

**VILLAGE OF ESSEX JUNCTION  
PLANNING COMMISSION  
MINUTES OF MEETING  
March 3, 2022**

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

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

**OTHERS PRESENT:** Warren Spinner, Jason Struthers.

- AGENDA:**
1. Call to Order/Audience for Visitors
  2. Additions/Amendments to the Agenda
  3. Minutes – January 6, 2022; February 3, 2022
  4. Elect Vice-Chairperson
  5. Work Session
    - A. Continue updates for the Land Development Code
  6. Other Planning Commission items
  7. Adjournment

---

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

John Alden called the meeting to order at 6:12 PM.

Mr. Alden opened the discussion up to the public.

Jason Struthers said that he would like to apply for temporary variance permit to conduct commercial operations on his property. He said that he submitted a brief proposal to outline the premise. He said that for the past two seasons he has cultivated CBD-bearing hemp according to regulations and within the new regulations, he would like to transition to adult-use cannabis, which would require no changes and would be precisely what he has been doing for the past two years; he confirmed that there is no construction involved. He said that he is requesting this because to find a farm to move to and zone properly is daunting with his spinal cord injury. He said that a temporary permit would allow him to find a property and move. Mr. Alden said that the growing operation is in existence in some capacity and is properly fenced and secured, and this would be an expansion of existing operations beyond what is allowed for residential use (would allow to sell to a wholesaler). Mr. Struthers said that he would be selling to a wholesaler who would be packaging the product and selling it for retail. Mr. Alden said that he is unsure whether they can spot-zone something as the Planning Commission. He said that it is more of an operational issue than an issue of revising the zoning. Mr. Pierce added that the Town did vote to permit retail cannabis, but anything other than retail is controlled by the State. He suggested that Mr. Struthers obtain approval from the State. Mr. Scheld asked if this entails setting up a small agricultural business. Mr. Struthers said no, he is applying for 0.3 acres and 70lbs, which is what he is allowed to cultivate for personal use.

Mr. Alden asked what the Planning Commission is being asked to do here. Mr. Pierce said that a municipality only has control over retail cannabis, not wholesale or any other cannabis-related enterprise.

Ms. Clemens asked if the zoning allows a retail or wholesale establishment in a residential area. Mr. Batalion said that in R1, one needs a zoning variance in order to have that operation, which would need to be obtained through the Zoning Board of Appeals (ZBA). Mr. Pierce said that the business must keep in character with the neighborhood in which it is located.

Mr. Alden determined that the Planning Commission find that the proposed operations don't present issues related to the purview of the Planning Commission, and that the Applicant should seek regulatory approval from other bodies at the state and local level.

## 2. ADDITIONS/AMENDMENTS TO THE AGENDA

None at this time.

## 3. MINUTES

*January 6, 2022 & February 3, 2022-*

**MOTION by Diane Clemens, SECOND by Patrick Scheld, to approve the minutes of January 6 and February 3, 2022 as presented. VOTING: unanimous (4-0); motion carried.**

## 4. ELECT VICE-CHAIRPERSON

**MOTION by John Alden, SECOND by Patrick Scheld, to nominate PHIL BATALION as the Vice-Chairperson of the Essex Junction Planning Commission. VOTING: unanimous (4-0); motion carried.**

## 5. WORK SESSION

### A. Continue updates for the Land Development Code

Warren Spinner, the Tree Warden and chair of the Tree Advisory Committee (TAC), began by discussing low impact design approaches and green stormwater best management practices. He said that the TAC is supportive of these measures, as long as the elements work well with the infrastructure around it and as long as regulatory bodies keep in mind that there are maintenance costs associated with them (if in the public right-of-way).

The Planning Commission discussed incorporating the Vermont Tree Selection Guide from the Vermont Urban and Community Forestry program into the LDC, rather than list examples of suggested species of tree for planting.

The Planning Commission discussed performance/landscaping bond language. Mr. Spinner asked whether the current language conflicts with other LDC language that requires maintenance of planting throughout the duration of use of the property (the bond language guarantees planting for a period of 2 years). Ms. Clemens suggested removing "throughout the duration of use" from the maintenance section. Mr. Alden suggested also including language stating that landscaping needs to be maintained as approved.

Mr. Spinner thanked the Planning Commission for the opportunity to provide input and feedback to the Land Development Code on behalf of the Tree Advisory Committee.

Ms. Mahony briefly discussed Chapter 2 (definitions), and noted that edits will include addressing minor typos.

Ms. Mahony noted minor changes in Chapter 3, including the addition of a section on Planning Commission meetings, as well as the addition of a water quality superintendent role description.

Ms. Mahony walked through edits to Chapter 5, which includes details around the Accessory Dwelling Unit (ADU) process. Ms. Mahony noted that she has cut a lot out of this section and moved to Section 721. She also noted that statute has changed so they can't be treated differently than single-family home, and would need approval by zoning administrator, not by the Planning Commission.

Mr. Alden said that once a development is a PUD, the developer is trading its ability to have the project reviewed under normal regulations. He said that if a developer is pursuing a PUD, then the Planning Commission expects a higher standard of design, and the developer needs to prove to the Planning Commission why they should be granted a variance from the normal standards. Ms. Mahony suggested reviewing Section 723 prior to making more edits to this section.

Ms. Mahony noted language around requirements for a Preliminary Development Plan. Mr. Alden asked if there can be some threshold like dollar amount or size or number of units so that the Applicant doesn't expect Preliminary Development Plan requirements can be waived. Ms. Mahony asked if there is an appropriate threshold that exists in other parts of the LDC that could be used. Mr. Alden noted a \$1 million threshold to require a registered landscape architect plan. Ms. Clemens suggested including language that if the project is required to submit a professionally-developed landscaping plan, that it be submitted prior to final.

Ms. Clemens said that Applicants should include the cost of the project and the cost of landscaping.

Ms. Mahony noted language specifying that Applicants must include any waiver requests in their Application. Mr. Alden suggested having that as a requirement for Preliminary in addition to Final.

Ms. Mahony noted edits to conform to State wetland permit requirements.

Ms. Mahony spoke about a new State statute about planting projects and how they exempt Applicants from review. She said that she included the language verbatim from statute.

Ms. Mahony then began the discussion on edits to Chapter 7. She began with Section 721 (Accessory Apartments), noting State statute change for ADUs, the biggest of which are the addition of "or 900 square feet, whichever is greater", and the clarification that if a municipality is going to require owner occupancy, it can be in either the primary dwelling or the ADU. She noted that municipalities can be more permissive if they want to, as statute only outlines minimum requirements.

She walked through the criteria for approval for an accessory apartment, noting that setback and lot coverage requirements still need to be met. Mr. Batalion noted that the owner-occupancy requirement can be difficult for individuals who are in a state of transition, and Ms. Mahony acknowledged this and said that removing the owner-occupancy requirement can be politically contentious. Mr. Batalion

recommended inserting language around a potential grace period of several years for the owner occupancy requirement. Ms. Mahony said she would look into whether other municipalities (or states) have similar language.

Ms. Mahony then began discussion Section 723 (Planned Unit Development). She asked whether density bonuses are only available in the R1 and R2 zoning districts. Mr. Batalion replied that the language looks like it is capping density in the R1 and R2 districts to a certain percentage, not calling them out as the only districts where density bonuses are allowed.

Ms. Mahony noted a significant amount of editing in the Design Considerations and Associated Waivers section. She noted clarifying language that the Planning Commission may waive requirements for lot coverage, setbacks, and parking, and additional clarifying language for the criteria on which waivers are based. She noted that much of the criteria content is not new, but taken from other areas of the LDC and grouped together. She recommended deleting the criteria around solar panels as an optional requirement for a PUD, since if the goal is to infill the Village, shading might make solar panels difficult to install and use. Planning Commissioners agreed that removing it would be fine.

Ms. Mahony noted that the waiver of building height would only apply to the Light Industrial District and asked whether that needs its own section or whether it could be incorporated further above. Mr. Alden asked why the Junction doesn't allow height waivers in other districts. Ms. Clemens noted that the Trustees had put that restriction in place.

Ms. Mahony then walked through added language around Bicycle Parking and Storage Standards and Applicability. She noted that much of the language was taken from South Burlington's regulations. She noted inclusion of language around short-term bicycle parking, including minimum space requirements for bicycle parking, specific design details around bicycle parking infrastructure, location of bicycle parking spaces on the property, and details around bicycle requirements for office buildings. She also noted inclusion of language around long-term bicycle storage and applicability/standards for residential and non-residential buildings. Planning Commissioners agreed with the inclusion of this detail, given that the Junction markets itself as a bicycle-friendly municipality.

Ms. Mahony noted that at the next meeting, they will review the remainder of the chapters that have been revised.

## **6. OTHER PLANNING COMMISSION ITEMS**

None at this time.

## **7. ADJOURNMENT**

**MOTION by John Alden, SECOND by Patrick Scheld, to adjourn the meeting. VOTING: unanimous (4-0); motion carried.**

The meeting was adjourned at 8:38 PM.

*RScty: AACoonradt*