit on a 9.6-
45 acre lot, leaving a 25.2-acre open space lot. The existing private driveway would be upgraded to
46 Town specifications (but remain private) to serve the duplex units; a shared driveway would
47 serve the four single-unit homes. All dwellings would use on-site water supply and sewage
48 disposal (possibly shared).

49 The parcel (Tax ID 2-014-039-011) is located on the border of the Low-Density Residential (R-
50 1) and Agricultural Residential (AR) zoning districts, containing 23.3 acres and 14.5 acres in
51 each respectively, and is located wholly within the Scenic Resource Protection Overlay (SRPO)
52 district). Adjoining uses are residential and/or agricultural; there are 72 residential properties
53 within ½ mile of the site whose parcels comprise 384.81 acres, resulting in an average residential
54 density of 1 dwelling per 5.34 acres.

55 **Background**

56 On March 22, 1979, the Planning Commission approved a 4-lot subdivision of a 71-acre parcel
57 of land owned by Bernard and Delima Wright bounded by Towers Road, Old Stage Road, and
58 Colonel Page Road. This created the following parcels:

- 59
- 60 • Lot 1 (3 acres, Parcel 2014039005), now addressed as 29 Colonel Page Road
 - 61 • Lot 2 (3 acres, Parcel 2014039007), 151 Towers Road
 - 62 • Lot 3 (3 acres, Parcel 2014039006), 36 Colonel Page Road
 - 63 • Lot 4 (remaining 62 acres, Parcel 2014039000), 165 Old Stage Road

64 Previous subdivisions had occurred prior to the adoption of the Town's *Zoning Regulations* in
65 1972, including one parcel (2014039002) without frontage addressed 161 Old Stage Road.

66 On August 29, 1991, the Planning Commission approved another 4-lot subdivision of Lot 4
(Parcel 2014039000), creating the following parcels:

- 67
- 68 • Lot 1 (remaining 49.76 acres, Parcel 2014039011), now addressed as 137 Towers Road
 - 69 • Lot 2 (the original Parcel 2014039000, now 7.61 acres), 165 Old Stage Road
 - 70 • Lot 3 (10 acres, Parcel 2014039009), 155 Old Stage Road
 - 71 • Parcel A (approx. 1 acre), conveyed to 151 Towers Road to encompass its septic system

72 On August 10, 1995, the Planning Commission approved a final plan amendment for the
73 remaining lands to create another 10.07-acre parcel (Lot 1B), Parcel 2014039010, currently
addressed 26 Colonel Page Road (30 Colonel Page Road at the time). A minor final plan

74 amendment (boundary adjustment) approved on March 11, 1993 increased Lot 1B to 11.90 acres,
75 leaving the remaining lands (Parcel 2014039011, 137 Towers Road) with 37.84 acres.

76 On March 11, 2021 the Planning Commission held a sketch plan public hearing for the current
77 project, originally presented as a PUD-R with 4 single-unit lots and a 19.6-acre open space lot.
78 The Commission discussed the merits of the project as a PUD, and ultimately continued the
79 hearing pending resolution of a legal concern about siting additional homes on the shared
80 driveway in the future.

81 On May 13, 2021, the Commission held a continued hearing on the application with minor
82 revisions. The Commission agreed that the issue of the number of units on a shared driveway
83 was resolved, but reiterated concerns about whether the project could be approved as a PUD. The
84 hearing was continued again to allow the applicants to work with staff on a revised sketch plan.

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

86 The applicants have submitted the following plans:

- 87 • Sheet EX, “Existing Conditions, Lands of Negesse & Juanita Gutema, PROPOSED 4-
88 LOT PLANNED UNIT DEVELOPMENT-RESIDENTIAL, 137 Towers Road, Essex,
89 VT,” prepared by Lamoureux & Dickinson Consulting Engineers, inc., dated 10/30/2020;
- 90 • Sheet SK, “Sketch Plan – 9.13.21, Lands of Negesse & Juanita Gutema, PROPOSED 6-
91 UNIT PLANNED UNIT DEVELOPMENT-RESIDENTIAL, 137 Towers Road, Essex,
92 VT,” prepared by Lamoureux & Dickinson Consulting Engineers, inc., dated 09/13/2021;

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

94 The applicants have requested approval for a 5-lot, 8-unit subdivision and Residential
95 Planned Unit Development (PUD-R). According to Section 2.2(D) of the *Town of Essex*
96 *Outside the Village of Essex Junction Official Subdivision Regulations (SR)*, planned
97 developments are considered major subdivisions and require sketch, preliminary, and
98 final approval.

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

100 As noted in SR Section 2.4, the purpose of sketch plan review is

101 *to explore the options for the overall subdivision concept and layout, including uses*
102 *and open spaces, in relation to the objectives of the Town Plan, the characteristics of*
103 *the site and characteristics of the surrounding area, and to determine that the*
104 *proposed subdivision appears consistent with the requirements of these Regulations*
105 *and the Town’s Zoning Regulations.*

106 Staff do not recommend that the Planning Commission require a Master Plan because the
107 project will not be developed in phases, and the remaining lands are included in the open
108 space lot, rendering them undevelopable. The Planning Commission must also study the
109 plan to ensure that it conforms to the General Requirements in SR Article IV. Planned
110 Unit Developments must also conform to Article VI of the *Zoning Regulations (ZR)*.

111 Upon sketch plan approval, the Planning Commission must also make a preliminary
112 residential phasing allocation review in accordance with Article III. Finally, the project
113 will require site plan review at the preliminary and final review stages, as required under
114 ZR Section 5.0(A) for planned unit developments and multi-family housing
115 developments.

116 **II. Article IV of the Subdivision Regulations: Subdivision Standards**

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

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

121 Sketch plan applications are reviewed against the General Standards in Section 4.1. Not
122 all provisions of this section are reviewed here, as some are not relevant to this
123 development or are covered by other provisions of the *Zoning Regulations (ZR)* and/or
124 *Subdivision Regulations (SR)*.

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

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

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

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

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

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

136 **Goal 7a:** *The Town's significant natural, scenic, historic, and archaeological*
137 *resources are protected from development.*

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

139 The parcel is located in both the Agricultural Residential (AR) (38% of the parcel
140 area) and Low-Density Residential (R-1) (62% of the area) zoning districts. Section
141 2.2(E) of the *Town of Essex Outside the Village of Essex Junction Official Zoning*
142 *Regulations (ZR)* allows the Planning Commission to apply the dimensional
143 requirements for the more restrictive zone to a lot divided by a zoning district
144 boundary, taking into consideration the location of dwellings, sewage disposal areas,
145 and water systems.

146 Though parts of the proposed lots would extend into the portion of the parcel zoned
 147 R-1, all construction would be located within the AR portion. In any case, the only
 148 difference in dimensional standards for PUD-Rs between in the AR and R-1 zones is
 149 the minimum lot size and density (average lot size per dwelling), which is 3 acres in
 150 the AR, and 1 acre in the R-1. Because the majority of the parcel lies in the R-1
 151 district and because PUD-Rs involve smaller lot sizes, it is appropriate to apply the R-
 152 1 development standards listed in ZR Table 2.4 to this project.

153 The parcel is also located within the Scenic Resource Protection Overlay zone and
 154 must conform to the requirements of ZR Table 2.20.

155 **(a) Table 2.4(A): Low-Density Residential (R-1) District Standards**

156 **i. Purpose**

157 The project reflects the purpose of the R-1 district as a low-density
 158 residential development that utilizes on-site sewage disposal, but
 159 connection to municipal water service may be required. The project also
 160 avoids impacts to agricultural soils by clustering development in a
 161 relatively small portion of the parcel.

162 **ii. Permitted and Conditional Uses**

163 Single-family dwellings and duplex dwellings are permitted in this district.
 164 No conditional uses are proposed.

165 **iii. District Dimensional Requirements**

166 The proposed project generally conforms to Table 2.4(D), Dimensional
 167 Requirements of the R-1 district, as noted below:

Dimensional Requirement	Required (R-1)	Proposed Lot 1	Proposed Lot 2	Proposed Lot 3	Proposed Lot 4	Proposed Units 5-8	Open Space Lot
Minimum Lot Area	1 acre	1.0 acres	9.6 acres	0.9 acres	1.1 acres	~2,000 sf	25.2 acres
Minimum Lot Area per Dwelling Unit ^(a)	1 acre	2.0 acres	2.0 acres	2.0 acres	2.0 acres	2.0 acres	N/A
Minimum Lot Frontage ^(b)	100 ft.	522 ft. (avg. 130.5 ft.)	130.5 ft. ^(c)	130.5 ft. ^(c)	130.5 ft. ^(c)	N/A	N/A
Minimum Front Setback (from ROW) ^(b)	20 ft.	530 ft. (150 ft. internal)	25 ft. (internal)	25 ft. (internal)	25 ft. (internal)	N/A	N/A
Minimum Side Setback – Single-family ^(b)	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	N/A	N/A
Minimum Side Setback – Multi-family	30 ft.	N/A	N/A	N/A	N/A	>30 ft.	N/A
Minimum Rear Setback ^(b)	15 ft.	25 ft.	25 ft.	25 ft.	25 ft.	N/A	N/A
Maximum Height	40 ft.	<40 ft.	<40 ft.	<40 ft.	<40 ft.	<40 ft.	N/A

168 (a) For PUDs, areas unsuitable for development (floodplains, wetlands, steep slopes, and

- 169 roadways) are subtracted from total area before calculating lot area per dwelling.
170 (b) PUD-R standards supersede normal district standards to allow for more creative design.
171 (c) Average frontage calculation for shared driveways under SRPO standards

172 Proposed Lot 3 is slightly below the minimum required area for the R-1
173 district. In addition, Proposed Units 5-8 utilize footprint lots as part of a
174 multi-unit townhouse development. Both departures from normal
175 dimensional requirements are authorized under Findings III(B)(3) and (4).

176 Although lots 1, 3, and 4 do not have direct frontage on a public road, the
177 Planning Commission may waive this provision to allow up to 4 homes to
178 share a driveway within the SRPO District under ZR Table 2.20(5)(a)
179 provided that the driveway design addresses any public safety concerns,
180 and the lot being subdivided has adequate frontage for the number of new
181 lots proposed (i.e., the average frontage meets the underlying zoning
182 requirements). The original parcel has 522 feet of frontage, so under
183 conventional standards in the R-1 district (150 feet of frontage per lot), 3
184 lots would be allowed; under PUD-R standards (100 feet per lot), 4
185 dwelling lots would be allowed (as proposed).

186 **iv. ZR Table 2.3(E): PUD Requirements**

187 The applicants have proposed a Residential Planned Unit Development
188 (PUD-Rs), which is encouraged in the R-1 district and follows standards
189 that supersede the normal district standards, as noted in Finding
190 II(A)(2)(d) and reviewed in detail in Finding III.

191 **3. SR Standards 4.1(B), 4.1(H), and 4.1(M): Natural, Scenic, and Historic Features**

192 The property contains several natural features that should be preserved or avoided
193 during development.

194 **(a) Scenic Features**

195 In *Views to the Mountain: A Scenic Protection Manual*, the section of Towers
196 Road along the parcel's frontage is rated as less scenic relative to other areas of
197 Essex, and there are no specific viewpoints of peaks identified, though the
198 presence of agricultural fields with wooded hillsides are called out as important.

199 The project maintains these scenic features by using shared accesses, locating
200 dwellings on the edges of open meadows or behind tree lines, and by keeping a
201 25.2-acre lot as open space that encompasses most of the property's agricultural
202 fields, wetlands, and forested riparian habitat. Though Lots 1, 3, and 4 are not
203 arranged at right angles to each other, this is necessary to allow for the landscaped
204 common area in their front yards. Pursuant to ZR Table 2.20(D), the applicant
205 shall include building elevations for all new structures in the final plan
206 submission.

207 **(b) Natural Features**

208 The plans show extensive areas of delineated Class II wetlands on the western and
209 eastern portions of the parcel, connected by a seasonal stream (not considered
210 significant by the State or Army Corps of Engineers) under the existing driveway.
211 These areas comprise “highest priority” surface waters and riparian areas
212 according to the [Vermont Conservation Design](#)¹ and [BioFinder 3.0](#)² reports,
213 which are important for flood attenuation, the survival of sensitive wetland flora
214 and fauna, and the mobility of wider-ranging animals.

215 The proposed layout mostly avoids impacts to these wetlands by locating
216 dwellings outside the required 50-foot buffer, though it is recommended that the
217 easterly boundaries of lots 1, 3, and 4 also be shifted west outside the buffer. The
218 new shared driveway for these lots is located to minimize impacts to the wetland,
219 though it could further disrupt the hydrologic and habitat connection between the
220 wetland areas. It is recommended that the applicants explore mitigation options,
221 such as box culverts and vegetated buffers to facilitate wildlife passage.

222 The project also would follow natural contours except to level building sites and
223 minimize disturbance of agricultural soils and forested areas while allowing for
224 recreational use of these areas by the residents.

225 **4. SR Standard 4.1(C): Flood Safety**

226 A small area of the eastern part of the parcel is within a State River Corridor (for
227 alder Brook) as well as a Federal Emergency Management Agency (FEMA)
228 designated flood hazard zone (Type A), which has a 1-percent annual chance of
229 flooding, but no flood elevations are mapped. However, the proposed development
230 lies well outside the flood hazard area and riparian buffer.

231 **5. SR Standard 4.1(N): Clustering of Lots**

232 As a PUD-R, the proposal utilizes smaller lot sizes than normally required to allow
233 for clustering of Lots 1, 3, and 4, whose building envelopes further limit the
234 development area to the western portions of the lots, close to the existing dwelling on
235 Lot 2. In addition, Units 5-8 are located within a 1-acre area close to Towers Road.
236 This layout leaves a 25.2-acre open space lot, in addition to significant portions of Lot
237 2 which are expected to remain open.

¹ Sorenson, E. & Zaino, R. (2018). *Vermont Conservation Design*. Vermont Department of Fish and Wildlife. Retrieved 12 Feb., 2021 from [https://anr.vermont.gov/sites/anr/files/maps/biofinder/Vermont Conservation Design - Summary Report - February 2018.pdf](https://anr.vermont.gov/sites/anr/files/maps/biofinder/Vermont%20Conservation%20Design%20-%20Summary%20Report%20-%20February%202018.pdf)

² Hilke, J., Pryzperhart, M., Sorenson, E., & Zaino, R. GIS Specialist Engstrom, E. (2019). *Biofinder 3.0 Development Report*. Vermont Department of Fish & Wildlife. Retrieved 12 Feb., 2021 from [https://anr.vermont.gov/sites/anr/files/maps/biofinder/BioFinder%203.0 %20Development%20Report%202019_FIN AL.pdf](https://anr.vermont.gov/sites/anr/files/maps/biofinder/BioFinder%203.0%20Development%20Report%202019_FIN%20AL.pdf)

238 **6. SR Standards 4.1(D), 4.1(F) and 4.1(I): Access and Street Planning Standards**

239 Access to the site from Towers Road, a Class 3 paved collector street, would be
240 provided by a combination of a new minor private street and shared driveways. The
241 private road would extend approximately 300 feet ending in a cul-de-sac; because this
242 would serve all 8 dwellings, it must conform to Detail A-3 for the Type A Paved
243 Rural Road per the *Town of Essex Standard Specifications for Construction*. The
244 driveway for duplex units 5 and 6 would be located directly off the cul-de-sac, while
245 a shared driveway would lead to individual parking areas for Units 7 and 8. Another
246 shared driveway would lead north from the cul-de-sac towards Lots 1-4, off which
247 individual driveways would serve each dwelling. All shared driveways serving 3 or 4
248 units must conform to Detail A-11 for the Type B Driveway; driveways serving fewer
249 units may utilize Detail A-11 for the Type A Driveway.

250 As the development numbers fewer than 50 dwelling units, a second permanent
251 connection meeting the standard for a public road is not required, though the plan
252 shows pull-offs and turn-arounds for emergency vehicles as required under ZR
253 Section 3.1(G)(4)(f).

254 In a memorandum dated November 12, 2021 Public Works staff stated:

- 255 a) *Public Works understands that the proposed PUD will utilize the existing curb*
256 *that currently provides access to the applicant's home. Due to the significant*
257 *change and proposed increase in use, a Town curb cut permit will be required for*
258 *approval.*
- 259 b) *Public Works takes no exception to the private access road as proposed but the*
260 *design and construction of this road shall adhere to the requirements of the Town*
261 *of Essex Standard Specifications for Construction.*
- 262 c) *It appears that the driveway serving Lots 1-4 will be constructed to the standards*
263 *of Detail A-11. Due to the length of this drive, Public Works recommends*
264 *continuing the 20' wide cross section to the end of the drive and turn around.*
265 *Public Works will defer further comment to the Town of Essex Fire Department to*
266 *determine if the length or width of the drive can support emergency vehicles.*

267 In e-mails dated August 9, 2021 Public Works also indicated that approval of any
268 private road must include the following conditions:

- 269 i. *No future consideration by the Town to accept the road as private both in the*
270 *approval and in all of the lot deeds.*
- 271 ii. *A requirement for a road association with an annual fee set to include snow*
272 *removal costs, road maintenance and a replacement with at least a 1.5-inch*
273 *overlay with cost spread out for a 15 year period.*
- 274 iii. *The association shall collect all road fees and provide an annual report to*
275 *community development every calendar year covering fees collected and expenses*
276 *incurred. The association shall be fully responsible for annual fee requirements*
277 *irrespective of individual homeowners' contributions.*

278 Further information on driveway construction will be reviewed at the preliminary
279 stage.

280 In an e-mail dated November 19, 2021 the Fire Chief objected to the design of the
281 driveway serving Units 1-4 because it would not provide sufficient width for fire
282 trucks to pass when shuttling water, which is required because there is insufficient
283 water available for firefighting at this location. At minimum, the driveway must be 20
284 feet wide for the entire length, including the turn-arounds at the end; based on the
285 National Fire Protection Association's Standard 1141, the Fire Chief recommends
286 that the access drive be 24 feet in width, or that the homes be sprinklered to ensure
287 adequate fire suppression is available.

288 **7. SR Standard 4.1(E) and 4.1(L): Pedestrian and Recreation Facilities**

289 Maps 7 and 8 of the 2016 Town Plan show that a footpath and first-priority bicycle
290 route in this location. There are no existing pedestrian or bicycle facilities on this
291 section of Towers Road or immediate plans to build either; therefore, it is
292 recommended that the applicant be required to provide a 15-foot multi-use path
293 easement along the frontage of Towers Road as a condition of approval.

294 SR Section 4.6 requires that sidewalks or paved paths be installed along new streets
295 within a subdivision, though they may be installed only on one side of dead-end roads
296 or those with low anticipated traffic volumes; both criteria are met by this project.
297 Sidewalks or paths were not included in the sketch plan, but shall be added along the
298 Type A Paved Rural Road on the preliminary plans.

299 **8. SR Standard 4.1(L): Parking**

300 In addition to the proposed shared driveways, each dwelling would have an individual
301 driveway that would provide sufficient parking space under the requirements of ZR
302 Table 3.3.

303 **9. SR Standard 4.1(R): Landscaping and Screening**

304 In addition to the requirements of SR Section 4.3(C) for new street trees, at the final
305 plan stage PUD-Rs must meet the landscaping objectives under ZR Section 5.6(F) as
306 part of site plan review. Because the project is located in the Scenic Resource
307 Protection Overlay District, the landscaping plan also must meet the requirements of
308 ZR Table 2.20.

309 Because the layout uses existing contours and vegetation to minimize the visual
310 impact of the development, little if any additional landscaping will be needed to meet
311 these objectives. Reconstruction of the existing driveway to a wider private street
312 shall avoid impact an existing hedge of eastern white pine which were required as
313 stipulations of various Town approvals for a soccer facility on the adjoining property
314 at 131 Towers Road. Pursuant to Finding III(B)(5), an additional 50-foot buffer is

315 required to separate the duplex units (which are being treated as a “multifamily
316 townhouse development”) from the existing single-unit dwelling at 131 Towers Road.

317 **10. SR Standard 4.1(K): Public Safety**

318 In an e-mail dated December 29, 2020 the Police Chief stated that there were no
319 concerns with this particular proposal, and has not commented on subsequent
320 revisions.

321 **11. SR Standard 4.1(J): Utilities**

322 In a memorandum dated November 12, 2021 Public Works staff stated:

- 323 a) *The proposed sewer will be constructed on site and will not be utilizing the*
324 *municipal sewer systems. The Applicant will be required to follow the on-site*
325 *rules for sewage disposal as per the approval of the State. Public Works will*
326 *require copies of all permitting applications and subsequent permitting*
327 *approvals.*
- 328 b) *Although not mentioned specifically, it is assumed that each of the new housing*
329 *units will be served by an onsite by a community or individual well. Public Works*
330 *has concerns regarding the potential yields of the proposed wells and the ability*
331 *of onsite water to appropriately provide water on a consistent basis.*
- 332 c) *Attached to this memo is an email from Dennis Lutz, P.E., dated July 21, 2021.*
333 *Staff believes that due to the history of low yielding wells in this area, an 8-inch*
334 *municipal waterline extension be provided to serve the domestic water needs of*
335 *the proposed housing project.*

336 The referenced e-mail correspondence includes the following statement by the Public
337 Works Director:

338 *I am strongly opposed to housing density as proposed in this application from a*
339 *water supply perspective unless the development is served by an 8-inch municipal*
340 *waterline extension from the terminus of the waterline on Towers Road. This*
341 *should be a cost of the proposed development and not a future cost to be borne by*
342 *the existing water system users.*

343 The proposal must also meet Town and State requirements for stormwater treatment.
344 In a memorandum dated November 12, 2021 Public Works staff stated:

- 345 a) *The applicant will be required to follow the Town’s Small Site Erosion Guide*
346 *during construction and adhere to any conditions of all State permits. The*
347 *Applicant will submit to Public Works copies of all permitting applications and*
348 *subsequent permitting approvals.*

349

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

351 The only remaining developable area that is feasible to access lies north of Units 1-4.
352 Future expansion to this area is impossible under current regulations, since this would
353 exceed the number of dwellings allowed on a shared driveway, but also would exceed
354 the maximum length of a dead-end roads (300 feet or 750 feet for a looped road).

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

356 The new homes will be subject to recreation impact fees. The impact on municipal
357 services is addressed in other findings; because the project involves fewer than 10
358 dwelling units, notification of the Essex Westford School District is not required and
359 no comments have been received regarding impacts on educational services.

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

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

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

367 PUD-Rs are allowed and encouraged in the R-1 district. ZR Section 6.3 lays out the review
368 procedures for PUDs. When PUDs involve the subdivision of land, including multiple-family
369 housing projects as well as mixed-use development that includes housing, the Planning
370 Commission must review the PUD as a major subdivision. Review of the project's conformance
371 with the subdivision standards appears in Finding II.

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

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

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

379 The proposal fulfills the purpose of PUDs by promoting clustered development that
380 advances the Town's affordable housing goals and uses land efficiently while
381 protecting agricultural potential, natural features, and open space.

382 **2. Multiple Buildings**

383 The proposal involves both single-building lots and multiple buildings on one lot,
384 which is expressly allowed under this section to achieve the purposes of planned unit
385 development.

386 **3. Density Calculations**

387 The original submittal included the density analysis required for PUDs under ZR
388 Section 6.4(E), which determines the total developable area to be 16 acres (after
389 subtracting areas of floodplain, wetland, slopes greater than 20%, and roadways). The
390 density analysis should be updated with the preliminary submittal to reflect the minor
391 increase in roadway area compared to the original sketch plan.

392 however, with 8 dwellings total, the proposal is well below the maximum allowed
393 density of 1 acre per dwelling for the R-1 district.

394 **4. Density**

395 Given a developable area of approximately 16 acres, the base density of 1 acre per
396 dwelling unit would allow for 16 dwellings to be constructed. As noted in Finding
397 II(A)(2), the overall density of the development is 2 acres per dwelling unit, which is
398 well below the maximum density allowed in the R-1 district.

399 **5. Roads**

400 Access and streets are addressed in Finding II(A)(6); the Town Engineer does not
401 recommend that any of the proposed roadways be dedicated to the Town.

402 **6. Open Space**

403 The applicant has proposed retaining 25.2 acres of the parcel as common open space,
404 covering the agricultural soils, wetlands, floodplains, and river corridor areas and the
405 remaining undeveloped lands.

406 **7. Covenants**

407 Since no future development is anticipated, covenants for future development of the
408 PUD are not required; however, draft easement deeds for shared infrastructure, open
409 space, and restrictions on additional dwellings using the shared driveways must be
410 presented no later than the final plan submission.

411 **8. Impact Fees**

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

414 **9. Residential Density Bonuses**

415 The applicant has not requested any density bonuses pursuant to this section.

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

417 **1. Purpose of PUD-R**

418 The proposal conforms to the purposes of PUD-Rs in that it respects topography and
419 natural features by minimizing the physical and visual impact of the development by
420 locating improvements in a smaller portion of the parcel, thus preserving a significant
421 amount of open space. The proposal also uses land efficiently and creatively to
422 provide greater housing opportunities and a greater variety of development types in
423 the community.

424 **2. General Requirements for PUD-R**

425 The proposal meets the normal density requirements for the zoning district and the
426 minimum requirement for dwelling units (2) and consists of both single-unit and two-
427 unit dwellings, which are permitted uses within PUD-Rs in the R-1 district.

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

429 The proposal includes a mix of separate lots for each dwelling and footprint lots with
430 shared common space. Lot size reductions for footprint lots are addressed in Finding
431 III(B)(4). The single-unit dwelling lots generally meet the normal 1-acre minimum lot
432 size for the R-1 district; a reduction of lot area is authorized for Lot 3 to allow for the
433 creative design of the curved driveway and common landscaped area fronting on Lots
434 1, 3, and 4.

435 **4. Setbacks and Frontage Minimums**

436 Except for the SRPO average frontage waiver provided under Finding II(A)(2)(a)(iii),
437 the single-unit lots conform to the dimensional requirements for PUD-Rs in the R-1
438 district.

439 The applicant has requested that the Planning Commission waive the minimum lot
440 frontage, setback, and size provisions to allow for footprint lots for the duplex units.
441 This requires that they be treated collectively as a multifamily townhouse
442 development, but would advance several goals of PUD-Rs, including making efficient
443 use of the site, minimizing visual impact and maximizing open space, clustering of
444 development, and providing alternative (possibly more affordable) housing types.

445 **5. Buffers**

446 The proposal does not include multiple-unit dwellings, though it does treat the
447 duplexes as a multifamily townhouse development to qualify for the use of footprint
448 lots. Therefore, a 50-foot buffer shall be planted around the periphery of these

449 dwellings where they are adjacent to existing single-unit dwellings, specifically along
450 the property boundary with the 131 Towers Road parcel between the private street
451 and the wetland buffer.

452 **6. Mobile Home Parks**

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

454 **7. Open Space**

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

456 The proposed open space is at least one acre in area, and undevelopable recreation
457 areas have been excluded from density considerations in Finding III(A)(3). The
458 proposed open space is fully contiguous and integral to the design of the
459 development, includes most of the significant natural features on the site, and
460 generally flows around the proposed dwellings and is equally accessible to each.

461 **(c) Management of Open Space**

462 As noted in the revised narrative, the common land may be used as privately
463 managed farmland and/or recreation space. The applicant shall include more
464 detailed plans for management of the common spaces in the preliminary
465 submission. Since the open space will not be accessible to the public, there does
466 not appear to be a need for the Town to appoint an ex-officio representative to
467 help manage the open space.

468 **8. Justification**

469 In the sketch plan hearing on May 13, 2021 the applicant stated a willingness to
470 coordinate with the adjoining property at 131 Towers Road to minimize impacts of
471 the development on their parcel, specifically on the established evergreen hedge along
472 the existing driveway. The impact of the proposed development on the community
473 will be moderated through the residential phasing policy, reviewed in Finding IV, and
474 financially recaptured through impact fees.

475 **9. Flexibility**

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

478 **IV. Article III of the *Subdivision Regulations*: Residential Phasing**

479 Any proposed development that contains dwelling units and requires Subdivision Approval is
480 subject to Article III, Residential Development Phasing. The goal of residential phasing is to
481 maintain an annual population growth rate set forth in the *2016 Town Plan* of between 184 and
482 226, aiming for the midpoint of the range at 205. Population growth is allocated to new

483 developments through Estimated Population Equivalents (EPEs), essentially equivalent to the
484 number of bedrooms in new dwelling units (5-bedroom units are counted as 4.5 EPEs).

485 Any single project outside the sewer core is allowed to add 5 dwelling units per calendar year.
486 The Planning Commission must act on a preliminary phasing request when a proposed
487 development obtains sketch plan approval. Final allotment is granted if the development secures
488 Final Plan approval.

489 The proposed project lies outside the sewer core area and would add a total of 7 dwelling units,
490 presumably with four bedrooms each for a total of 28 EPEs, presumably in 2022. If granted final
491 approval along with other projects seeking approval at present, this project would bring the
492 town-wide total phasing allocation to 44 dwelling units and 101 EPEs in 2022. This is below the
493 targeted mid-point of 205 EPEs and would leave 104 total EPEs available for allocation in 2022,
494 1 of which would be available outside the sewer core. A summary of the running phasing
495 tabulation is attached.

496 **V. Additional Findings by the Planning Commission**

- 497 • The Planning Commission waives the minimum lot frontage, setback, and size provisions
498 to enable the creation of footprint lots for Units 5-8 under the criteria and conditions
499 specified in Section 6.8(G)(5) of the *Zoning Regulations*.
- 500 • The Planning Commission approves the use of a shared driveway as specified under ZR
501 Table 2.20(F)(5)(a) to minimize intrusions into open meadows, finding that safety
502 concerns have been adequately addressed in the driveway design, and that each lot would
503 have adequate frontage within the R-1 district if each were served by a single driveway.

504 **Conditions of Approval**

- 505 1. All construction shall be in conformance with the plans listed above as may have been
506 amended by the Planning Commission and subject to other conditions and approvals.
- 507 2. All conditions from previous approvals shall continue to apply except as amended herein.
- 508 3. At the time of submission for Preliminary Review, the plans shall be revised as follows:
 - 509 a) The entire length of the shared driveway (including turn-arounds) serving Units 1-4 shall
510 be widened to 20 feet
 - 511 b) An 8-inch municipal water line extension along Towers Road shall be added, with lines
512 serving each dwelling which meet the requirements of the Town's *Standard*
513 *Specifications for Construction*
 - 514 c) A 50-foot landscaped buffer shall be included as detailed in Finding III(B)(5)
- 515 4. An electronic copy of the plans as may have been revised shall be submitted to the E911
516 coordinator in .PDF file format. Another copy shall be submitted in geodatabase or shapefile
517

518 in Vermont State Plane Meters, NAD83 (NSRS or most current); alternatively, coordinated
519 CAD data – Vermont State Plane Coordinates, US Survey Feet, Grid Zone 4400, NAD 83
520 (2011) epoch 2010.0, NAVD 88 (geoid12b); alternatively, paper showing three (3) values of
521 State Plane Coordinates.

522 5. In addition to any other engineering data outlined in Section 212 of the *Town of Essex*
523 *Standard Specifications for Construction*, the preliminary submission shall include data to be
524 submitted to the Public Works Department for an analysis of the sufficiency of the water
525 distribution system. The analysis shall be completed by the Town’s consultant at the
526 applicant’s expense. Any deficiencies within the proposed or existing water distribution
527 system shall be addressed by the applicant’s engineer prior to Preliminary review.

528 6. The project shall be approved for a preliminary phasing schedule of 7 dwelling units with 28
529 EPEs in 2022.

530 7. By acceptance of the conditions of this approval without appeal, the applicants confirm and
531 agree for themselves and all assigns and successors in interest that the conditions of this
532 approval shall run with the land and the land uses herein permitted, and would be binding
533 upon and enforceable against the applicants and all assigns and successors in interest.

534 **List of Attachments**

- 535 • Narrative, “Gutema Property, 137 Towers Road, Proposed 4-Lot Planned Unit
536 Development-Residential, Sketch Plan Application,” prepared by Doug Goulette,
537 P.E., Lamoureux & Dickinson Consulting Engineers, Inc., dated 12/23/2020
- 538 • “Gutema Proposed 4-lot PUD-R Subdivision – Density Analysis,” prepared by Doug
539 Goulette, P.E., Lamoureux & Dickinson Consulting Engineers, Inc., dated December
540 2020
- 541 • Supplemental Narrative, “Gutema Property, 137 Towers Road, Proposed 4-Lot Planned
542 Unit Development-Residential, Sketch Plan Application,” prepared by Doug
543 Goulette, P.E., Lamoureux & Dickinson Consulting Engineers, Inc., dated 2/5/2021
- 544 • Revised Narrative, “Gutema Property, 137 Towers Road, Proposed 8-Unit Planned Unit
545 Development-Residential, Sketch Plan Application,” prepared by Doug Goulette,
546 P.E., Lamoureux & Dickinson Consulting Engineers, Inc., dated 10/1/2021
- 547 • Memorandum, “5-Lot PUD Sketch Plan, 137 Towers Road,” prepared by Dennis Lutz,
548 P.E., Public Works Director and Aaron Martin, P.E., Utilities Director / Town
549 Engineer, dated 11/12/2021
- 550 • Residential Phasing Record, dated 11/18/2021

551 cc: Doug Goulette, P.E., Lamoureux & Dickinson Consulting Engineers, Inc.

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