

**VILLAGE OF ESSEX JUNCTION  
PLANNING COMMISSION  
MINUTES OF MEETING  
October 7, 2021**

**MEMBERS PRESENT:** John Alden, Chair; Phil Batalion; Diane Clemens; Patrick Scheld.  
(Andrew Boutin and Steven Shaw were absent).

**ADMINISTRATION:** Robin Pierce, Community Development; Regina Mahony, Chittenden County Regional Planning Commission.

**OTHERS PRESENT:** None.

**AGENDA:**

1. Call to Order/Audience for Visitors
2. Additions/Amendments to the Agenda
3. Minutes – September 16, 2021
4. Work Session – Continue updates for Land Development Code
  - a. Review State Statute Consistency Amendments
  - b. Review Sign Amendments for Content Neutrality
6. Other Planning Commission Items
7. Adjournment

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**1. CALL TO ORDER/AUDIENCE FOR VISITORS**

John Alden called the meeting to order at 6:28 PM.

**2. ADDITIONS/AMENDMENTS TO THE AGENDA**

None at this time.

**3. MINUTES**

*September 16, 2021-*

The Planning Commission reviewed the minutes from September 16, 2021.

**MOTION by Phil Batalion, SECOND by Diane Clemens, to approve the minutes as presented.**

**VOTING: unanimous (4-0); motion carried.**

**4. WORK SESSION: CONTINUE UPDATES FOR LAND DEVELOPMENT CODE**

A. Review State Statute Consistency Amendments

Ms. Mahony focused the discussion on a table summarizing changes in state statute since the previous update of the Essex Junction Land Development Code (LDC).

Ms. Mahony noted a minor update regulating agricultural uses and designations, which should not affect the Junction since Essex's only farm is outside of the Village and neighborhood development area.

Ms. Mahony then noted a statutory change around public utility limitations on municipal bylaws, which would require edits to the exemption section of the LDC. Mr. Alden asked whether this would give the Village less ability to comment on electric utility generation. Ms. Mahony replied that it would, but that through the Village's enhanced energy plan (in the comprehensive plan), the Village has the authority to

comment to the Public Utility Commission (PUC) in their permitting process. Mr. Batalion asked if this would affect just solar farms or whether it would apply to solar panels being installed on a residential roof. Ms. Mahony replied that the section in statute (248) around this is complex and involves many thresholds and avenues for approval, but that generally the municipality does not have the authority to regulate those uses at the local level.

Ms. Mahony continued, noting a change to the transportation program that if a site plan or subdivision application has access on a state road, documentation is required at the local level indicating that the applicant has contacted and spoken to VTrans. She noted edits to accommodate this in the Site Plan and Subdivision submittal requirements.

Ms. Mahony then noted that changes will be required to accommodate Act 164 (the regulation of cannabis). She said that if the Village votes to opt in to have cannabis retail sales within its boundaries, then language should be put into its zoning regulations about how that would be regulated. She noted that many aspects around Act 164 are still to be determined, since the Cannabis Control Board (CCB) at the State level is currently developing rules. She said that the Village should be thinking about opting in and including it on a ballot for voters.

Ms. Mahony noted a technical correction to housing deed restrictions such that private covenants cannot prohibit Accessory Dwelling Units (ADUs) or small lot development that is allowed in regulations. She said that because the Village does not regulate private covenants, it does not need to include this in its bylaws.

The Planning Commission then discussed Act 179 (related to promoting affordable housing) and how it impacts the Village. Ms. Mahony noted that the changes generally make it easier to have ADUs as well as prohibit the Village from denying a multi-unit dwelling of four units or fewer because it does not meet the character of the neighborhood standard in conditional use (though this would have a limited effect on the Village as it does not have any multi-unit family developments being approved as a conditional use). She noted that the changes also make it possible to enable the development of existing small lots that can connect to water and sewer, as well as enable the Village to regulate short-term rentals through ordinance.

Ms. Mahony walked the Planning Commission through the edits she made to the LDC based on the regulations within Act 179, suggesting that the Village be more generous than what state statute requires in terms of ADUs. She noted edits in Section 721(B) that ADUs can be 30% or 900 square feet of the size of the primary structure. Mr. Alden and Mr. Scheld questioned the sizing requirements. Mr. Batalion added clarification that this defines how much space can actually be converted, not a size requirement. Ms. Mahony then noted that Subsection B(7) discusses which part of the unit can be owner-occupied (the proposed language modifications would allow for either the main residence or the accessory apartment to be owner-occupied), and added that the requirement for owner occupancy could be removed entirely.

Mr. Alden asked whether this language allows for an existing detached garage to be used as an ADU but prohibits building an attached accessory dwelling. Mr. Pierce replied that a garage could be built and then converted to an ADU after a certain amount of time. Mr. Scheld said that different rules apply to rehabilitated structures and new construction.

Ms. Mahony proposed striking (B)(6)(a) (in the Standards subsection of 721), which would no longer require conditional use approval as a pre-requisite for an ADU and reordering the standards so that 721(B)(6)(c) precedes 721(B)(6)(b). She noted language modifications to 721(B)(3) to be approved by the Zoning Administrator, not the Commission. Mr. Batalion asked about the distinction between a single-family dwelling with an additional converted apartment and a duplex. Ms. Mahony replied that the onus is always on the applicant to determine what they're applying for, noting that one might apply for a duplex rather than an ADU because they don't want the owner occupancy requirement. She said that it would also depend on the zoning district (some prohibit duplexes). Mr. Scheld asked who has the authority to approve the construction of a garage or ADU, and who determines what that structure is in order to follow the correct permitting process. Mr. Alden noted that the language is flexible and encourages more ADUs. He noted that Subsection C (permitting) allows for the Zoning Administrator to approve accessory apartments within or attached to an existing home, but also allows the ZA to refer accessory apartment applications to the Planning Commission.

Ms. Mahony noted struck language and edits to Section 502(I), saying that most of the language refers back to Section 721. She noted clarifying language around appeals and zoning permits in subsections to 502(I).

Ms. Mahony then noted changes due to Act 38, mostly relating to recording fees (they increased) and survey plat filings and digital survey requirements. She noted that many of the changes were addressed during Ms. Mandigo's review of the LDC but said that she would review to ensure internal consistency between sections.

The Planning Commission discussed group home and residential care home bylaw limitations (Act 130), and Ms. Mahony noted that the LDC does not contain definitions of "residential care home" or "group home." She noted that similar definitions that exist in the LDC would need to be adjusted to reflect State requirements, or definitions for the state terms need to be added into the LDC. Mr. Alden suggested adding language to the "family care facility" definition to also include group home and residential care as defined by the State, as well as increase the limit on the number of residents to 8. Other Planning Commission members agreed.

Ms. Mahony then reviewed changes related to the municipal regulation of accessory on-farm businesses and hemp cultivation (Act 143), which would allow the Village to regulate accessory on-farm businesses (such as their use as wedding venues or other uses to help farmers diversify). Mr. Alden asked how many farm parcels are in Essex, and Ms. Mahony replied that there is one. Mr. Alden noted that the State is taking an interest in farm use pertaining to wedding events, that the state fire marshals are interested in the regulatory aspects of it. Ms. Mahony said she would add language in the exemptions section for accessory on-farm businesses. She noted changes to the "agricultural sales activity use" definition, but the Planning Commission decided not to modify it, as the definition is never used within the body of the LDC itself.

Ms. Mahony then reviewed changes related to the economic development bill (Act 69), which changes the definition of affordable housing. She noted that the Village does not need to define affordable housing in the LDC if it isn't regulated. She said that if the Village were to have an inclusionary zoning ordinance and require developers to have some sort of affordable housing component, then the Village should define affordable housing. Mr. Alden noted that the Village currently offers density bonuses for

developers to include affordable housing in their projects, though it is not required. Ms. Clemens noted that the Housing Commission is looking at inclusionary zoning and that it would make sense to keep a definition of affordable housing in the LDC. Ms. Mahony noted that the LDC currently defines affordable housing in the Town Outside the Village, so the Village should definitely consider defining it.

Ms. Mahony noted an update around permitting for planting projects in flood hazard areas (Act 4). She said that she added language into Section 516(a) to explain the exemption related to this update. She said she isn't sure about including updated language in the floodplain section, and will research and provide more feedback at a future meeting.

Ms. Mahony said that she is working on updating sign regulations and that she has provided to the Commission examples from Burlington and Manchester about content-neutral sign regulations. The Planning Commission will discuss sign regulations as they pertain to the LDC at an upcoming meeting.

#### B. Review Sign Amendments for Content Neutrality

No discussion at this time.

#### **5. OTHER PLANNING COMMISSION ITEMS**

None at this time.

#### **6. ADJOURNMENT**

**MOTION by Diane Clemens, SECOND by Phil Batalion, to adjourn the meeting. VOTING: unanimous (4-0); motion carried.**

The meeting was adjourned at 8:06 PM.

*RScty: AACoonradt*