

**VILLAGE OF ESSEX JUNCTION**  
**JOINT MEETING: BOARD OF TRUSTEES AND PLANNING COMMISSION**  
**DRAFT MINUTES OF MEETING**  
**May 19, 2022**

**BOARD OF TRUSTEES MEMBERS PRESENT:** Andrew Brown (President); Raj Chawla (Vice-President); Dan Kerin, Amber Thibeault, George Tyler.

**PLANNING COMMISSION MEMBERS PRESENT:** John Alden (Chair); Phil Batalion (Vice-Chair); Diane Clemens, Patrick Scheld.

**ZONING BOARD OF ADJUSTMENT MEMBERS PRESENT:** Robert Mount.

**ADMINISTRATION:** Brad Luck, Essex Junction Recreation & Parks Director/Interim Co-Manager; Wendy Hysko, Library Director/Interim Co-Manager; Regina Mahony, Chittenden County Regional Planning Commission (CCRPC); Robin Pierce, Community Development Director.

**OTHERS PRESENT:** Annie Cooper.

- AGENDA:**
1. Call to Order/Audience for Visitors
  2. Additions/Amendments to the Agenda
  3. Minutes – May 5, 2022
  4. Village Trustees and Planning Commission Discussion
    - A. Discuss transition from Planning Commission to Development Review Board (DRB) effective July 1, 2022
    - B. Status update on process of Code update for retail cannabis
  5. Work Session
    - A. Continue updates for the Land Development Code
  6. Other Planning Commission items
  7. Adjournment

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

John Alden called the Planning Commission meeting to order at 6:24 PM.

Andrew Brown called the Board of Trustees meeting to order at 6:24 PM.

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

None at this time.

**3. MINUTES**

*May 5, 2022-*

No discussion at this time.

**4. VILLAGE TRUSTEES/PLANNING COMMISSION DISCUSSION**

A. Discuss transition from Planning Commission to Development Review Board (DRB) effective July 1, 2022.

Mr. Alden began the discussion with a brief update on the Planning Commission's activities around updating the Land Development Code (LDC). He noted that there are two major topics that will be updated, one of which includes affordable housing. He asked for the Trustees' thoughts on affordable housing. Mr. Brown said that it is a broad topic and that he fully supports it as a mechanism for ensuring

an inclusive community. He said that funding mechanisms through tax credits or Champlain Housing Trust may be good options to look at in future. He said that it has yet to be determined whether inclusionary zoning is an effective tool. Mr. Kerin noted that the term “affordable housing” is a relative term. He said that until the market cools off, it will be difficult to classify and define affordable housing. Mr. Chawla said that there is a common definition for affordable housing, acknowledged that the market is working against the community, but that it is a top priority for the Junction. He said he would like to explore how to get creative, such as allowing multiple small dwellings on one lot.

Mr. Alden then began a discussion of transitioning from a Planning Commission (PC) to a Development Review Board (DRB). He asked for the Trustees’ thoughts on the matter. Mr. Brown asked how the Planning Commission would like the process to unfold.

Mr. Alden outlined the proposed regulations, which say that the PC will conduct planning activities and the DRB would conduct the former Zoning Board of Adjustment (ZBA) activities and conduct reviews and determinations about applications. He said that the process should be fairly seamless, though one challenge will be how to fill vacancies. Mr. Brown noted that details around how many members should be on the boards and how long terms should be have yet to be worked out, and welcomed subject matter expert input. Mr. Pierce said that one strategy is for one member of the DRB to also serve on the PC, to ensure connection between rule makers and rule adjudicators. Mr. Tyler asked how much planning the current PC currently does, as opposed to the amount of application review they conduct. Mr. Alden replied that they are currently conducting significantly more planning than adjudicating, as the planning occurs on a given cycle every 5 to 7 years, when the LDC or Comprehensive Plan are due for updates. He said that there had been several large projects up for review over the last two years, but that they conduct adjudication on a more ad hoc basis.

Ms. Mahony went through the questions posed by staff. She said that 5-member boards are the most common for Planning Commissions. She said that in terms of a DRB, a 5-member board is common and that it is a good idea to also have 2 alternates (who attend all meetings), to ensure that there are no delays in application review if a member is absent. She said that in terms of term length, staggered terms of 1 and 3 years tend to work well to ensure continuity. She added that it is important to ensure that the current ZBA closes all of its applications prior to being dissolved, as a municipality cannot have both a DRB and ZBA at the same time. She advised having the DRB set up and ready to go by July 1. She said that in terms of education and outreach, the CCRPC has set trainings for both bodies for new members. She added that the CCRPC can provide language for advertising open positions. Mr. Alden said it may be useful for the Village Attorney to review current language in Village documents to update to the current PC/DRB configuration.

Ms. Thibeault said that in terms of a member serving on two boards, the Trustees just approved an ethics policy that precludes them from doing that (in addition to charter language). Mr. Alden said that it will be important to maintain a connection between the DRB and PC, and suggested that joint meetings could be used if need be.

Ms. Thibeault noted that the current charter language means that the current PC would become the new PC, and that the current ZBA would become the new DRB. She said that if current PC members would like to serve on the DRB, they would need to resign from the PC. Mr. Alden said that there would be a

large number of vacancies on the DRB as a result of that. Mr. Tyler said that it will likely take several months to backfill these vacancies, saying that he likes Mr. Batalion's idea of filling the DRB.

Mr. Batalion suggested that the current PC members and current ZBA members become the new DRB members and alternates. Mr. Alden expressed support for the use of alternates on boards.

B. Status update on process of Code update for retail cannabis

Mr. Batalion asked whether municipalities are allowed to treat cannabis any differently than any other retail (such as alcohol). Mr. Chawla said that the proposed buffers do not work for the Junction, since it is so compact. He expressed concern that the state will begin to issue licenses without feedback from the Junction and that establishments will be grandfathered into any regulations that the Junction develops. Mr. Alden agreed, noting that the LDC has a use table that could be a useful tool to describe what establishments can go into which zoning districts.

Mr. Chawla asked if there is any support that the Trustees can give to the PC as they work through these activities with the Cannabis Control Board. Mr. Alden replied that the Trustees have more authority over what occurs in the Junction than the PC.

Ms. Clemens said that the cannabis issue seems very similar to the issue several years ago around massage parlors and where they can be located, as well as the issue around where bodegas can be located. She suggested that they approach the issue similarly to how they would decide to locate a bodega. She asked whether they should restrict commerce to commercial areas or whether they can be permitted in residential areas. She also asked whether it should be codified in ordinance or in the LDC. Mr. Chawla replied that it would be important to distinguish between personal use and retail/home occupations, and that the State has advised that it be handled through zoning. Mr. Brown noted that according to state statute, a municipality may not prohibit the operation of a cannabis establishment in the municipality through an ordinance, so they'd have to regulate it through the LDC.

Mr. Batalion raised an issue with timing, noting that they don't anticipate having an updated LDC prior to October 1 (when cannabis retailers are allowed to begin operating). He asked whether sections of the LDC can be approved prior to others. He suggested that the Junction seek a legal opinion on how to approach this issue. Ms. Mahony noted that a municipality can move a piece of the LDC when and if they need to, provided that it goes through the process of warned hearings and public comment at both the PC and Trustee level. She said that the majority of the LDC has been updated and suggested that perhaps they move that package without the outstanding updates on inclusionary zoning and affordable housing.

Ms. Mahony noted that Winooski, for example, has implemented a local cannabis control commission and have not felt they need to change their zoning for this use and will treat it like whatever the request is for (e.g., retail, home occupation), and the Zoning Administrator will determine whether they meet the requirements or not. She said that the local commission won't issue a license unless the zoning permit is in hand. She said that this could be advantageous because it allows a municipality to review that license on a regular basis and determine whether the establishment still meets the requirements.

Mr. Luck suggested convening a working group on retail cannabis, comprised of Trustees, Planning Commissioners, and potentially members of the public. Board members expressed interest in participating.

Mr. Luck noted that it would be helpful if Planning Commissioners notify municipal staff about whether they would like to remain on the PC or resign and transition to the DRB, so that vacant positions can be advertised and filled.

**MOTION by Raj Chawla, SECOND by Dan Kerin, to adjourn the Board of Trustees meeting. VOTING: unanimous (5-0); motion carried at 7: 40 PM.**

**5. WORK SESSION-PLANNING COMMISSION ONLY**

A. Continue updates for the Land Development Code (LDC)

Ms. Mahony began by walking through changes to Appendix A, which included a recommendation for a drainage outlet concept. She said that the recommendation adds language that would require drainage outlets being conveyed to the Village to comply with State stormwater discharge requirements.

Ms. Mahony then reviewed changes in Chapter 9, pertaining to subdivision regulations. She noted that all of the substantive changes had previously been discussed with the PC, so the content should seem familiar. They include the addition of green stormwater requirements into the subdivision language, the addition of language that would outline the process for when something becomes public infrastructure, clarifying language around relevant reviewers for infrastructure improvements, clarifying language around as built plans, and more specific language around dedications of public infrastructure and the distinction between how public and private infrastructure will be handled.

Ms. Mahony then reviewed Appendix B, which is the fee schedule. She noted changes in fees for various permits, reviews, and public works time and materials. Mr. Batalion asked whether it makes sense to adjust the fees further for inflation. Ms. Mahony replied that it depends on whether the intention is that the fees would completely pay for planning and zoning staff, or whether the fees should reflect the cost of actual design work. Ms. Mahony then noted a capacity maintenance fee at 50% initial capacity and that extensions may not exceed ten years.

Ms. Mahony then reviewed additional changes in Chapter 11 and Chapter 14, which were minor.

Ms. Mahony asked Commissioners and staff where they stand on the accessory structure setback requirement. Mr. Pierce replied that they should give the ability to apply for a waiver if it is a small lot. Mr. Scheld proposed that if there is a fence or landscape buffer that defines the property line, then a storage shed could go on or adjacent to the property line, and the setback could be a 5 foot buffer if there is no fence or landscape buffer. Ms. Clemens asked how the ZBA has handled waivers to solve this situation in the past. Mr. Pierce replied that they have granted variances to small lots to have structures closer to the property line. Mr. Scheld noted that in the LDC storage sheds are grouped together with detached garages, though they don't seem like they should be treated the same. Ms. Mahony said that an 8-foot setback for a storage shed on a small lot seems excessive. Mr. Pierce said that he is fine with sheds being on a property-line as long as there is no adverse impact on a neighboring property (such as water runoff). Planning Commissioners agreed to discuss this further at one of their June meetings.

Ms. Mahony noted that in terms of outstanding items for the LDC update, they are still waiting on more clarification around retail cannabis and inclusionary zoning. Mr. Batalion additionally requested discussing allowing triplexes in residential districts (in addition to duplexes), per a request from the Trustees.

**6. OTHER PLANNING COMMISSION ITEMS**

None at this time.

**7. ADJOURNMENT**

**MOTION by Patrick Scheld, SECOND by Diane Clemens to adjourn the meeting. VOTING: unanimous (3-0); motion carried.**

*RScty: AACoonrad*