

# Essex Zoning Diagnostic

Produced by the Metropolitan Area Planning Council (MAPC)  
for the Town of Essex

May 2022



Photo Credit: Arlene Taliadoros

# Acknowledgements

## Funding

This project was funded by a FY22 Best Practices Community Compact Grant.

## Town Staff

Brendhan Zubricki, Town Administrator  
Dana Menon, Town Planner  
Town of Essex Planning Board

Kim Drake, Chair  
Lisa O'Donnell, Vice-Chair  
Shelly Bradbury  
Westley Burnham  
Matthew Greco  
Michael McConnell  
Samuel Sturgis Crocker V

Town of Essex Board of Selectmen

Ruth Pereen, Chair  
Guy Bradford  
Peter D. Phippen

## MAPC Staff

Andrea Harris-Long, AICP, Senior Planner – Project Manager  
Courtney Lewis, Regional Land Use Planner  
Ralph Willmer, FAICP, Principal Planner  
Alyssa Kogan, Regional Planning Data Analyst

## MAPC Officers

President:

Erin Wortman, Town of Stoneham

Vice President:

Adam Chapdelaine, Town of Arlington

Secretary:

Sandra Hackman, Town of Bedford

Treasurer:

Sam Seidel, Gubernatorial

# Table of Contents

<b>INTRODUCTION</b>	<b>3</b>
<b>EXISTING CONDITIONS</b>	<b>5</b>
<b>ZONING AUDIT FINDINGS</b>	<b>12</b>
<b>COMMUNITY ENGAGEMENT</b>	<b>21</b>
<b>ZONING RECOMMENDATIONS</b>	<b>32</b>
<b>NEXT STEPS</b>	<b>43</b>
<b>APPENDICES</b>	<b>44</b>

# Introduction

The Town of Essex has a unique zoning bylaw, where residential, commercial, and industrial uses can potentially go anywhere, provided lot dimensional requirements are met. Lenient zoning regulations have worked for the Town for many years, largely due to environmental conditions, like poor soils, wetlands, and permanently protected open spaces, that have served as natural development constraints. However, in recent years, infrastructure technologies and development pressures from being in a growing metropolitan region have made Essex more appealing for new growth. As new businesses have located in Essex, the lack of zoning regulations have sometimes resulted in conflicts with neighboring residential uses. In 2021, the Town enacted a temporary moratorium on changes of use from residential or agricultural use to business and/or industrial new business or industrial uses to allow time for the Town to review the zoning bylaw.

The Essex Board of Selectmen Planning Board engaged the Metropolitan Area Planning Council (MAPC) to work with the Planning Board to assist in reviewing the zoning bylaw. The Planning Board Town officials wanted to better understand existing land use patterns and characteristics. More importantly, the Town wanted to gauge public opinion and hear how the zoning is currently working and what potential amendments could be made to better protect what residents value most about Essex.

## Why do communities make plans and enact zoning?

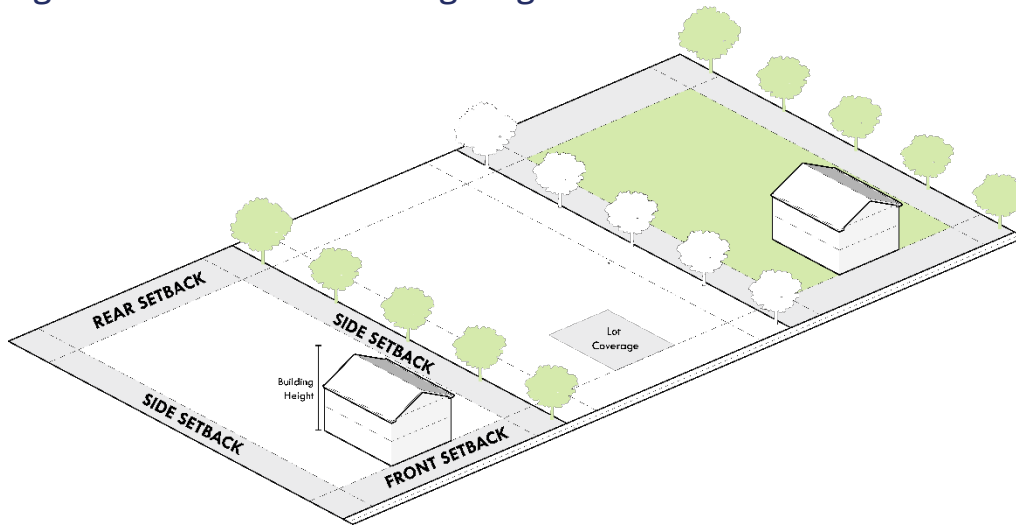
Planning and zoning are separate functions but work together to guide and positively shape the growth of communities. While planning is a process that involves goal setting and a vision of what a community aspires to be, zoning is an effective tool that can be used to achieve and advance this vision.

Planning is a collaborative process in which local leaders, residents, and other community organizations come together to help define a shared community vision. The planning process often involves the development of a Comprehensive Plan which examines the physical, social and economic aspects of a community and sets forth goals that guide its vision for the future. The comprehensive plan provides an overall foundation for land use regulations in a community and addresses issues like transportation, housing, economic development, community services, open space and recreation, and natural and cultural resources. In Essex, the last comprehensive plan (called a community development plan at the time) was adopted in 2004. Since that time, the Town has worked to create functional plans that address specific policy areas such as economic development, open space preservation, and downtown economic recovery from Covid-19. See the Policy Context section for more about Essex's past planning efforts.

Zoning is a tool used to protect the health, safety, and welfare of communities and implement the objectives of the comprehensive plan. Zoning dictates what can be developed on every parcel of land: the allowed uses, the placement and form of structures, the amount of open space required, the number of parking spaces, and more. Communities also use zoning to ensure compatibility between adjacent uses of land, protect natural resources, and protect the value of property.

Use-based zoning (also known as "Euclidean" zoning) is the oldest and most conventional zoning bylaw structure. This zoning structure divides a community into districts where different uses are allowed, and different setbacks, building height, lot coverage, and other standards typically apply.

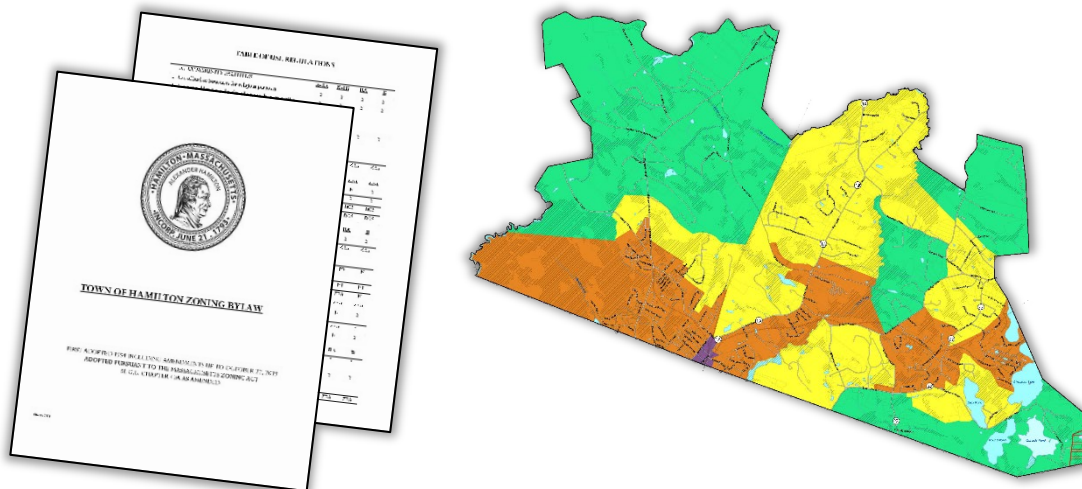
Figure 1 Conventional Zoning Diagram



A conventional zoning bylaw consists of two parts: a zoning map and the zoning text.

- **Zoning Map:** A map that shows how the community is divided into different use districts or zones. Zoning districts are established to promote compatible land use patterns within a defined area.
- **Zoning Text:** The zoning text establishes site development and performance standards appropriate to the purposes and the uses allowed in each zoning district.

Figure 2 Example of Zoning Bylaw text and zoning map with use-based zoning districts



Source: Town of Hamilton

Essex first enacted zoning in 1959, but the Town decided against conventional zoning where different use-based districts were enacted. Instead, the entire town was considered part of a “general” zoning district. See the zoning audit section for more information about the Town’s existing zoning bylaw.

## Project Findings

The remainder of this report details project findings, including:

- **Existing conditions.** A review of current demographics, existing land uses and development patterns, and development constraints.

- **Policy context.** A summation of relevant past planning efforts and notable policies that can be advanced through zoning bylaw amendments.
- **Zoning audit findings.** An analysis of how the current zoning bylaw works and what provisions may be conflicting or problematic.
- **Community feedback.** An overview of the different engagement activities and themes that arose from the public outreach process that helped shape recommendations.
- **Recommendations.** Opportunities for future zoning bylaw amendments and improvements to the administration and enforcement of the zoning bylaw.
- **Next steps.** How to move forward with implementation of these recommendations.

## Existing Conditions

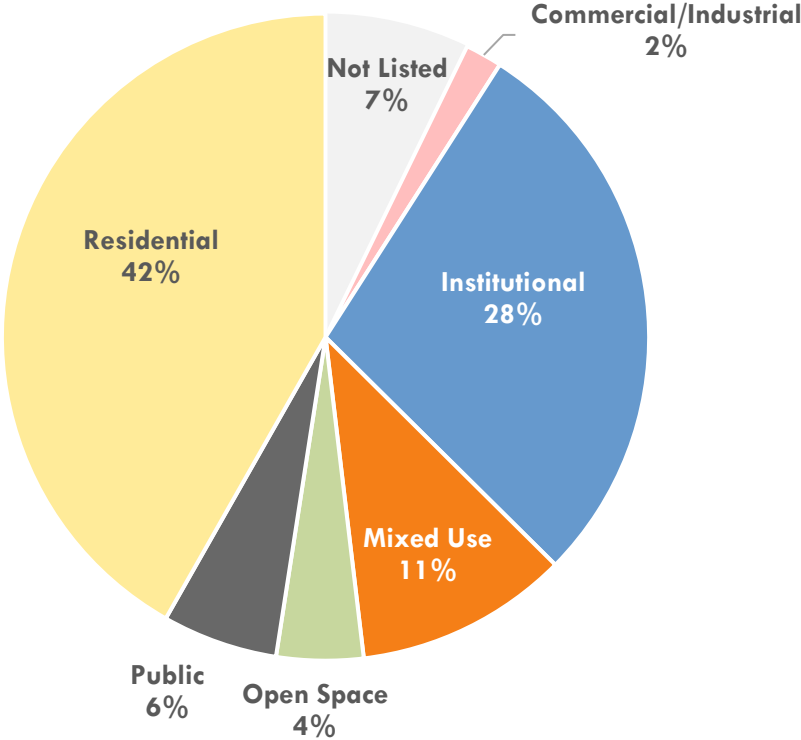
Essex is located on Cape Ann, about 35 miles northeast of Boston. Essex is a small town dominated by rural landscapes and nestled among beautiful natural resources like the Great Marsh and Essex River. Essex is home to 3,675 people, composed of 1,489 households. 1,662 housing units exist in Essex. The median household income in Essex is \$106,283.<sup>1</sup> The Town covers about 14 square miles. While neighboring communities have experienced more growth, Essex has remained rural with fewer new developments, largely due to topography and lack of public water or sewer. As a result, Essex has a small tax base in which residential and commercial land uses are taxed at the same rate. This presents a challenge for serving a large geographic area and achieving community goals such as open space preservation, meeting affordable housing needs, and promoting smart growth.

**Figure 3** shows the breakdown of existing land uses by land area, based on the Town’s Assessor’s data. **Map 1** shows the location of the various existing land uses in Essex. The Town is largely residential (42%). A significant share of the Town is also permanently protected open space or owned by institutions like private educational institutions, charitable organizations, churches, libraries, cemeteries, or privately owned open space – these two categories comprise 32% of the existing land uses. **Map 2** shows the open space by ownership type, deed restrictions, and level of protection (limited or in perpetuity). The land uses not listed, which comprise 7% of the land area, include road rights-of-way or water bodies. The existing land use analysis shows that very little land is dedicated to commercial or industrial uses – only 2% (see **Map 3**). Essex is unique in that there are many home occupations, but they are not tracked. Many of the home occupations may have expanded on properties and may now be more closely aligned with commercial activities rather than residential. The existing land use analysis does not capture this data. (See the recommendations section for more discussion on home occupations.)

**Appendix A** includes additional maps that show building footprints, impervious surface coverage, building lot coverage, parcel size, vacant parcels, and parcels missing land use codes.

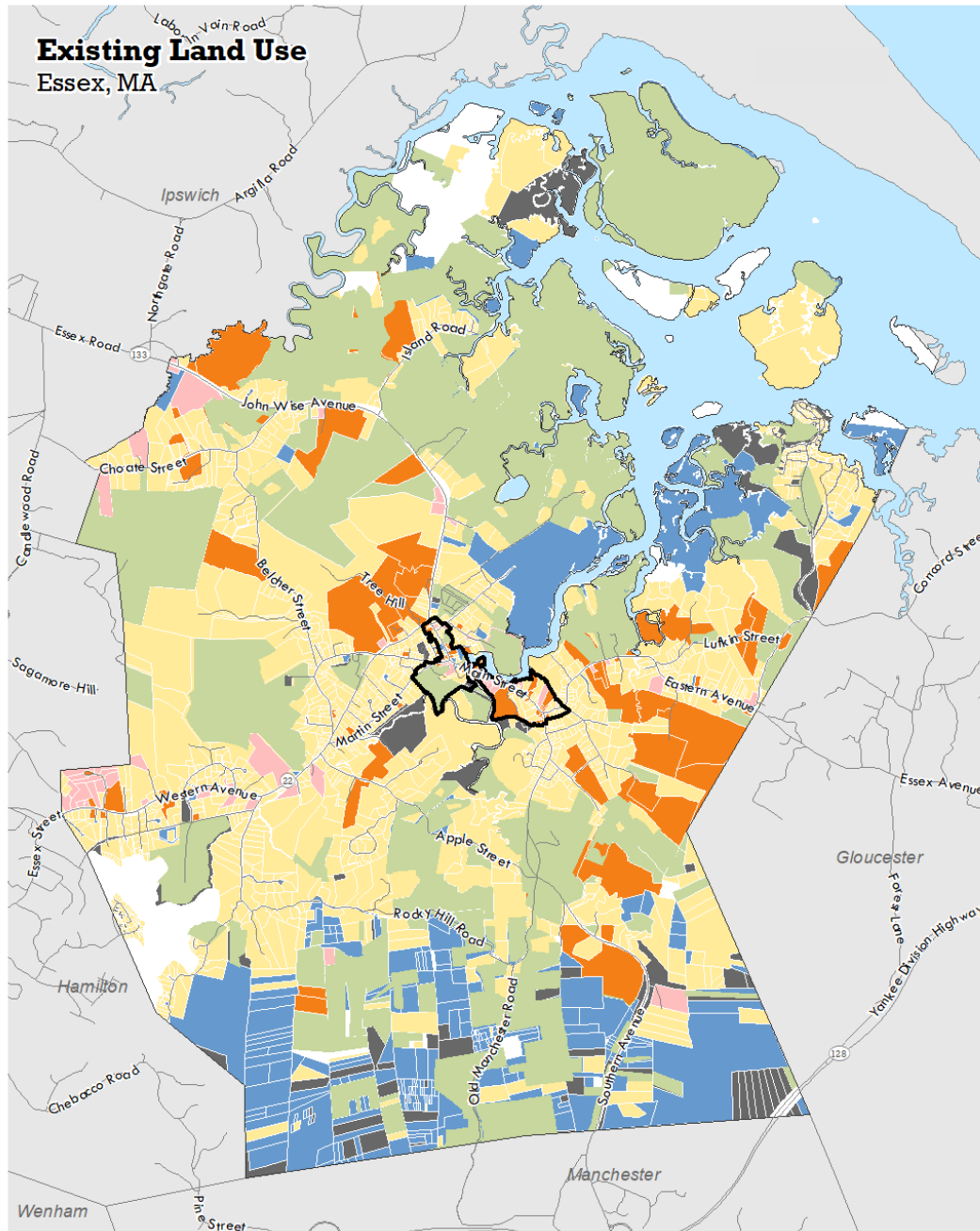
<sup>1</sup> U.S. Census Bureau, 2020 Decennial Census and American Community Survey, 2015-2019 Five-Year Estimates.

Figure 3 Existing Land Uses



Source: Town Assessor's Data, MassGIS

# Map 1 Existing Land Uses



### Land Use Category

- Downtown District Boundary
- Mixed Use
- Open Space
- Not Listed\*
- Commercial/Industrial
- Public
- Institutional
- Residential

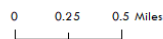
\*Primarily water, public and private roads, among other parcels

The information depicted on this map is for planning purposes only. It is not adequate for legal boundary definition, regulatory interpretation, or parcel-level analyses.

Produced by:  
Metropolitan Area Planning Council  
60 Temple Place, Boston, MA 02111 | (617) 933-0700

Data Sources: MAPC, MassGIS, MassDOT  
Based on Assessor's data.

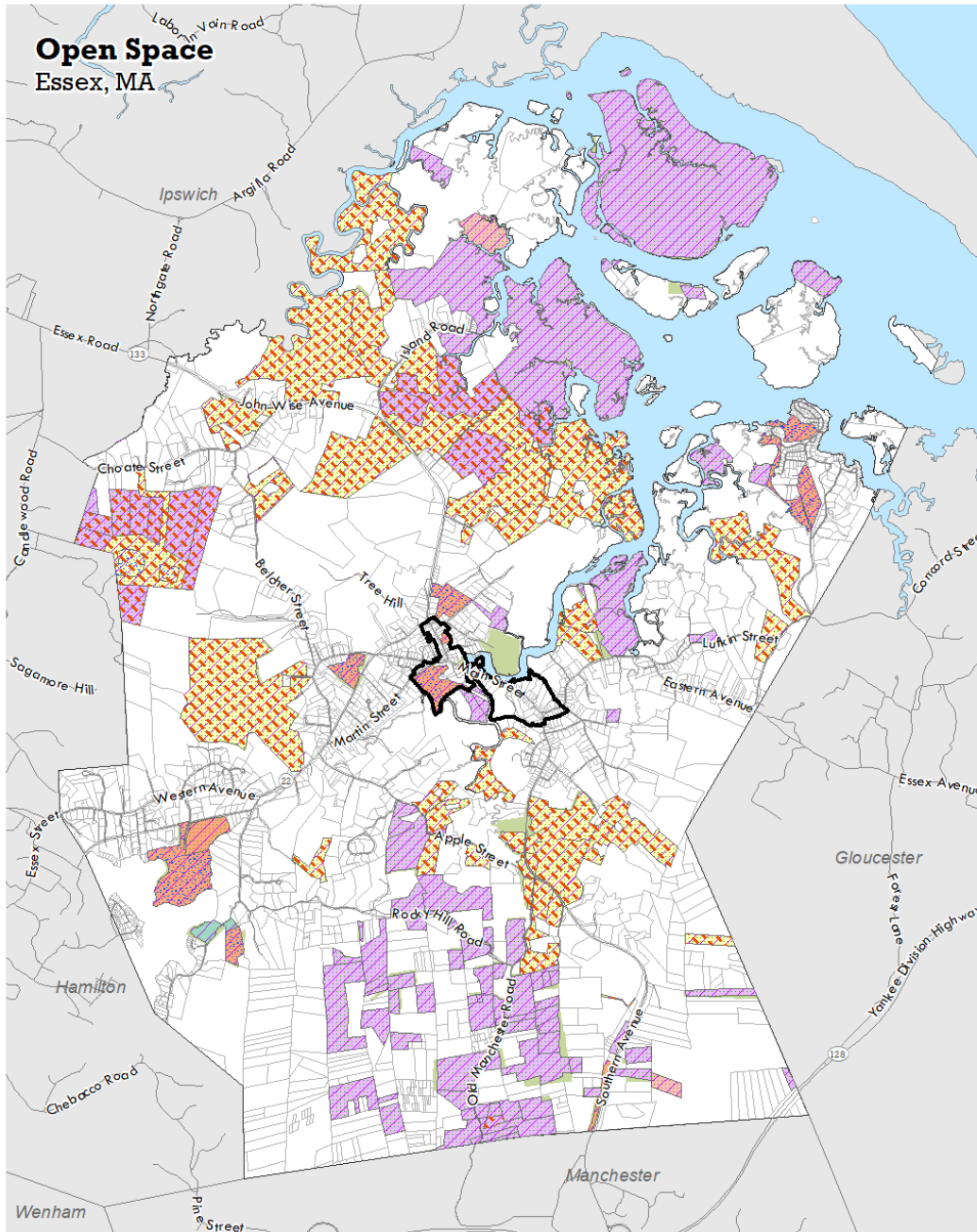
February 2022



Document Path: \\data-001\public\DataServices\Projects\Current\_Projects\Neighborhood\_Planning\_and\_Zoning\Zoning\_Projects\Essex\_Zoning\_Diagnostic\_Report\Project\_Files\EssexZoning\_LandUseCondensed2.mxd



# Map 2 Protected Open Space



### Open Space Legend

#### Ownership

- Land Trust
- Municipal
- Private Non-Profit
- Private
- State

#### Deed Restrictions

- Conservation Restriction
  - Agricultural Preservation Restriction
- #### Level of Protection
- Limited
  - Perpetuity

The information depicted on this map is for planning purposes only. It is not adequate for legal boundary definition, regulatory interpretation, or parcel-level analyses.

Produced by:  
Metropolitan Area Planning Council  
60 Temple Place, Boston, MA 02111 | (617) 933-0700

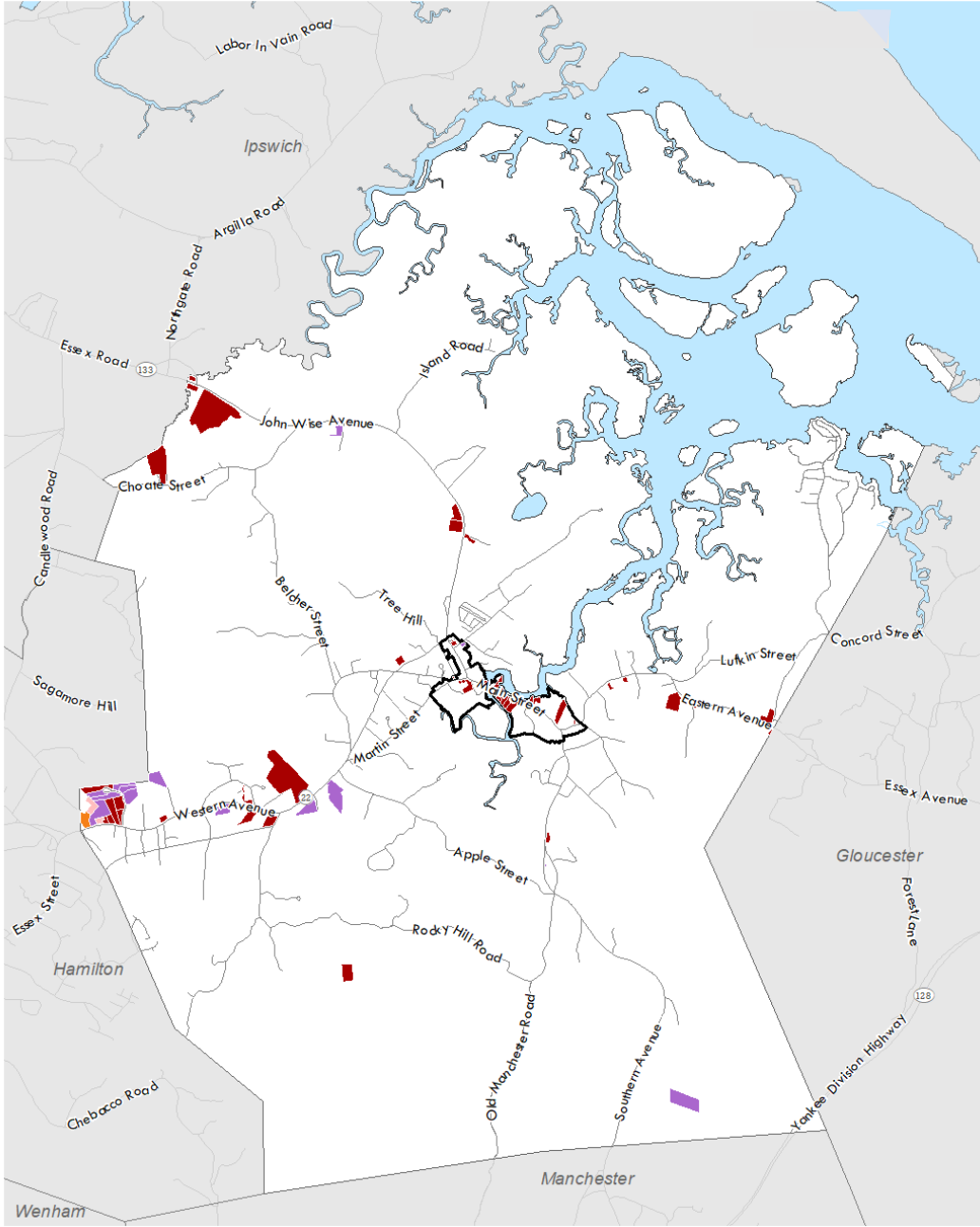
Data Sources: MAPC, MassGIS, MassDOT  
Based on Assessor's data.

March 2022



Document Path: \\data-001\public\dataservices\Projects\Current\_Projects\Neighborhood\_Planning\_and\_Zoning\Zoning\_Projects\Essex\_Zoning\_Diagnostic\_Report\Project\_Files\EssexZoning\_OpenSpaceTown.mxd

# Map 3 Commercial and Industrial Uses



## Existing Commercial and Industrial Land Use Essex, MA

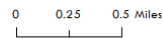
- Mixed Commercial/Industrial
- Commercial Vacant
- Commercial
- Industrial Vacant
- Industrial
- Downtown District Boundary

The information depicted on this map is for planning purposes only. It is not adequate for legal boundary definition, regulatory interpretation, or parcel-level analyses.

Produced by:  
Metropolitan Area Planning Council  
60 Temple Place, Boston, MA 02111 | (617) 933-0700

Data Sources: MAPC, MassGIS, MassDOT.  
Based on Assessor's data.

February 2022



Document Path: \\data-001\public\dataservices\Projects\Current\_Projects\Neighborhood\_Planning\_and\_Zoning\Zoning\_Projects\Essex\_Zoning\_Diagnostic\_Report\Project\_Files\EssexZoning\_LandUse\_Commercial\_Industrial.mxd

## Policy Context – Past Planning Efforts

Over the years, the Town has undertaken different planning efforts and initiatives aimed at managing growth, protecting natural resources, promoting economic opportunities, and preserving what is valued most in the community. Many of these efforts resulted in recommendations that could partially be implemented through amendments to the zoning bylaw. Considering the recommendations of past planning efforts, in addition to the feedback received through this project, can provide a foundation for future zoning reform.

### 2004 Community Development Plan

This long-range plan addressed future growth and development by creating visions, goals, and strategies in four topic areas: natural resources and open space, housing, economic development, and transportation. A community development map described future land uses for specific areas of town, including identifying areas where multi-family and non-residential uses may be more appropriate. Housing strategies in the plan recommended adoption of Back-Lot Development zoning to manage Approval Not Required (ANR) subdivisions; allowing the conversion of existing single-family detached homes into three-family units by-right town-wide; adopting inclusionary zoning for new housing developments; and allowing accessory dwelling units town-wide. Economic development strategies focused on managing business uses. Recommendations included increasing the types of businesses that require special permits, especially along the Route 22 corridor or Causeway, and expanding site plan review requirements for business uses near residential areas.

### 2016-2023 Open Space and Recreation Plan

The Open Space Plan considers the future of conservation and recreation resources in the Town and includes goals and objectives for open space preservation. Essex's most recent plan works to protect and preserve Essex Woods and the scenic vistas of the Route 133 Scenic Byway. The plan recommends enacting a scenic agricultural/residential overlay zoning district to preserve woodlands, agricultural land, and other scenic views along John Wise and Southern Avenues.

### 2015-2020 Strategic Plan

The Town built on efforts from the various boards and committees to create a five-year strategic plan that identifies ten overarching goals for Essex and a variety of actions to achieve goals. The plan guides the priorities of the Town and how finite resources are best leveraged to achieve long-term goals. Several of the goals include actions that could be accomplished through zoning reform efforts.

- **Goal 2** aims to increase participation in Town government. As the Planning Board considers zoning amendments, developing robust outreach activities to engage the public in the process will help achieve this goal and could lead to more involvement in other Town issues.
- **Goal 3** works to maintain and develop a strong business community. Actions recommend that the Planning Board look for ways that zoning “can support economic development and create new commercial and economic zones” and to “determine appropriate places for new commercial/industrial development”. The strategic plan also supported the adoption of the downtown zoning district.
- **Goal 4** calls for increasing the amount of protected land in Essex, and related actions recommend protecting scenic viewsheds and enacting a conservation or wetland bylaw that could work in tandem with zoning bylaw amendments to minimize development impacts on wetlands or other water resource areas.
- **Goal 5** is to improve the health of Essex's rivers, marshes, and lakes. Recommendations related to regulating water pollution, maintaining native vegetation, and removing invasive plants could be enhanced through additional zoning requirements.

- **Goal 9** addresses the housing needs of all Essex residents. Specific zoning recommendations include adopting a mixed-use zoning bylaw to better utilize already developed land and allowing accessory dwelling units throughout Town.

### 2020 Economic Development Plan

The Town worked with MAPC in 2020 to complete an Economic Development Action Plan that would create a town-wide vision for economic development and a five-year work plan that could focus economic development efforts. The study included a market assessment and identification of strategic sector-based growth locations in town. Plan recommendations related to zoning amendments include:

- Removing obstacles to creating a full range of housing types, including both market-rate and deed-restricted affordable housing options. To do this, the Town could consider an inclusionary zoning bylaw to increase the share of deed-restricted housing. The Plan also recommends making it easier to build accessory dwelling units, both detached and attached.
- Increasing parking flexibility through review of parking minimums, allowing shared parking, requiring bicycle parking, and limiting the number of curb cuts.
- Developing and adopting a Complete Streets policy.
- Requiring traffic management solutions (like signage, lane design and markings, signalization, etc.).
- The Economic Development plan also recommended expanding Town capabilities and resources through increasing the Town Planner staff time and working with the Essex Merchant’s Association.

### 2021 Local Rapid Recovery Plan

In response to the Covid-19 pandemic, the Baker-Polito Administration’s Local Rapid Recovery Planning program provided technical assistance to municipalities to develop actionable, project-based recovery plans tailored to their unique economic challenges and Covid-19 related impacts to town centers, downtowns, and other commercial areas. Essex partnered with Manchester-by-the-Sea to create a plan that focused on downtown recovery efforts. The plan was created with significant input from the local business community. Many of the recommendations center on placemaking, improving the experience of downtown visitors, and supporting existing and future business growth. The plan did recognize the need for zoning amendments that better reflected Essex’s economic development and housing goals. Specifically, the plan calls for the Town to create new zoning that directs business growth and consider the potential impacts of new commercial zoning districts on existing businesses.

# Zoning Audit Findings

Zoning audits provide an opportunity for a comprehensive review of zoning regulations to determine areas of strength, issues regarding conformity with statutory and case law, areas where updates or amendments are required, and the potential approach for amending regulations. Where possible, audit recommendations can pinpoint sections of bylaws that would benefit from the addition of graphics or other formatting/organization changes. MAPC audited Essex’s zoning bylaw based on initial staff impressions and expertise and interviews with Town officials charged with administering and interpreting the bylaw.

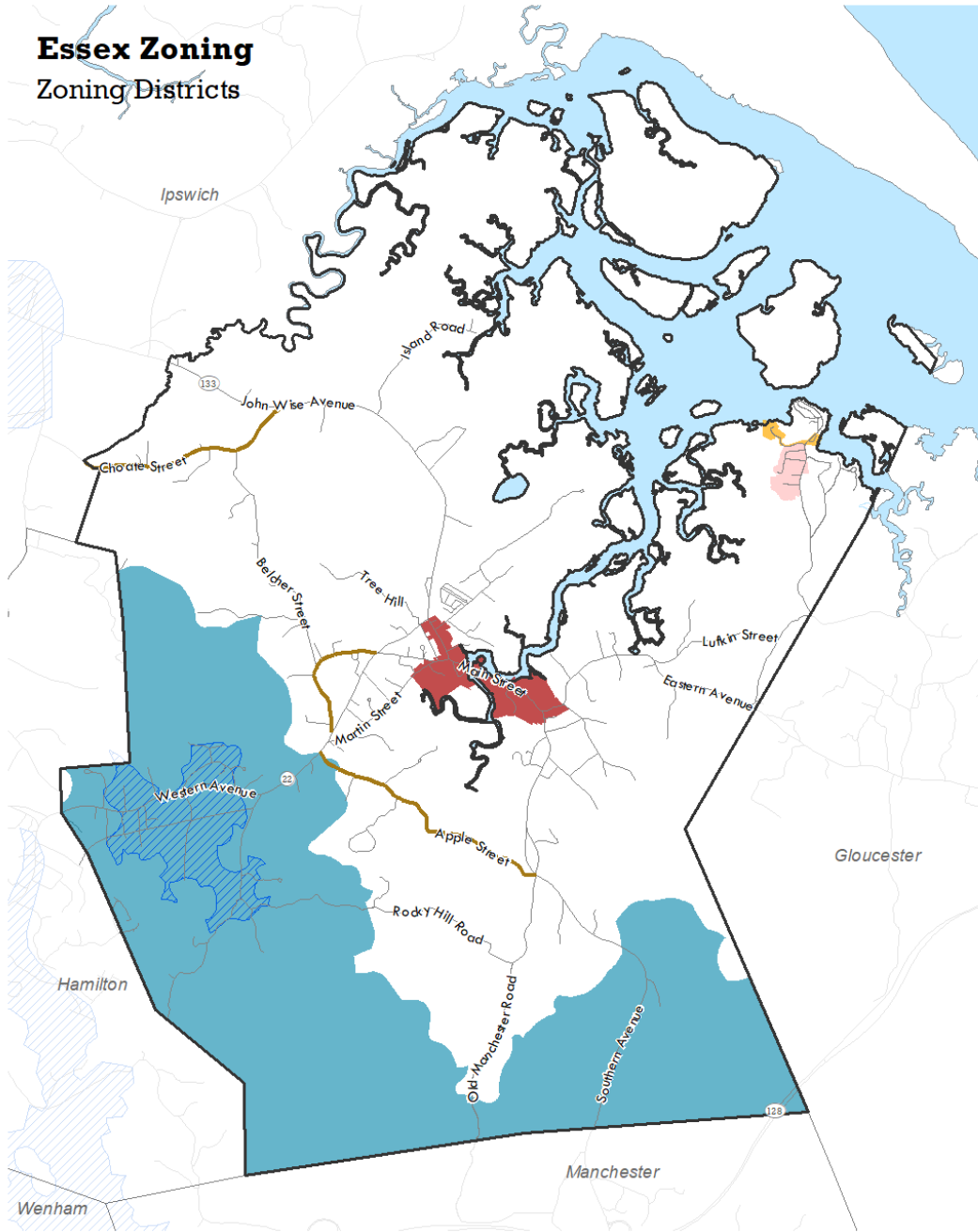
Essex adopted its first Zoning Bylaw (Chapter VI of the Town of Essex By-laws) in 1959, with a major revision taking place in 1972, which is the basis of the current zoning bylaw. A number of additions and amendments have been made over the years, with the latest revisions having occurred at the 2021 Fall Town Meeting. Unlike most other cities and towns in the Commonwealth, Essex does not have conventional zoning districts that separate specific land uses such as residential, commercial, and industrial into designated districts. Instead, the Town’s zoning requirements generally apply town-wide. The Town has established three base zoning districts the Essex Downtown Zoning District, the Southern Conomo Point Zoning District, and the Central Conomo Point Zoning District as shown in Error! Reference source not found. and **Map 4**. Approximately 98% of all land in Essex lies outside the Town’s underlying zoning districts. Therefore, all land uses (residential, commercial, and industrial) are permitted in this general area if minimum lot size requirements and other dimensional standards are met.

**Table 1 Essex Zoning Districts**

Zoning	Acres	% of Town Limits
<b>Downtown Zoning District</b>	90	0.9%
<b>Southern Conomo Point Zoning District</b>	23	0.3%
<b>Central Conomo Point Zoning District</b>	7	0.1%
<b>Unzoned</b>	9,004	98.7%
<b>Total acreage in Town limits*</b>	9,124	100%
*Public rights-of-way account for approximately 2% of the land area within Town limits.		

# Map 4 Zoning Map

## Essex Zoning Zoning Districts



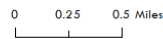
- Central Conomo Point Zoning District
  - Downtown Zoning District
  - Southern Conomo Point Zoning District
  - Wellhead Protection Area Zone II
  - Water Protection Overlay District
  - Municipalities
  - Scenic Roads
- All Roads**
  - Interstate
  - U.S. Highway
  - State Route
  - Non-numbered route

The information depicted on this map is for planning purposes only. It is not adequate for legal boundary definition, regulatory interpretation, or parcel-level analyses.

Produced by:  
Metropolitan Area Planning Council  
60 Temple Place, Boston, MA 02111 | (617) 933-0700

Data Sources: MAPC, MassGIS, MassDOT, Town of Essex

February 2022



Document Path: \\data-001\public\DataServices\Projects\Current\_Projects\Neighborhood\_Planning\_and\_Zoning\Zoning\_Projects\Essex\_Zoning\_Diagnostic\_Report\Project\_Files\EssexZoning\_OverlayDistricts2.mxd

## Downtown Zoning District

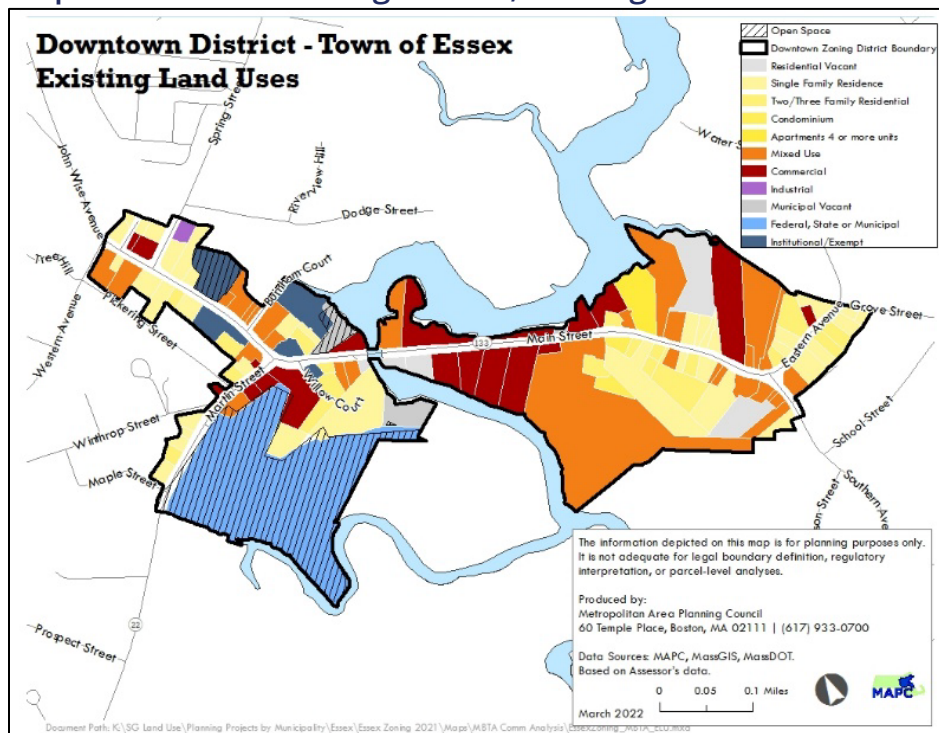
The Essex Downtown Zoning District was created to facilitate reduced dimensional requirements for the area designated and provide as matter of right the ability to have mixed use, Business and Residential, while minimizing disruption to the existing building configurations.

The following uses are permitted as of right with site plan review:

- Single- and two-family residential
- Multi-family residential (3-4 units)
- Mixed Use (2-3 units)
- Business
- Industrial, Class B (defined as a building used for manufacturing purposes which is less than 2,500 square feet in area and within which 11 or less people are employed on any one eight-hour shift)

The Planning Board may allow motel and hotel, multi-family residential with five or more units, and mixed uses with four or more residential units by Special Permit. Industrial, Class A uses are prohibited. The minimum lot size for motel and hotel uses is 90,000 square feet, the minimum lot size for all other permitted uses in the district is 10,000 square feet. There is a 50% maximum structural coverage standard, or 75% for the entire lot (including all impervious surfaces such as parking lots). For lots larger than 60,000 square feet there is a 25% maximum structural coverage standard, or 50% for the entire lot (including all impervious surfaces such as parking lots). The maximum building height is 35 feet however, new mixed-use development can be as tall as 40 feet with a special permit from the Planning Board.

## Map 5 Downtown Zoning District, Existing Land Uses



## Residential Zoning Districts

The Town has established two special residential zoning districts in the eastern-most part of the town, known as Conomo Point. Conomo Point is a small peninsula that juts out into the Essex River near its

confluence with Essex Bay and the Atlantic Ocean. Most of the homes on Conomo Point are modest late 19th and early 20th century summer cottages with some architectural elaboration<sup>2</sup>.

### **Southern Conomo Point Zoning District**

The purpose of the Southern Conomo Point Zoning District (SCPZD) is to facilitate the subdivision of the previously developed area south of Robbins Island Road while minimizing disruption to the existing historical building configuration.

The SCPZD is divided into two sub-districts: the Single-Family Sub-District and the Seasonal Cottage Sub-District. Single family dwellings are permitted as of right and may be used year-round in the Single-Family Sub-District. The minimum lot size is 30,000 square feet with a minimum frontage of 100 feet. The maximum building height is 20 feet, and the lot coverage maximum is 5%, or 10% for the entire lot (including all impervious surfaces such as parking lots). This sub-district has a maximum floor area ratio (FAR) of 0.1.

Seasonal cottages are permitted as of right in the Seasonal Cottage Sub-District, but use and occupancy is limited to April 15 to October 15 of any given year. Section 6-11.3 of the bylaw defines seasonal cottages as a detached residential dwelling unit, other than a mobile home, of 1½ stories or fewer and 1,800 square feet or under that is used for seasonal occupancy. The minimum lot size in this sub-district is 6,000 square feet with a minimum frontage of 60 feet. The maximum building height is 15 feet, and the lot coverage maximum is 15%, or 20% for the entire lot (including all impervious surfaces such as parking lots). This sub-district has a maximum floor area ratio (FAR) of 0.2.

### **Central Conomo Point Zoning District**

The purpose of the Central Conomo Point Zoning District (CCPZD) is to facilitate the subdivision of the central portion of the previously developed area north of Robbins Island Road while minimizing disruption to the existing historical building configuration.

Seasonal cottages are permitted as of right, but use and occupancy is limited to April 15 to October 15 of any given year. Section 6-12.3 of the bylaw defines seasonal cottages as a detached principal structure with a residential dwelling unit, other than a mobile home, of 1½ stories or fewer that is used for seasonal occupancy. Additionally, storage and certain municipal uses such as parks, playgrounds, off-street parking facilities and public recreational areas, are permitted as of right as a principal use. The minimum lot size in this district is 5,000 square feet with a minimum frontage of 40 feet. The maximum building height is 15 feet, and the lot coverage maximum is 25%, or 30% for the entire lot (including all impervious surfaces such as parking lots). The district has a maximum floor area ratio (FAR) of 0.3.

## **Overlay Districts**

In addition to the three underlying zoning districts, the Town also has three overlay districts that impose additional regulations on land use for a specific purpose. These include the Wetlands Overlay District, the Flood Plain Overlay District, and the Water Resource Protection Overlay District.

## **Use Regulations**

The most basic element of conventional zoning is the division of uses by district. Use regulations are important to advance neighborhood welfare, maintain compatibility, and protect property values. The Essex Zoning Bylaw is not organized by district, but instead organized through a classification of principal uses in Section 6-3 which includes dimensional requirements and permitting information. Section 6-3.1 lists six broad land use categories:

---

<sup>2</sup> 2016 Essex Open Space and Recreation Plan, 49



- **Residential, Single and Two Family** (note: the definition of single-family excludes trailers or mobile homes)
- **Residential, Multi-family** (three or more units)
- **Business:** The bylaw provides vague language regarding business uses. Business is defined as, “The transaction or carrying on of a trade or commercial enterprise, not manufacturing, operating for profit or for a livelihood, or as a non-profit entity.”
- **Motel and Hotel:** This use is not defined in the bylaw.
- **Industrial:** The bylaw provides vague language regarding industrial uses. In general, it refers to a building used for manufacturing purposes, but “manufacturing” is not defined.
  - **Industrial Land Use, Class A:** A building used for manufacturing purposes which is either greater than or equal to 2,500 square feet in are or within which 12 or more people are employed on one eight-hour shift.
  - **Industrial Land Use, Class B:** A building used for manufacturing purposes which is less than 2,500 square feet in area and within which 11 or less people are employed on any one eight-hour shift.

With these six broad land use categories, it is unclear how public or institutional uses such as town facilities, churches, etc. are regulated. Recently, this vagueness in the bylaw made permitting a new public safety building more challenging. In general, Essex’s use regulations are minimal because most uses are allowed by right, provided that lot dimensional requirements are met for each use. The existing bylaw lacks a Table of Use Regulations and a current and comprehensive use list. In addition, the bylaw does not define or otherwise describe many of the uses listed in Section 6-3.1, and many of the uses listed are not consistent with the uses listed elsewhere in the bylaw, such as in the Table of Parking Requirements in Section 6-6.1.1. Under the current bylaw, the reader needs to turn to each underlying district (Essex Downtown Zoning District (ZD), Southern Conomo Point ZD, and Central Conomo Point ZD) regulation separately to determine whether and where a use is permitted. This makes it extremely cumbersome to compare allowable uses across zoning districts. A modern best practice is to consolidate uses into a single table of allowed uses, with rows representing land use categories and specific use types, and columns representing the zoning districts (See Error! Reference source not found.). A comprehensive use table also makes it easier to track inconsistencies in uses and ensures that all uses are appropriately defined.

Figure 4 Example Table of Use Regulations

PRINCIPAL USE	TABLE OF USE REGULATIONS (cont'd)									
	DISTRICT									
Community Facilities (cont'd)	RRA <sup>16</sup>	RRB <sup>16</sup>	RRC <sup>16</sup>	IR <sup>16</sup>	GB <sup>16</sup>	CB <sup>16</sup>	HB <sup>16</sup>	PC <sup>16</sup>	I <sup>16</sup>	LI <sup>16</sup>
Wastewater treatment facility, water treatment plant, sludge composting facility, sanitary landfill, refuse incinerator, recycling center, transfer station, other treatment or waste-related facility (Amended 11/4/91 STM; AG 3/5/92) (Amended 10/15/07 STM; AG 1/23/98)	SPB <sup>17</sup>	SPB <sup>17</sup>	SPB <sup>17</sup>	SPB <sup>17</sup>	SPB <sup>17</sup>	SPB <sup>17</sup>	SPB <sup>17</sup>	SPB <sup>17</sup>	SPB <sup>17</sup>	SPB <sup>17</sup>
Town power plant, including a municipal wind energy conversion system (Added 10/15/07 STM; AG 1/23/98)	SPB <sup>17,26</sup>	SPB <sup>17,26</sup>	SPB <sup>17,26</sup>	SPB <sup>17,26</sup>	SPB <sup>17,26</sup>	SPB <sup>17,26</sup>	SPB <sup>17,26</sup>	SPB <sup>17,26</sup>	SPB <sup>17,26</sup>	SPB <sup>17</sup>
Municipal parking lot or structure (Amended 10/23/95 STM; AG 1/29/96)	—	—	—	—	P	P	P	SPB	P	P
Street, bridge, vehicular tunnel, or railroad lines	P	P	P	P	P	P	P	P	P	P
Facilities as needed for essential community services	P	P	P	P	P	P	P	P	P	P
Private utility overhead transmission line, substation or similar facility or building	—	—	—	—	—	—	—	—	—	—
Registered Marijuana Dispensary (RMD) <sup>37</sup> (Added 10/15/13 STM; AG 1/13/14)	—	—	—	—	—	—	—	SPB <sup>37</sup>	—	SPB <sup>37</sup>
<b>Commercial</b>										
Kennel, stable, livery stable or riding academy (Amended 10/19/09 STM; AG 2/16/10)	SBA <sup>5,29</sup>	SBA <sup>5,29</sup>	SBA <sup>5,29</sup>	SBA <sup>5,29</sup>	SBA <sup>5,29</sup>	SBA <sup>5,29</sup>	SBA <sup>5,29</sup>	SBA <sup>5,29</sup>	SBA <sup>5,29</sup>	SBA <sup>5,29</sup>
Veterinary hospital (Added 10/19/09 STM; AG 2/16/10)	SBA <sup>5</sup>	SBA <sup>5</sup>	SBA <sup>5</sup>	SBA <sup>5</sup>	SBA <sup>5</sup>	SBA <sup>5</sup>	SBA <sup>5</sup>	SBA <sup>5</sup>	SBA <sup>5</sup>	SBA <sup>5</sup>
Performing arts center (Added 10/23/95 STM; AG 1/29/96)	SPB	—	—	SPB	P	P	P	SPB	SPB	—

The primary land use in Essex is residential. Approximately 80% of Essex's housing stock is single-family homes and based on locally reported data, no multifamily units have been permitted since 2006. The challenge of creating a variety of housing options in town is due to land-use regulations that limit what type of housing can be developed among other constraints, such as natural features, sewer capacity, and development costs.

## Density/Intensity and Dimensional Standards

Section 6-3.2.1 sets out all dimensional requirements in the form of a chart organized by use and includes six footnotes that either explain or provide exceptions to the Table of Dimensional Requirements. In addition to minimum lot area requirements, Essex regulates lot frontage, lot width, lot depth, front, side, and rear yards, building height and lot coverage. For most land uses, the maximum building height is 35 feet and 2 ½ stories however, new mixed-use development in the Downtown Zoning District can be as tall as 40 feet with a special permit from the Planning Board.

Under current zoning, density is limited to a minimum lot area of 40,000 square feet or approximately one dwelling unit per acre. For land on streets in existence on or before June 7, 1972, lots must comply with a minimum 30,000 square foot lot size. The minimum lot area per dwelling unit encourages low density development and may be a deterrent to multifamily and mixed-use development. The Minimum Lot Size for residential uses ranges from 40,000 to 90,000 square feet. The minimum lot size requirement for single- and two-family homes is 40,000 square feet with a minimum frontage requirement of 150 feet. Minimum yard setbacks include a 25-foot front yard setback, 20-foot side yard, and 30-foot rear yard setback. The building height is set at a maximum of 35 feet or 2 ½ stories. Larger lot sizes are required for multi-family buildings, with three-unit buildings requiring a 60,000-square foot minimum lot size and four or more-unit buildings requiring a minimum lot size of 90,000-square feet. The minimum frontage requirement for multi-family buildings is 300 feet and the minimum setbacks for front, side, and rear yards is 100 feet. The building height is set at a maximum of 35 feet or 2 ½ stories.

The dimensional standards, much like use regulations, are scattered throughout the bylaw, in Sections 6-3.2.1, 6-11.6.E, 6-12.6.E, and 6-15.5, making it difficult to navigate and determine appropriate standards. Dimensional requirements for the Downtown and the Central and South Conomo Point districts are listed in separate sections of the zoning bylaw which makes it difficult for readers to determine how dimensional regulations in these zoning districts relate to other areas of town. It is also unclear which provisions apply and do not apply when reviewing development in the Downtown and Conomo Point districts. Consolidating the standards into one table that is organized by zoning district could make bylaw interpretation easier and minimize conflicting regulations.

## Parking

Section 6-6.1 of the bylaw deals with the regulation of off-street parking facilities. The existing zoning bylaw currently requires a minimum number of parking spaces for listed uses (Section 6-6.1.1). In addition, the bylaw establishes parking ratios for individual districts (such as Essex Downtown Zoning District) and uses regulated by Section 6-5.11 (Home Occupations). The required spaces are tied to dwelling units, gross square footage, employees, building occupancy, or other variables, with minimal requirements for modified parking standards.

In 2016, the Town conducted a parking management study for downtown focused on unlocking potential for local development, enhancing visitor access, and better accommodating parking needs of both residents and visitors. The parking study was multimodal in nature and offered recommendations for both vehicle parking management and other transportation modes. The study found that there are approximately 840 existing parking spaces, but only 11% (90) of spaces are on-street. The majority of off-street parking (84% or 750 spaces) are privately owned and restricted to specific user groups. Study

recommendations address how to maximize existing parking resources through formalizing on-street parking, increasing the efficiency of off-street public parking, and incorporating use time-limits and clear signage to regulate parking. Recommendations also encouraged shared parking agreements and opportunities for better management, such as valet parking and loading. Lastly, recommendations supported improving the downtown experience through improved signage and new safety improvements like adding crosswalks, filling sidewalk gaps, and minimizing curb cuts.

Additional best practices related to parking requirements generally include explicit provisions and guidance on modifying a development's required parking. For example, many communities allow for shared parking mechanisms to reduce the amount of parking required. The Town may also want to consider establishing maximum parking requirements. This could help reduce instances where developments are "overparked". The Town may also wish to include requirements for loading to ensure that loading activities, where practicable, take place in appropriate locations away from public rights-of-way. In addition, some communities tie the location and size of parking areas to landscaping or shading requirements. The Town may wish to develop landscape standards to help buffer and screen parking lots. Table 6-6.1.1 does not correlate with the list of principal uses and many of the uses are not defined. Updating the parking section to be consistent with use categories used in the Table of Permitted Uses would ease administering the bylaw. Adding illustrations and diagrams would be helpful and illustrative for readers.

## Landscaping/Buffers

Most modern zoning bylaws have landscaping and screening standards. Buffer and landscaping requirements help mitigate environmental site conditions, minimize conflicts between incompatible uses (especially important given the general zoning scheme used by Essex), and soften the visual impacts of parking areas and intensive uses. Landscaping standards and requirements are mentioned in various locations throughout the bylaw. The primary locations are Section 6-3.5.3.g – Screening and Section 6-5.6 – Screening of Open Uses. The language in these sections is fairly vague and appears to leave a lot up to the Planning Board's discretion. In general, the Town's regulations require:

- Screening consisting of a solid fence, wall or evergreen planting, in all cases not less than six (6) feet in height or as specified by the Planning Board, to shield Business and Industrial uses for any residential property.
- Screening of open uses such as vehicle and machinery storage yards by means of a slightly fence, or densely planted screen of evergreen shrubs or trees at least six feet in height.

The Town may wish to develop more specific landscaping and screening requirements, especially for parking lots, to soften development edges, create shade, and reduce the amount of impervious area. Low impact design (LID) is a site design technique by which stormwater is handled close to the source creating opportunities for infiltration and reducing stormwater impacts on streams and adjacent properties.

## Signs

Section 6-7 of the bylaw provides regulations for signs in Essex. This section includes definitions and regulations for the number and size of both permanent and temporary signs. The existing bylaw could be significantly improved by adding a definition section with graphic illustrations for each signage type (i.e., awning sign, banner sign, wall sign, free-standing sign, sandwich sign, etc.). The Town should also consider adding a table to this section that lists the different sign types and dimensional requirements. The new signs table could also indicate if a permit is required and list the permit granting agency. If new zoning districts are established, this section of the bylaw may require additional revising and updating to reflect the new district designations.

## Special Provisions

Over time, zoning bylaws expand to include special provisions that address unique local land development needs and achieve long-range land use goals. In Essex, special provisions include allowing Open Space Residential District developments (also known as conservation subdivisions) and allowing home occupations.

### Open Space Residential District

An Open Space Residential Development (OSRD) bylaw is an important zoning tool communities can use to help preserve land and reduce sprawl. Essex has an OSRD bylaw; however, like many communities that have adopted OSRD, some of the provisions are no longer considered best practices and may hinder future development. To date, no applications have been made under the OSRD bylaw. Essex has had very few conventional subdivision applications as well. Those that have been created have consisted of less than ten lots. The lack of OSRD applications could be a result of limited development activity or environmentally constrained parcels. Potentially, there are provisions within the OSRD bylaw that make the option less appealing to landowners. The bylaw could be updated to both be more attractive and more workable, should property owners decide to pursue creating new subdivisions in the future.

The primary purposes for Essex's OSRD are the following:

- a. Allow for greater flexibility and creativity in the design of residential developments;
- b. Encourage the permanent preservation of open space, agricultural land, woodland, wildlife and rare species habitat, other natural resources and features, including aquifers, water bodies, and wetlands, recreational, historical and archeological resources, in a manner that is consistent with all current plans adopted by the Town of Essex, including such plans as the Town of Essex Community Development Plan; Town of Essex Watershed Protection Plan and Town of Essex Open Space and Recreation Plan;
- c. Encourage a less sprawling, more efficient and compact form of development that disturbs less open land and natural materials and conforms to existing topography and natural features better than a conventional or grid subdivision;
- d. Minimize the total amount of disturbance on the site;
- e. Further the goals and policies of the all current plans adopted by the Town of Essex, including such plans as Town of Essex Community Development Plan, Town of Essex Watershed Protection Plan and Town of Essex Open Space and Recreation Plan; as amended from time to time;
- f. Facilitate the construction and maintenance of housing, streets, utilities, and public services in a more economic and efficient manner, that are in harmony with the architectural heritage of the Town of Essex; and
- g. Promote affordable housing and a more diversified housing stock.

The OSRD bylaw requires a minimum parcel size of five acres and applications are only approved by Special Permit. The bylaw does allow for an optional density bonus, which may provide an incentive for a developer to undertake an OSRD, but apparently not enough to overcome the requirement for a Special Permit. Since the time when Essex adopted this bylaw, OSRD best practices have evolved. There are multiple ways to update the OSRD – in this case MAPC is providing recommendations that work within the existing bylaw. One area of consideration is altering the minimum parcel size, which at five acres, could exclude opportunities to preserve land in smaller areas. In addition, because it requires a Special Permit, the regulations are more burdensome than a conventional subdivision plan. The OSRD could instead be by-right with Site Plan Review, and in fact, the best practice is to allow it by-right but require a Special Permit for a conventional subdivision.

The Town could allow for the “basic” OSRD to be by-right and require a Special Permit if an applicant wishes to develop with a density bonus. Note that any changes to OSRD could also be achieved by a simple majority Town Meeting vote pursuant to the newly adopted Housing Choice law.

## Home Occupations

Home occupations can provide numerous benefits for both home-based workers and the Town. Pursuant to Section 6-5.11 of the zoning bylaw, home occupations are permitted to operate as of right from a residential dwelling or an accessory building in all areas of Town. According to the bylaw, a home occupation is any commercial activity conducted as an accessory use, in any dwelling unit which is the residence of the practitioner of the commercial activity, or in any accessory building to that residence, regulated under 6-5.11. Under Section 6-5.11 of the bylaw the following conditions are imposed to ensure that the home occupation does not create a nuisance or alter the residential appearance of the neighborhood:

- a. Not more than two persons who do not reside in the dwelling unit shall be engaged in such occupation.
- b. There shall be no change in the outside appearance of the building or premises, except as provided by paragraph d below, or other visible conduct of such home occupation other than one sign as permitted accessory use.
- c. No traffic shall be generated by such home occupation in greater volumes than would be normally expected in the immediate neighborhood. The determination of such a situation shall be decided by the enforcement officer, and any need for parking generated by conduct of such occupation shall be met off the street and other than in a front yard.
- d. All home businesses and occupations conducted on residential property including storage and display shall be conducted in an enclosed building, except for the display and sale of shellfish, garden or poultry produce, or small homemade handcrafted items.
- e. Not more than two (2) vehicles requiring registration as taxis, buses, or commercial vehicles shall be regularly parked outdoors on the premises.
- f. No commercial vehicle with registered gross weights in excess of 17,000 lbs. shall be regularly parked outdoors on the premises.
- g. No more than three parking spaces, in addition to those required for residential use are allowed for the home occupation.
- h. No equipment or process shall be used which creates offensive light, noise, vibration, smoke, dust, odors, fumes, heat or glare detectable to the normal senses off the premises.
- i. No equipment or process shall be used which creates interference in household devices off the premises.

Based on conversations with Town officials, Essex does not permit or track home occupations. Residents simply start them and may or may not be aware of these regulations and standards. This results in the Town not having an understanding of the extent of home occupations, and there is a missed opportunity to earn revenue for the Town from these businesses (home occupations are not taxed as a business currently). Home occupations came up often during interviews, focus groups, and the survey. It is clear from public comments that people are concerned about the adverse effects (traffic, signage, noise, pollution) of home-based business uses. Despite having regulations in place that attempt to protect the residential character while still allowing home businesses, several resident comments throughout this planning process highlighted a need for better enforcement.

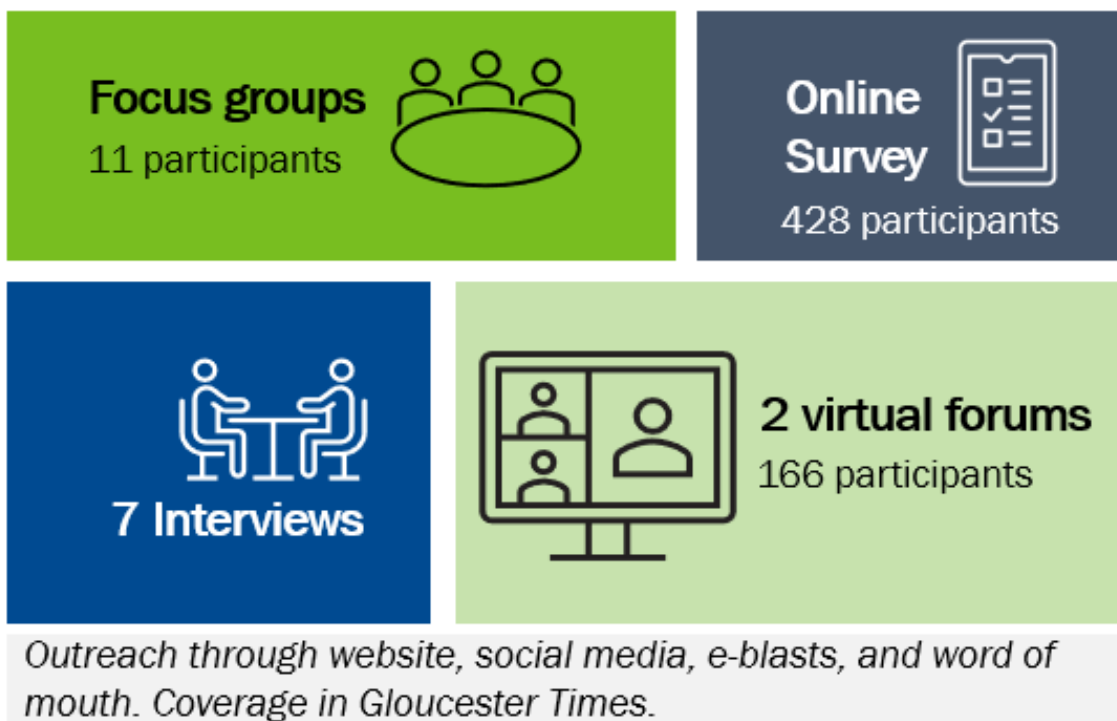
## Bylaw Usability

The final component of the zoning audit takes into account the overall form and function of the bylaw. The Essex bylaw, like many zoning regulations, has been amended over time. Similar regulations are

scattered throughout as new zoning districts have been created. Definitions have become outdated as changes have been made, and in some cases, regulations are hidden in definitions. Additionally, there are terms that should be defined but do not exist. There are few graphics and illustrations that help describe requirements. Current and former town officials noted how confusing it is to read and understand the bylaw, as some sections are lacking process information or clarifying text that connect newer provisions (e.g., the Downtown zoning district or Conomo Point districts) to existing regulations, like dimensional standards or use regulations.

## Community Engagement

To understand how Essex’s zoning bylaw is currently working and where there are areas for improvement, MAPC engaged with residents, business owners, and Town leaders in a variety of ways, including one-on-one interviews, focus groups, and community forums. A town-wide survey was also conducted.



### Interviews and Focus Groups

Early in the process, the Planning Board curated a list of individuals who have either had extensive experience administering or working with the zoning bylaw or serve in capacities (e.g., Conservation Commission board member, Economic Development Committee board member, etc.) that are impacted by how development occurs in the Town. MAPC interviewed the following individuals to gain a better understanding of how the zoning bylaw works and where improvements can be made.

- Dana Menon, Town Planner
- Bill Sanborn, Town Building Inspector
- Amy Kwesell, Town Counsel on land use issues
- Michael Burke, Chair of Strategic Planning Committee and Conservation Commission
- Jodi Harris, Chair of Economic Development Committee
- Andrew St. John, former Planning Board member

- John Guerin, former Board of Selectmen member

Two focus groups were held in January 2022 to get a better sense for the public’s perception of the zoning bylaw, including its overall effectiveness and how it is administered and enforced. A total of eleven people participated in the two focus groups.

Key takeaways from the interviews and focus groups:

- Many people are **excited for the possibility of zoning reform** and see this effort as a hopeful endeavor. Many people mentioned how zoning issues in the past have pitted business owners against residents. Participants hope this process can build community relationships.
- The current zoning bylaw is administered with a **“laissez-faire” approach**, where property owners feel they have much flexibility when it comes to developing their land. This has been valued by Town residents, but in recent years, opinions have shifted as residents have seen businesses open in areas that they would like to see preserved or solely in residential use. An example given by one participant is the proliferation of businesses along John Wise Avenue.

What do people value most about Essex?



Photo credit: Arlene Taliadoros

- The **lack of regulations around where different uses can be sited is problematic** for participants. Because zoning is not governed by use, one participant felt the bylaw is not serving in the best interest of residents. Essex’s lack traditional zoning means that there are no solely residential areas. Residents worry that abutting properties could be converted into non-residential uses at any time.
- The existing bylaw is **hard to interpret**. It could benefit from a better layout, clearer wording, and inclusion of more graphics and examples to help explain requirements. For example, it is unclear when a home occupation becomes a commercial business, especially when they are not tracked and existing requirements for them are rarely enforced. One participant noted that the bylaw would be easier to enforce with better definitions and cited the ambiguity between Industrial Class A and Industrial Class B uses as an example.
- **Involvement of the community in planning decisions is lacking**. One participant noted that the Town does not do a great job at notifying the public of zoning changes or applications. Abutters or surrounding property owners are often not notified correctly.
- **Enforcement** of existing regulations was frequently mentioned during both interviews and focus groups. A town official noted that there has been an increase in the number of complaints on neighboring uses. One resident participant noted, “You don’t break the law; you change the law” in response to property owners who are knowingly out of compliance with zoning regulations. Specific examples of noncompliance include breaches to height requirements, ignored conditions of approval for special permits, storage of inoperative vehicles, and illegal outdoor displays. Another participant noted that home occupation regulations are not enforced, and they often become the principal use on properties that should be residential. Lastly, some participants noted that enforcement seems “selective, based on who you know on the Planning Board [or other Town boards and committees].”

- The Town's **lack of staff capacity** – with a part-time planner and a Building Inspector that only works five hours a week – results in administrative and enforcement issues. One participant noted that the permitting process takes more time because applicants struggle to connect with staff when they work such limited hours; however, they also noted that the Town's website is useful in providing information. Others said that applications are unclear and confusing, and additional resources or guidance would be helpful. Regarding staff capacity, a Town board volunteer noted that it is challenging to fill part-time positions – most people need to work more than five hours a week.
- Nearly all participants **support creating new zoning districts** to direct where commercial and industrial growth should go. Participants see zoning districts, especially creating one that is solely for residential uses, as a way to protect property values and maintain residential character. Participants want to see residential densities largely remain as they are today but agree that the Town's Open Space Residential Development bylaw, if improved and used, could help development occur in a more sustainable way.
  - When asked about the character of commercial areas, a few participants noted that they would like to see barn-like architecture or other rural design elements. One participant noted that Essex needs to make room for commercial uses, specifically small businesses with 10-15 employees.
  - Many participants recognize that Essex needs economic development to expand the Town's tax base and provide jobs for Town residents. They noted that designating strategic areas for economic growth can support the Town in economic development efforts.
- When asked **where commercial and/or industrial uses may be appropriate**, participants noted that residential streets and scenic roads that are narrow and lack sufficient capacity for commercial traffic should be limited to residential development. Many believed that businesses are most appropriate downtown or in existing nodes of commercial activity. Many participants also noted that they would like to have more neighborhood services, like a grocery store or pharmacy, in Essex.
- Participants noted the need for **clearer zoning requirements** so that there is more predictability about the types of uses that could occur in certain areas and how they will look once built. Participants also noted that the bylaw is too generic and should be better attuned to the uniqueness of Essex. Many like that the Planning Board has some oversight on land use changes, whether it is through the site plan review process or special permit process.
- Many people want to see **additional development requirements** such as increased buffers when abutting residential neighbors or waterways, limits on outdoor storage areas, parking lot design standards, limits on noise and lighting, and architectural guidelines that are rural in character. Requirements along scenic roads, like Route 133, Route 22, and Southern Ave, are desired to protect viewsheds and rural landscapes. Specific examples were given of commercial uses that have outdoor storage in front yards that diminish the scenic quality as you drive down these routes. Interest in better understanding how Essex could create historic districts was also mentioned.
- **Climate change and rising sea levels are a significant concern.** Participants want to see zoning promote more sustainable and resilient development. One participant mentioned that renewable energy infrastructure (e.g., solar installations, charging stations for electric vehicles, etc.) should be allowed, with special consideration of how this infrastructure interacts with safety requirements under the Town's building code. Green infrastructure and incentives for low-impact development practices should also be encouraged.



- Some participants noted the need for **more affordable housing**. One participant would like to see inclusionary zoning for multi-family developments. Participants are also interested in how deed-restricted affordable housing can be done in ways that better fit into the community. Recent developments in adjacent communities would rather not be emulated. One participant also noted the need for expanding housing options for seniors specifically.
- Essex has attracted interest from property owners wanting to host **special events**, like weddings or other large gatherings, especially on parcels with water or marsh views. Some of these special event venues have been permitted and resulted in noise complaints and traffic issues. Many participants noted that sound carries differently across the Great Marsh, and this should be taken into consideration as uses are approved on waterfront parcels.
- **Updating the zoning will be challenging**, as Essex residents have historically not supported major zoning reform efforts. Change is viewed with great distrust, and the Town officials will need to work with residents to instill confidence. One participant noted zoning changes should be for the “greater good.” Feedback supported extensive community engagement as bylaw amendments are developed, especially when it comes to determining the appropriate areas for commercial or industrial zoning. One participant noted that Town boards and committees need to get better at “selling their own wares.” Outreach and education about the benefits of zoning ahead of Town Meeting will be critical.

## Community Forums

Two community forums were held via Zoom to gather input on how the existing bylaw is working for residents, and what residents would like to see included in future amendments. The first forum was held on February 15, 2022, and 73 people participated. The forum introduced the zoning bylaw review project, provided an overview on what zoning is and how it is used in other communities, and shared what is currently allowed in the Essex Zoning Bylaw. The two primary options for zoning reform – creation of new zoning districts or refinement of existing regulations – were introduced to participants. The forum ended with five small group discussions, where residents could share their feelings on creating new zoning districts or keeping the “general” zoning that allows uses anywhere but with additional development requirements. Themes from the small group discussions are below. The forum was recorded and made available for residents who could not attend in person.

## Themes from February 15 Small Group Discussions

- The majority of participants were in favor of creating zoning districts, with many seeing it as a way to preserve the uniqueness of Essex, scenic byways, and values of individual properties. Several ideas were given about how zoning reform could be done:
  - Create overlay zoning districts
  - Scale districts based on the continuum of uses, based on level of intensity
  - Make sure zoning is proactive, not reactive
  - Create commercial districts along streets that have capacity for increased traffic
  - Allow existing uses to continue
  - Expand the Special Permit process if a certain number of parking spots is required
  - Remove the unpredictability that exists in the current bylaw
- Some residents noted specific projects that had been permitted in Town that they viewed as problematic. They noted that better zoning could have helped these projects develop in more appropriate locations.
- A few participants had questions about why the Town was looking at zoning reform at this time. Some noted that Essex has historically been resistant to creating zoning districts.
- Two participants noted that the existing bylaw works and would prefer minimal changes.

- One participant noted that Essex needs more diversity of housing options and that the Town should consider doing a housing plan.

One participant noted their involvement in open space preservation and how they hope that zoning can continue to preserve natural resources.

### March 23 Community Forum

The second forum was held on March 23, 2022, and 93 people attended. This forum focused on sharing survey findings, draft zoning recommendations, and project next steps. The Board of Selectmen also shared information about the new requirements of Section 3A of the Zoning Act (see *more information about this requirement in Recommendation #3*). During the second virtual forum, attendees answered poll questions to provide specific information throughout the event. Note: some attendees joined via cell phone and were unable to participate in the Zoom polls. The first poll asked about participants’ familiarity and involvement with the project (see **Figure 5**). 32 attendees both participated in the February forum and took the zoning survey. 19 attendees took the zoning survey. Overall, this shows sustained interest and engagement in the project, with residents continuing to participate at various points in the project.

Following the presentation of draft zoning recommendations, a second poll was launched to gauge initial reactions (see **Figure 6**). 38 attendees said the draft recommendations were “close” or “very close”. Nine people felt neutral about the recommendations. Four people said the recommendations were “not close,” while one person said they were “way off.”

Figure 5: Did you attend the February 15 forum and/or take the zoning survey?

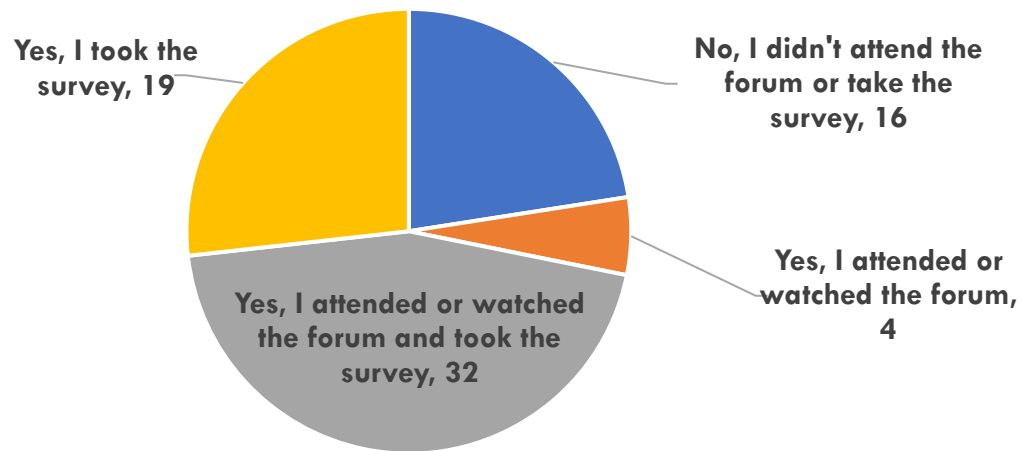
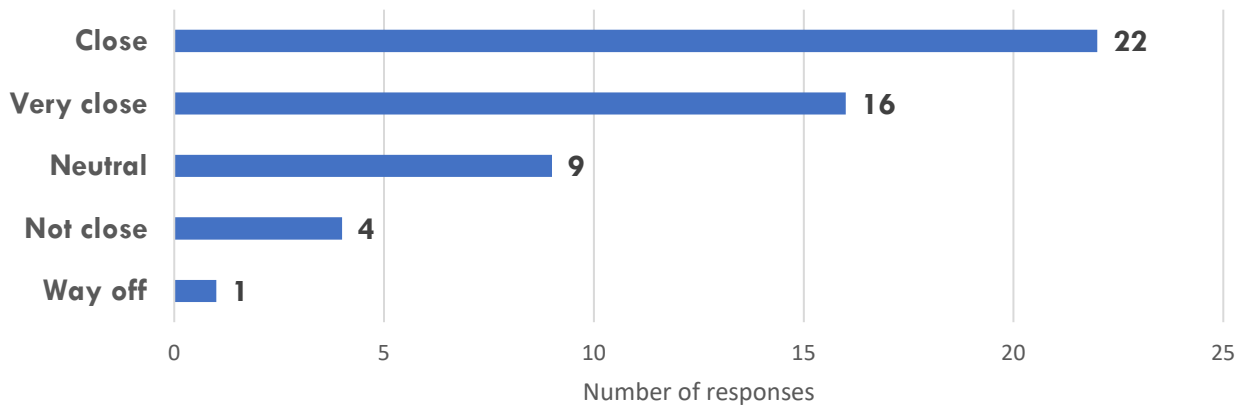
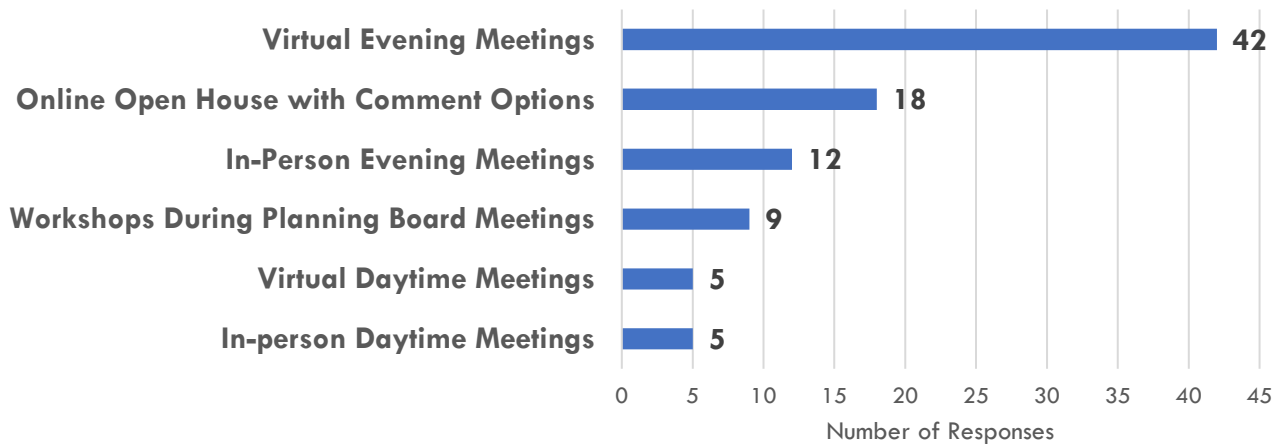


Figure 6: Are these recommendations on the right track?



At the end of the forum, attendees were reminded that zoning bylaw amendments will be happening as part of the project’s Phase II. Attendees were asked how they wanted to stay involved in Phase II (see **Figure 7**). The majority (42) of those answering the question said they preferred to attend virtual evening meetings to discuss Town zoning business. 18 people would like to attend an online open house that would be available anytime, with the ability to provide comments and answer specific questions related to zoning reform. A smaller share (12) of people preferred in-person evening meetings.

Figure 7: How do you want to stay involved in Phase II?



### Town-wide Survey Results

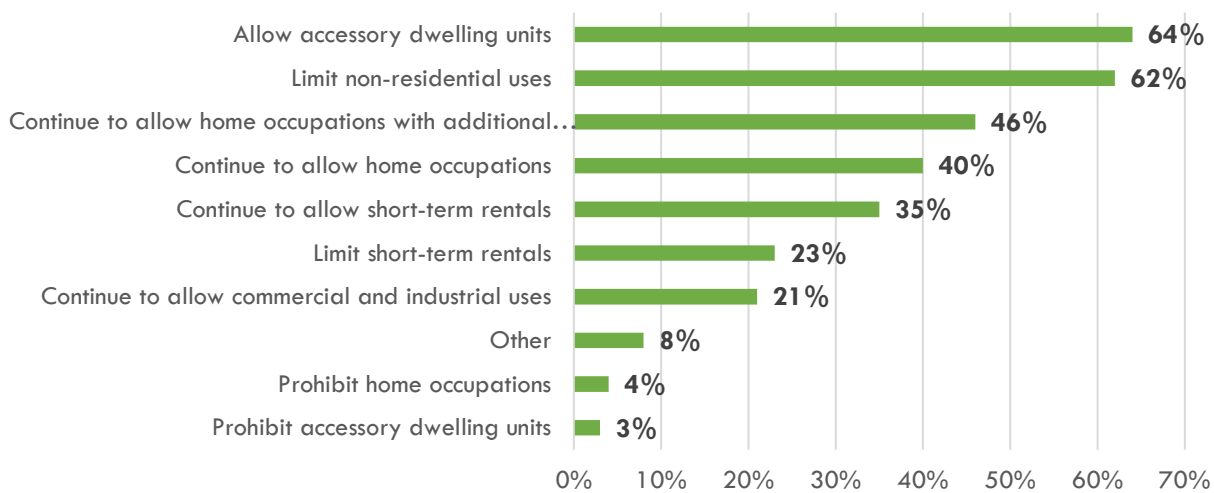
A town-wide survey was released at the end of the February 15 community forum. Ideally, survey participants attended the forum or watched the meeting recording so they had more familiarity with zoning and the Essex Zoning Bylaw. The survey was open from February 15 to March 1. Questions focused on gauging public opinion about land use types, desired look and feel of residential areas, and support for zoning reform options (create new zoning districts or refine existing zoning but retain general zoning district where all uses are allowed everywhere). 428 people responded to the survey. Key takeaways are included below.

**Role of zoning and growth management.** When asked what the most important land use challenges facing Essex are, 90% of respondents said “managing growth in an appropriate and sustainable manner” was important or most important. 81% said “incompatible uses locating next to each

other” was important or most important. 57% of respondents want the Town to tighten zoning regulations. A quarter of respondents want to see the existing zoning bylaw better enforced.

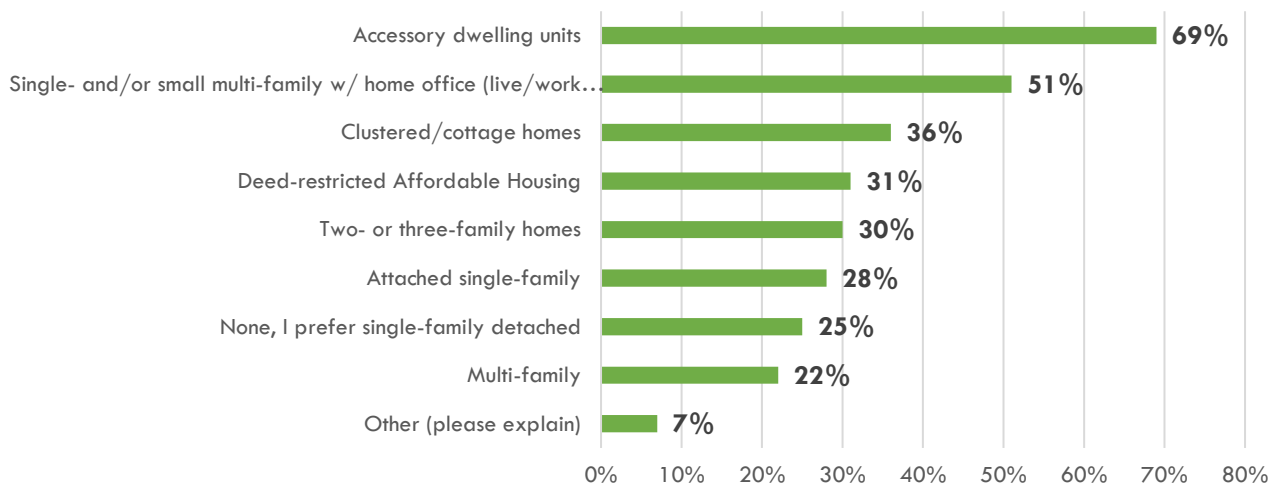
**Residential areas.** Respondents were asked what they would change about residential areas in Essex (see **Figure 8**). 64% of respondents said they want accessory dwelling units to be allowed. 62% of respondents want non-residential uses limited. The majority of respondents want to see home occupations continue to be allowed – some (46%) would like to see additional regulations added. The survey asked some specific questions about home occupations, as these were often discussed during interviews and focus groups. About 36% of respondents see no issues with the current regulations, while 21% think the current regulations could be better enforced. About a third of respondents (31%) would like to see more regulations to address impacts such as noise, parking, outdoor storage, traffic from deliveries, pollution, and limits on numbers of employees.

**Figure 8: Is there anything you would change about residential areas in Town?**



The survey asked about what other types of housing types are desired in Essex’s neighborhoods. **Figure 9** shows the results. Again, accessory dwelling units are a popular response, with 69% of respondents wanting these in residential areas. About half of respondents (51%) want to see live/work space in either single-family homes or small-scale multi-family. Just over a third (36%) of residents want to see clustered or cottage home communities.

**Figure 9: What other housing types would you like to see?**



## HOUSING TYPE EXAMPLES



Accessory Dwelling Units



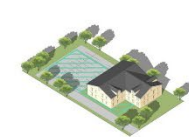
Clustered/Cottages



2 or 3 family homes



Townhouses



Multifamily Housing



Mixed-use Housing

Images of different housing types were shown as residents responded to survey questions to differentiate between housing types.

Respondents were asked, "Where would you like to see other housing options?" Some responses are included below.

*"It depends on where they will be allowed. I prefer to keep the character of some neighborhoods. clusters may be better in some cases when saving open space around. size and placing of accessory important."*

*"Depends on where located. If neighborhood character is high density (downtown) makes sense to permit 2-3 family and mixed-use housing there. If more rural, would not like to see that. Maintaining agricultural uses is very important."*

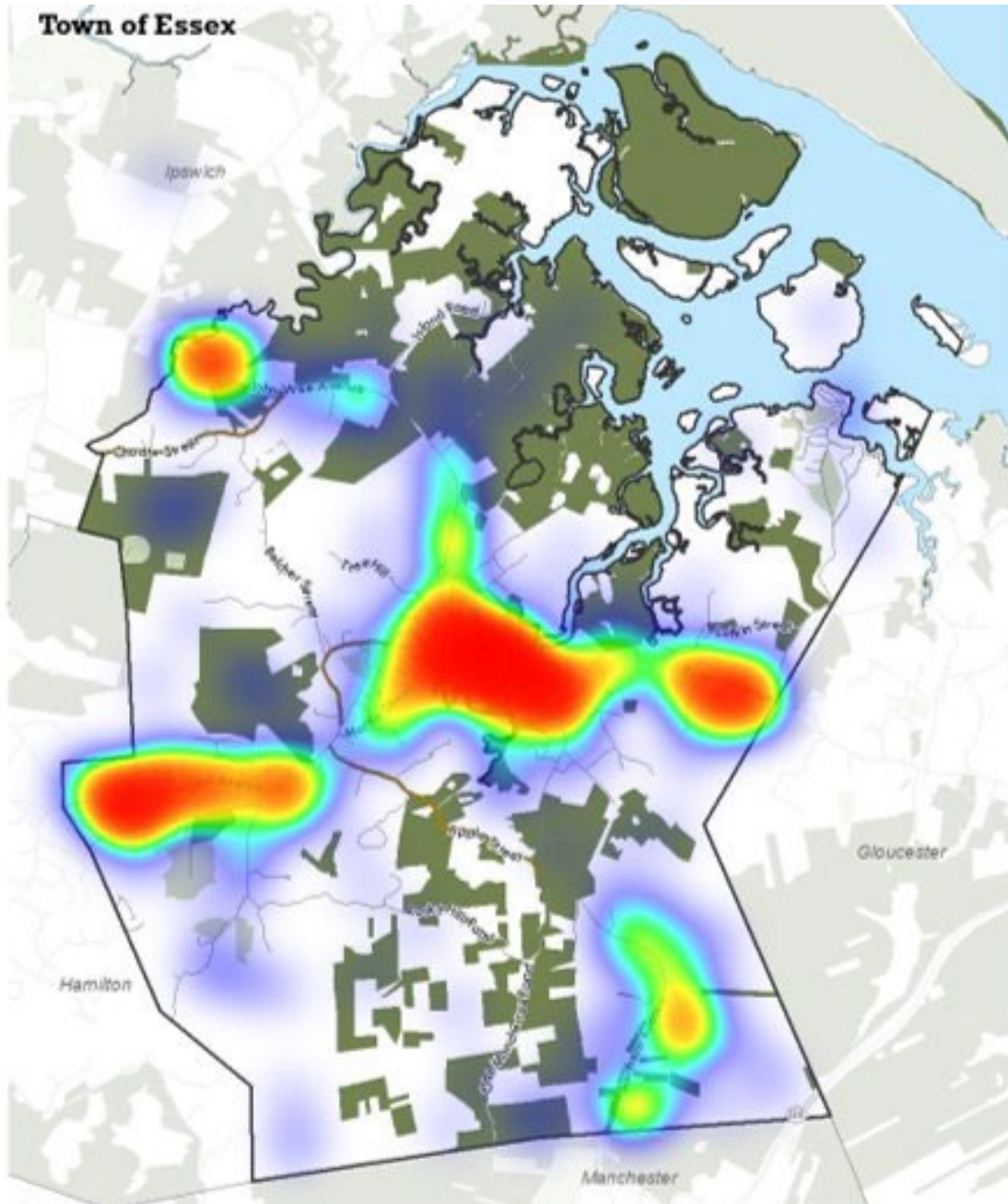
**On Housing Affordability**  
*"We need to step up and create state-defined affordable housing units."*

*"Proactively court more affordable housing or someone will build it for un under Ch. 40B"*

*"Over 55 townhouse 40B development"*

**Establishing new zoning districts for commercial and industrial uses.** 75% of respondents would like to see Essex designate specific areas for commercial uses. **Figure 10** shows a heat map of locations where residents think commercial uses are more appropriate. Red areas demonstrate higher concentrations of location clicks – locations near downtown, along Eastern Ave towards Gloucester, and along Western Ave approaching Hamilton.

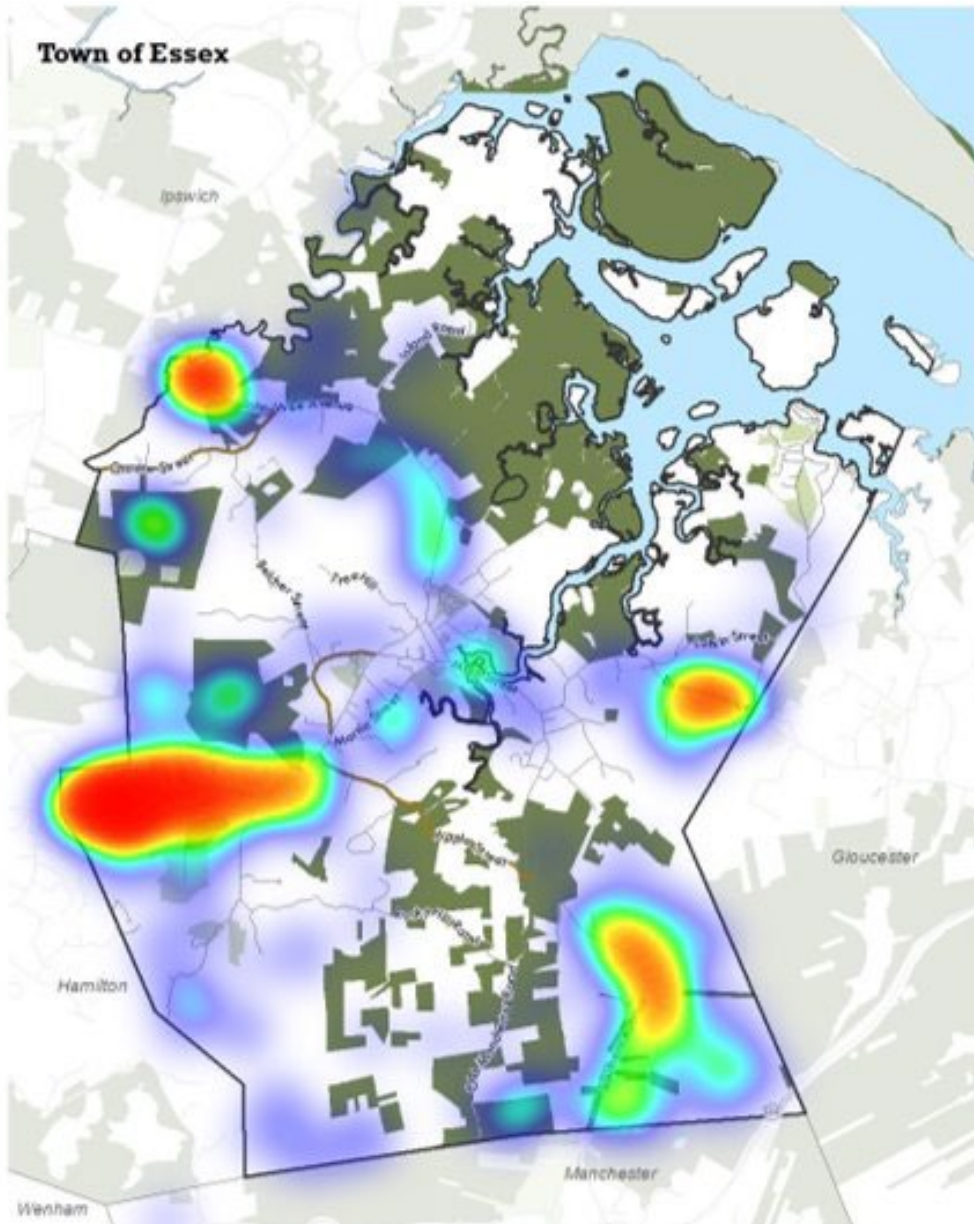
Figure 10: Heat Map – Where should commercial uses go?



Of those people who would not like the Town to establish commercial zoning districts, some believe it will attract commercial growth that is either not necessary or will diminish the small-town feel. Others like that commercial uses are allowed everywhere and think this should continue, perhaps with some additional development regulations.

Nearly the same share of people (74%) would like to see Essex designate where industrial land uses are appropriate. Similarly, the heat map tool was used to understand where industrial uses could go. **Figure 11** shows that there were far fewer locations designated as compatible with industrial uses. Respondents largely selected the area along Western Ave near Hamilton, where there is already a cluster of more intense commercial and light industrial businesses.

Figure 11: Heat Map – Where should industrial uses go?



Of those who do not want the Town to create an industrial zoning district, many stated that they would prefer to not have industrial land uses allowed anywhere in Essex, with one person stating, “The character of this town is rural, scenic and quiet; industrial business tend not to be.” Others were concerned with potential negative impacts from more intense industrial activities, stating, “They interfere with the small town/rural nature of the town -- loud, threatening to the environment, too apt to encroach on neighboring residential areas.”

The survey asked about land uses that residents would like to see restricted, and among the many written comments provided, several mentioned impacts that could be addressed through expanded development standards (or enforcement of existing standards). These impacts included noise, lighting pollution, traffic impacts, limited hours of operation, building size and design, parking design, outdoor storage, and buffers.

**Assessing Zoning Options.** The survey outlined the two primary options for resolving zoning issues. Essex could address incompatible uses by creating additional zoning districts that allow specific uses (traditional, Euclidean zoning) or the Town could continue to allow all land uses throughout Town but require more uses to be subject to Special Permit review and approval. Respondents were asked how they feel about these two primary options. 66% of respondents were supportive or very supportive of establishing new zoning districts with more use regulations. 33% of respondents favored the alternative option. With either option, the Town could expand the Special Permit approval process to ensure development is compatible with surroundings and impacts are mitigated. 72% of respondents would like to see Special Permits applied to more non-residential development. Of the 28% who do not favor expanding the Special Permit process, many felt that the process was too subjective and at the whim of changing elected officials. One person noted they “would prefer to see land uses regulated by zoning districts, it is more predictable and fairer, less discretion.”

**Environmental Protections.** Lastly, the survey asked about how Essex could better protect the environment as growth and development occurs. 72% of respondents said they would like Essex to pursue creating a wetlands bylaw. 64% support more resilient development practices.

**Appendix B** further summarizes the survey findings, and **Appendix C** includes all survey responses.



# Zoning Recommendations

The zoning audit findings, along with a review of existing conditions, previous planning efforts, and public feedback, have informed the following recommendations.

## Recommendation 1

**Establish zoning districts and use table organized by zoning district and address nonconforming uses that may result from rezoning.**

As noted in the zoning audit, Essex lacks zoning districts for 98% of the town's land area. This means that residential, business, and industrial uses can occur haphazardly with little regulatory oversight. Feedback received in focus groups, interviews, the community forum, and survey expressed how the lack of zoning controls has resulted in incompatible abutting uses, degradation of scenic landscapes, and pressure on natural resources. Most residents engaged in this project strongly support the establishment of new zoning districts, in addition to the Downtown, Southern Conomo Point, and Central Conomo Point districts. Zoning districts will allow the Town to specifically delineate land area for different uses with uniform regulations and requirements that better govern the use of land and the placement, spacing, and size of buildings. Essex could consider creating the following zoning districts, which could incorporate aspects of both traditional use-based or Euclidean zoning and form-based codes:

- **Residential/agricultural district.** This district could allow residential and agricultural uses, accessory dwelling units, accessory structures such as barns, garages, etc., home occupations, and appropriate neighborhood commercial uses. Survey findings support continued flexibility for traditional rural land uses, which could be supported by allowing these activities to occur, especially on larger lots. It is important to note that the Town received a petition in 2008 to establish an agricultural/residential district in a northern portion of Essex, along John Wise Avenue. This proposal promoted agricultural uses as defined under MGL 128 Section 1A. This could help guide how Essex's zoning bylaw can better define and allow agricultural activities. Residential uses could allow for more flexible housing types in scale with the existing lower density residential areas.
- **Neighborhood business district.** Public feedback supports the development of neighborhood-oriented commercial uses that are smaller in scale and result in fewer neighborhood impacts like traffic or noise. Commercial uses would ideally be developed using low-impact design best practices to minimize environmental impacts. Some commercial uses would be allowed as-of-right with Site Plan Review approval, while some may require a Special Permit.
- **Office/light industrial district.** Both the Essex Economic Development Plan and Essex five-year strategic plan call for creating zones for economic growth and opportunities to expand. Creating a zoning district, with a more specific and expanded list of allowable uses, could help attract economic growth that would provide local jobs with higher wages. This would benefit residents and the Town's small tax base. Development regulations for building size and design, parking, and landscaping could ensure new businesses are attractive and complement existing neighborhoods. Public comments noted a desire for smaller, locally owned businesses rather than "big box" stores or fast-food chain restaurants. It should be noted that that zoning cannot prohibit fast food chains. Development guidelines for maximum building size or drive-through windows could discourage these land uses. Performance standards for light industrial uses such as manufacturing or warehousing could ensure noise pollution, light pollution, or outdoor storage of waste or equipment does not become a neighborhood eyesore.

Along with new zoning districts, Essex should create a use table organized by zoning district that indicates whether uses are allowed by right, allowed with conditions, allowed by Special Permit, or prohibited. The use table would include the existing Downtown, Southern Conomo Point, and Central Conomo Point districts and clarify uses allowed in these established districts.

## Working with the community

Creating new zoning districts will require significantly more engagement with the public. Holding additional community forums aimed at refining information that has already been gathered through past planning efforts and this project will form a foundation for this work. For example, the 2004 Community Development Plan included a community development plan map, where the Causeway area and Route 22 corridor were identified for some commercial growth, with controls. The zoning survey conducted as part of this project asked residents to identify spots on a heat map where commercial and industrial uses may be appropriate. The analysis of existing commercial and industrial uses can be helpful in identifying existing clusters that can be refined. If the Town could document home occupations that may be performing more as stand-alone businesses, this could augment the existing land use analysis. Taking this information to the public and working with residents to refine where commercial and light industrial uses may be appropriate could result in new zoning district boundaries.

## Nonconforming uses

When discussing zoning reform with residents, many asked what would happen to existing businesses that may end up in a new residential zoning district that no longer allows all business and industrial uses. Businesses that are no longer permitted under new zoning regulations would be considered a “pre-existing nonconforming use.” The zoning bylaw defines these as, “A structure or use lawfully in existence, lawfully begun, or a building permit having been applied for before the first notice of the public hearing on such ordinance or bylaw whose adoption has rendered the structure, use or permit nonconforming.” Section 6.4 of the zoning bylaw details how nonconforming uses are regulated. Section 6-4.2 regulates “Existing” non-conforming uses while Section 6-4.3 regulates “Pre-existing” non-conforming uses. The bylaw does not clarify what the difference is between these two categories. Furthermore, the Planning Board has decision-making power over applications to extend or alter nonconforming uses or structures. If nonconforming structures are damaged, applicants have two years to apply to repair or rebuild. However, the Planning Board also has the discretion to expand the time period. Section 6-4.4 addresses abandonment of a nonconforming use, but it is unclear what defines as abandonment. As described below, this section should be reviewed in more detail to determine what, if any, changes are required to ensure that the revised zoning bylaw is consistent with statutory and case law.

Essex should consider updating Section 6.4 to more clearly distinguish between the two different types of nonconforming structures and uses in sections 6-4.2 and 6-4.3 if there is one and better align with [G.L. c. 40A§6](#). An updated section could have separate sections that address **legal** non-conforming structures, uses, and lots, as each nonconformity may be dealt with differently (this is common in other communities). The section should also address self-created nonconformities.<sup>3</sup> The section could specify circumstances where the Building Inspector may allow certain modifications to a nonconforming single or two-family structure. Case law has provided some guidance for what constitutes substantial change of use that would require approval by the special permit granting authority.<sup>4</sup> Approval criteria could be included to help the Planning Board determine the impact of a change of use. Administratively, state law requires the permit granting authority to issue a “finding” that affirms approved changes, extensions, or alterations to nonconforming uses or structures are not substantially more detrimental than the existing nonconformity. The Planning Board should ensure findings are specific and include physical and factual determinations

<sup>3</sup> [81 Spooner Road v. Zoning Board of Appeals of Brookline](#), 78 Mass. App. Ct. 233 (2010) clarified that voluntary actions of the owner that render the property noncompliant deprive the property of the benefits of being legally nonconforming. (The Guidebook to Massachusetts Land Use – 2021, APA-Massachusetts Chapter)

<sup>4</sup> [Powers v. Building Inspector of Barnstable](#), 363 Mass. 648 (1973) established Change of Use “tests”. [Cape Resort Hotels v. Alcoholic Licensing Board of Falmouth](#), 385 Mass. 205 (1982) decided on the basis on business growth. [Derby Refining Co. v. City of Chelsea](#), 407 Mass 703 (1990) ruled an applicant must demonstrate improvements are in line with the original nature and purpose of a use.

related to the use or structure itself. Findings may have conditions for approval. The zoning bylaw should be updated to reflect the process for reviewing applications and issuing findings. Lastly, abandonment should be better defined in Section 6-4.4. The courts have helped shape what constitutes abandonment and should be incorporated into the bylaw, including voluntary demolition of a structure or surrendering a business license.

## Recommendation 2

### Update use regulations, dimensional standards, and development standards

Section 6-3 is a “catch-all” section covering a broad array of topics, including development standards (such as setbacks, height, density, and other dimensional standards) and additional regulations for individual uses (Section 6-3.3). This section requires extensive revisions in order to improve the bylaw’s overall usability.

#### Use Regulations

Section 6-3.1 should be revised and updated to reflect the types of land uses that should be allowed in Essex. The bylaw should include a table of allowed uses that shows which uses are allowed by-right, by-right with site plan approval, or by special permit. As described earlier in this document, modern zoning bylaws typically include a table of allowed uses, with rows representing land use categories and specific use types, and columns representing the zoning districts. This format allows quick comparison of the allowable uses in each zoning district and eliminates the potential for inconsistencies. In addition, definitions should be updated and supplemented to address new uses, and existing definitions should be reviewed to ensure they are appropriate and that the defined terms are used consistently throughout the bylaw.

#### Dimensional Requirements

The Table of Dimensional Requirements in Section 6-3.2.1 should be restructured to reflect each of the existing and newly created zoning district’s dimensional requirements in one table. Under the current bylaw, the dimensional requirements for the Downtown and the Central and South Conomo Point districts are listed in separate sections of the zoning bylaw. This makes it extremely cumbersome to compare dimensional requirements across zoning districts. Organizing this information into one table would make the bylaw easier for applicants, staff, and the general public to read and interpret. This section should also include graphics and diagrams to illustrate dimensional terms and measurements such as lot frontage and front, side, and rear yards.

#### Development Standards

In addition to establishing new zoning districts and expanding use regulations, the Town should also update Section 6-3.3 to reflect development standards by zoning district rather than use-specific standards (i.e., residential, business, motel and hotel, and industrial). This new section could be broken into numerous sub-topics to address things like accessory buildings and uses, parking and loading areas, site access, on-site storage, building design, landscaping, connectivity, and noise regulations.

#### Parking

The off-street parking requirements in Section 6-6.1.1 should be reviewed and updated to better reflect current industry standards for parking, with special focus on the downtown area. For example, the existing parking regulations do not address handicapped parking requirements. Additionally, it is recommended that the parking requirements be expanded and reorganized to cover more use categories and that the terminology be consistent with terms used in the Table of Permitted Uses. The applicable recommendations of the 2016 Essex Center Parking Strategy should be implemented as

parking requirements are updated. Additionally, integrating new practices such as shared parking and access agreements, revised parking ratios, and development incentives should also be considered when updating this section. The ability to apply shared parking standards can serve as an incentive to a potential developer in mixed use areas like downtown. The Town may also wish to establish parking and circulation design standards such as landscaping, pedestrian and bicycle facilities, lighting, paving, and drainage.

### **Development Review: Site Plan Review and Special Permit**

Section 6-3.4 outlines when special permits are required. The bylaw could more clearly delineate the administrative process for reviewing applications for special permits, including adding a new section with approval criteria and how conditional approvals work. The [Hamilton zoning bylaw](#) can serve as an example for how to clarify administrative processes more clearly. Special permit applicability could be expanded to be required when certain community impact thresholds are met (e.g., traffic impacts, building square footage, parking, etc.).

Section 6-3.5.2 outlines the Site Plan Review process but is lacking administrative details like application requirements and procedures. This section also lacks criteria that considers how permitted uses interact with neighboring parcels. For example, to establish a home occupation under Section 6-5.11, a use must comply with a range of criteria related to site impacts (e.g., outdoor storage, traffic considerations, parking, etc.). For a commercial or industrial use to establish under Section 6-3.5, the criteria in 6-3.5.3 put forth little guidance as it relates to parking, traffic, drainage, etc. Strengthening the criteria for projects that require Site Plan Review could help the Planning Board ensure approved projects do not negatively impact neighboring properties. Site Plan Review applies to new construction, reconstruction, or relocation of any building with a ground floor footprint of greater than or equal to 2,500 square feet, or any change of use for any building or site. Required approval includes proposals for commercial, industrial, office, multi-family dwelling, residential development, municipal, utility, and recreational purposes. Single Family Residential development does not require site plan review approval. Essex could benefit from updating the Site Plan Review process in a few ways, in addition to updating the approval criteria. Site Plan Review could be split into two tiers – “limited” site plan review for use changes that are occurring on an already developed parcel (e.g., using a vacant commercial building). Full site plan review approval would be for developments of a certain scale or size and on presently undeveloped or vacant sites. Having a tiered site plan review process could streamline the review process and lessen the load for Planning Board and other review bodies, as some applications could be approved administratively if zoning regulations are met. It is important to note that the Planning Board and other review bodies have not historically had lengthy application dockets, as there has been limited development activity in Essex.

Conversations with Town officials noted that there have been issues with applications changing as they move through the permitting process. For example, a site plan that may be approved by the Planning Board may change before it goes to the Conservation Commission. This creates confusion about what is permitted and increases the likelihood that construction may not conform to zoning requirements. To coordinate the site plan review process, the Town could consider forming a Site Plan Review committee with representatives who are involved with the permitting process (e.g., Building Inspector, Town Planner, Public Works Director, Board of Health representative, Conservation Agent, etc.). This internal committee could review site plans for conformity with regulations and make recommendations to Planning Board.

## **Recommendation 3**

### **Remove barriers to expanding housing options**

Essex, like many communities in the Greater Boston region, has experienced rapidly rising housing costs in recent years. The majority (74%) of Essex’s total housing stock (1,662 units) is single-family detached,

which is the most expensive housing type to purchase or rent. Essex has some housing stock diversity, with about 10% of homes in two-unit structures; 10% in lower density multi-family structures with 3-9 units; and 6% of homes in multi-family buildings with ten or more units.<sup>5</sup> Essex falls short on the Subsidized Housing Inventory<sup>6</sup>, with only 40 units listed (2.7% of housing units in 2010). This share of Affordable Housing<sup>7</sup> only represents 2.4% of all units based on the 2020 housing unit count (1,662 units). Several survey respondents noted that housing affordability is an issue in Essex, with many calling for the Town to create more Affordable Housing for seniors and people with lower incomes. Focus group participants noted that while property owners have benefited from rising property values, the strong housing market, coupled with limited housing supply, has made it difficult for people to afford to move to Essex. Others mentioned that it is difficult to stay in Essex as prices rise. The Town's Economic Development Plan also recognized the town's housing challenges and recommended removing zoning obstacles to creating a full range of housing types, including both market-rate and Affordable Housing options.

## Allow Accessory Dwelling Units

Accessory dwelling units (ADUs) come in different shapes and sizes. Many are apartments located inside a single-family home or in a detached structure, such as a garage. Sometimes known as granny flats, in-law apartments, or secondary dwelling units, they include a kitchen, bath, and usually at least one bedroom. ADUs are a low-impact way to diversify housing options. ADUs can provide more affordable rental options and supplemental income to homeowners. They also provide accommodations for multigenerational households. 64% of survey respondents would like to see accessory dwelling units allowed throughout Essex, and they are the most desired housing type to allow beyond single-family detached homes in residential areas. The Town could enact an accessory dwelling unit bylaw that would regulate when these can be added to properties and how they look. Regulations could address:

- Minimum lot size requirement (e.g., 5,000 SF)
- Owner-occupied requirement (e.g., the property owner must live on site, either in the primary or accessory unit)
- Limit the number of ADUs allowed per lot
- Size and/or height limits (e.g., may not exceed 900 square feet or the size of the primary dwelling, whichever is smaller; maximum height of two stories)
- Parking requirements (by unit, not by bedroom)
- Design considerations (separate entrance, etc.)
- Setback and lot coverage requirements
- Title 5 wastewater regulation compliance for homes with septic systems

Accessory dwelling units are sometimes used as short-term rentals, which are currently unregulated in Essex. Short-term rentals should be prohibited from ADUs. See *Recommendation 4* for more discussion on short-term rentals.

Additional resources: [ABCs of ADUs](#) (AARP)

## Update requirements for two-family and multi-family homes

Requirements in the existing bylaw may make converting existing homes or building new two-family or multi-family homes more challenging than intended. The regulations are ambiguous when it comes to single-family attached residential uses, more commonly known as townhouses or rowhouses. Two-family homes (or duplexes) are permitted as of right but are subject to more use regulations than single-family detached units. Section 6-3.3.2.a imposes a bedroom limit on one of the units in a two-family residential

---

<sup>5</sup> Essex Economic Development Plan, 2020.

<sup>6</sup> The Subsidized Housing Inventory is used to measure a community's stock of low-or moderate-income housing for the purposes of M.G.L. Chapter 40B, the Comprehensive Permit Law.

<sup>7</sup> Affordable Housing is deed-restricted housing for low- (at or below 80% AMI) or moderate- (between 80% to 100% AMI) income households at a cost that does not exceed 30% of their monthly gross income.

structure. Removing this maximum bedroom requirement and instead relying on dimensional standards and Title 5 requirements for septic system to regulate unit size may be a more flexible approach and would avoid challenges under the federal Fair Housing Act. Section 6-3.2.2.d in “Notes for Table of Dimensional Requirements” could be amended to regulate three-unit and four or more-unit structures based on minimum land area by unit rather than bedroom. This requirement could also be clarified as to how it relates to minimum lot size. As the town creates additional zoning districts, more discussion around the types of housing, and at what scale, should be developed in certain areas could expand housing options.

### **Adopt an inclusionary zoning bylaw**

Inclusionary zoning encourages or requires developers to build Affordable Housing in their developments or provide a comparable public benefit, such as providing Affordable Housing in other locations (“off-site units”) or paying fees in lieu of units to an Affordable Housing Trust Fund. Past Town planning efforts have identified this as an effective tool for expanding the share of Affordable Housing in Essex. Inclusionary zoning can be done in a variety of ways, from providing flexibility in minimum lot area and parking requirements to density bonuses when Affordable units are provided. The Massachusetts Smart Growth Toolkit includes case studies from other cities and towns, including a [rural example from Dennis, Massachusetts](#).

Additional resource: [Massachusetts Smart Growth Toolkit: Inclusionary Zoning](#)

### **Refine the Open Space Residential Development requirements**

Rural communities like Essex are at risk of large undeveloped parcels being subdivided into single-family detached subdivisions with large estate lots. This type of sprawling development slowly can erode rural landscapes and result in inefficient public service provisions. To combat this less sustainable development pattern, cities and towns enact Open Space Residential Development requirements to promote cluster subdivisions that result in permanently protected open space. Section 6-13 of the Essex zoning bylaw allows for Open Space Residential Development (OSRD) subdivisions; however, the provisions have never been used. Barriers to employing OSRD subdivisions in Essex may include the five-acre minimum size requirement or that these types of subdivisions require a Special Permit. Section 6-13 could be amended to remove the minimum size requirement and allow OSRDs by-right, especially when a subdivision is resulting in more than 50 percent of permanently protected open space. Developments could be allowed by-right if low-impact development techniques<sup>8</sup> are used. Further review of Section 6-13 against the [model OSRD bylaw](#) and other best practices could result in subsequent refinements to make the tool more appealing.

Additional resources: [Massachusetts Smart Growth Toolkit: Open Space Design](#) and [Case Studies; Ipswich Example of OSRD with low-impact development techniques](#)

### **Compliance with Section 3A of the Zoning Act**

In 2021, the State Legislature added a new section (3A) to M.G.L. c. 40A (the Zoning Act) as part of an economic development bill to promote more housing choices near transit. The new section requires that MBTA communities have at least one zoning district of reasonable size that permits multi-family housing by-right. Other zoning criteria in the statute include a minimum gross density of 15 units per acre; located no more than ½ mile from a commuter rail station, subway station, ferry terminal, or bus station, as applicable; housing must not have age restrictions; and housing must be suitable for families with children. Essex is designated an MBTA community under the new bill. Section 3A notes that failure to comply with new requirements make communities ineligible for funds from the Housing Choice Initiative program, Local Capital Projects Fund, and MassWorks infrastructure program.

---

<sup>8</sup> Low-impact development (LID) principles employ landscaping and site design techniques that attempt to maintain the natural, predeveloped ability of a site to manage rainfall, resulting in a more environmentally friendly design.

The Massachusetts Department of Community Development (DHCD) is working with MBTA and MassDOT to prepare guidelines for how the new section of state law will be implemented. Draft guidelines were released in December 2021 and were available for review through March 31, 2022. Final guidelines will be issued in summer 2022.

Under the draft guidelines, MBTA communities have been organized into four different types, based on transit service. Essex is categorized as an “MBTA Adjacent” community, due to the lack of transit stations in or near (less than ½ mile) Essex. MBTA Adjacent communities are required to have a zoning district that allows multi-family by-right in an area that is at least 50 acres in size and contiguous. Since MBTA Adjacent communities are not within ½ mile of transit stations, the draft guidelines advise that the multi-family zoning district should be located “in an area with reasonable access to a transit station based on existing street patterns, pedestrian connections, and bicycle lanes, or in an area that otherwise is consistent with the Commonwealth’s sustainable development principles – for example, near an existing downtown or village center, near an RTA bus stop or line, or in a location with existing under-utilized facilities that can be redeveloped into new multi-family housing.” The zoning district’s multi-family unit capacity must be equal to or greater than 10% of the town’s total housing stock. In Essex, 10% of the housing stock is 166 (1,662 total housing units exist in Essex, according to DHCD and based on 2020 Decennial Census data). Guidelines include how to demonstrate unit capacity. It is important to note that Section 3A and draft guidelines do not require communities to build multi-family units. The intent is to ensure local regulations permit multi-family development near transit, should an application be made.

Essex currently allows multi-family residential by Special Permit in the “general” zoning district. The Downtown zoning district allows apartments as part of mixed-use by Special Permit. Multi-family with 3-4 units is allowed as-of-right. Multi-family with five or more units is allowed by Special Permit. MAPC is creating a tool to help towns assess how current regulations comply with gross density and unit capacity requirements of the draft state guidelines. As this information is available and the state guidelines are finalized, MAPC will help Essex further assess compliance with Section 3A and what potential amendments are required to ensure compliance.

For communities who do not currently comply with Section 3A, the draft guidance outlines a process for interim compliance. Communities can create an action plan and timeline for work associated with the creation of a conforming multi-family district. For MBTA adjacent communities, the action plan should be submitted by December 31, 2022 and approved by DHCD by July 1, 2023. The action plan must be implemented and result in adoption of a zoning amendment by December 31, 2024.

More information on this evolving guidance is available here: <https://www.mass.gov/info-details/multi-family-zoning-requirement-for-mbta-communities#review-the-draft-guidelines->

## Recommendation 4

### Align zoning and general bylaws with community values

During the interviews and focus groups, several residents mentioned that some development decisions made under the current zoning bylaw do not align with or reflect the community’s values. These values include protecting cultural, historic, and scenic resources and supporting small businesses, local tourism, and resilient and sustainable development. It should be noted that some of these issues can be addressed through zoning, but it may be more appropriate to amend the town’s general bylaws to address issues such as historic preservation, short-term rentals, or other topics that reach beyond zoning.

## Natural and Cultural Resource Protection

Essex's agricultural, coastal, and forested landscapes lend the town a signature beauty that has significantly contributed to its popularity as a tourist destination and scenic byway. Another major component of the Town's unique character are its scenic roads. The Scenic Roads Act (M.G.L. Chapter 40A Section 15C) is a valuable preservation tool that affords a certain level of protection to local roads which have officially been designated as scenic roads. This statute helps preserve the scenic, historic, and aesthetic characteristics of a community by providing an opportunity for the Planning Board to review the cutting or removal of trees or the alteration of stone walls within the public right-of-way of a designated scenic road. Apple Street, Belcher Street, Choate Street, and Story Street have been designated scenic roads by the Town of Essex under M.G.L. Chapter 40A Section 15C. However, the Town's current bylaw does not mention or reflect an established Scenic Roads Bylaw. The town should consider adding a new section to the bylaw that establishes specific policies and regulatory provisions for protecting natural, cultural, and historic resources, including scenic roads.

Public comments also supported exploring how historic resources can be better protected. The Town has a Historical Commission that administers the Demolition Delay bylaw, which requires demolition permit applications for structures that are more than 100 years old or have no documented construction date to be reviewed first by the Historical Commission. Essex has nearly 300 documented historic sites in the [Massachusetts Cultural Resources Information System](#), in addition to designated scenic roads. The Town could consider enacting historic districts to help protect clusters of historic resources or shape how future development looks along scenic roads. Preservation Massachusetts has more [information about local historic districts](#). The [Massachusetts Historical Commission](#) also provides local guidance for communities looking to expand local preservation efforts.

## Home Occupations

Residents appreciate the flexibility and convenience of being able to work from home and would like to see home occupations continue to be an allowed use. However, a general consensus is that additional tools are needed to improve enforceability. This includes requiring permits for home occupations and establishing tracking and reporting requirements. Essex currently regulates home occupations based on factors such as number of employees, number of parking spaces, and signage. Residents who want to establish home occupations could be required to sign an affidavit or other acknowledgement of the existing regulations, to aid in enforcement.

## Short Term Rentals

Like many other communities across the Commonwealth, Essex has recently experienced an influx in short-term rentals. The Town currently lacks a bylaw to regulate or ban short-term rentals. The Town should consider developing a permitting program to provide a regulatory framework to help control short-term rental activities and protect the residential nature of neighborhoods. Communities have chosen a variety of ways to regulate short-term rentals. If Essex decides to enact a bylaw, a review of similarly sized communities' permitting frameworks could provide the Town with different options to address community concerns.

## Resilient and Sustainable Development

Several residents expressed a desire to see zoning that promotes more resilient and sustainable development as climate change and rising sea levels will continue to greatly impact Essex. MAPC recently developed a [Climate Resilient Land Use Strategies toolkit](#) that offers a variety of regulatory options from floodplain and wetlands restrictions, to tree protection and water conservation, to design standards and zoning. Communities across Massachusetts are using their regulatory authority to address the growing impacts of rainstorms, sea level rise, heat, and drought. The Town should consider more comprehensively reviewing existing environmental regulations and ways to update them to promote more resilient zoning and site design standards to proactively address the impacts of climate change, especially those due to



sea level rise. This work should be done alongside the Conservation Commission, and could include adopting a wetlands or conservation bylaw, incentivizing green infrastructure and low-impact development techniques, and adopting design standards for development are just a few of the options that should be considered.

Additional resource: [MAPC Low Impact Development Toolkit](#)

## Recommendation 5

### Make the bylaw more user-friendly for both Town officials and the general public

Administering zoning bylaws is complex and often requires interpretation as land uses change and evolve and regulations become unclear over time. Bylaws can be especially difficult to navigate if they are not used frequently. The following suggestions would help Town staff and officials more easily understand and administer the bylaw, making the process more efficient. Changes would also help residents and property owners better understand what can occur on properties and how to understand what regulations mean and how to navigate the different application processes. Generally, the bylaw could benefit from being reorganized into the following sections:

- Section 1: Purpose and Authority (currently called “General Provisions”)
- Section 2: Definitions
- Section 3: Establishment of Zoning Districts (including Downtown and Conomo Point districts)
- Section 4: Use Regulations (including Table of Permitted Uses, special use regulations (currently in 6-3.3), and Section 6-5.11 Home Occupations)
- Section 5: Dimensional Requirements (including Table of Regulations)
- Section 6: Special Regulations (would include elements of Section 6-5, supplementary provisions)
- Section 7: Development Regulations (would include parking and signs)
- Section 8: Overlay Districts
- Section 9: Open Space Residential Development
- Section 10: Nonconforming Uses and Structures
- Section 11: Administration and Enforcement (would address Building Permits, Special Permits, Site Plan Review, Variances, and Enforcement)

Reorganizing in this way would also allow similar regulations currently scattered throughout, like use regulations or parking requirements, to be consolidated for easier reference.

Additionally, the following changes would make the bylaw more user-friendly:

- **Create a “Measurements” section.** Currently, guidance for how to measure and meet dimensional standards and development regulations are intermixed with definitions. For instance, the “Lot Frontage” definition describes both what the lot frontage is and how it is calculated. The definition for “Lot” includes computational guidance. Moving measurements and computations to the beginning of the proposed Section 4, Dimensional Requirements would clarify regulations.
- **Review and update definitions.** Many definitions contain regulations, which can easily be missed by zoning administrators or applicants trying to comply with all regulations. For instance, the definition for “Yard” states what is prohibited and allowed in these areas. The “Street” definition includes a minimum width requirement for new streets. Definitions should be reviewed and all regulatory language should be relocated to the appropriate section of the zoning bylaw.

As future zoning bylaw amendments are made, new definitions should be added, where necessary. Current definitions that are no longer relevant should be deleted. For instance, “Motor Vehicle Junk Yard” is not a term used in the bylaw. This definition should be updated to be “Junk Yard” and amended accordingly. “Building Area” is defined but not used elsewhere in the bylaw. “Building” is defined as “any structure affording shelter.” This seems unnecessary since both “structure” and “dwelling unit” are already defined. Special attention should also be given to how different housing types are defined.

Interviewees noted confusion with some of the definitions. For instance, one person said that the two types of industrial land uses – Class A or Class B – are difficult to distinguish. The definitions state, “building used for manufacturing purposes” but manufacturing is not defined. As the zoning bylaw expands more on the types of land uses allowed, clarifying what the different land use types are will be critical for administration.

- **Add graphics.** Adding graphics can help demonstrate how measurements are calculated or illustrate technical terms or concepts. The Essex bylaw could include graphics to illustrate dimensional standard requirements, parking design and directional signage examples, what “Town Character” means under 6-3.5.3, or examples of the different types of signs permitted under 6-7.
- **Consolidate procedures and authority.** The current bylaw has administrative functions scattered throughout, and authority, procedures, criteria, and process are not consistently explained. Administrative and enforcement functions should be consolidated into a new section, where the power, authority, and functions for the Building Inspector, Planning Board, and Zoning Board of Appeals are explained, as well as the process and criteria for Site Plan Review, Special Permit and Variances.

## Recommendation 6

### Improve the application review process

During the focus groups and interviews, we heard a variety of comments about development review procedures in the Town. Some participants mentioned a need for clearer review criteria and better descriptions of how each review procedure works. The Town should consider creating a user-friendly application packet that includes checklists and flow charts that explain the permitting process and outlines relevant sections of the bylaw that apply to each application type. The Town should also consider expanding staff capacity for pre-application meetings with residents and property owners to help explain requirements and gain a better understanding of regulations that will influence the project.

## Recommendation 7

### Expand staffing capacity to adequately administer and enforce the bylaw

A reoccurring theme heard from the public was the challenge of enforcement. Residents are frustrated when developments are permitted but do not get installed or built as they were approved. Some mentioned properties with unsightly outdoor storage, home occupations that have expanded beyond what is allowed, and permit conditions not being followed. Essex has very few full-time employees, which is likely limiting enforcement capacity. The Building Inspector, the primary staff person charged with administering and enforcing the bylaw, only works five hours a week. The Town recently hired a part-time Town Planner who works more closely with the Board of Selectmen and the Economic Development and Strategic Planning committees. The Town has a few options for expanding administrative and enforcement capacity.

- **Review staff responsibilities.** The Town should consider expanding the Town Planner’s capacity to support the Planning Board and Zoning Board of Appeals. The Town Planner could work with the Building Inspector on administering the zoning bylaw. For example, during application reviews, the Town Planner could focus on zoning compliance while the Building Inspector could focus on building code enforcement. Better utilizing the Town Planner’s planning expertise can help ensure zoning furthers longer-term planning goals for economic development, housing, and open space preservation. Having professional planning support for the Planning Board and Zoning Board of Appeals will also help ensure zoning state laws related to notice requirements, decision filing, etc. are being adhered.
- **Leverage zoning and planning resources and training opportunities.** During zoning interviews, one person noted that Essex boards and committees may not be as up-to-date on recent court decisions that impact planning and zoning decisions. Another person noted that meeting notifications and decision filing may be happening inconsistently. To help ensure that Town officials and volunteers are well-informed of their duties and responsibilities, as well as the constantly evolving rules, regulations, and trends in planning and zoning, the Town could require volunteers to participate in training sessions provided by the [Citizen Planning Training Collaborative](#) (CPTC). CPTC is a collaboration of UMass, Department of Housing and Community Development, Massachusetts Chapter of American Planning Association, Massachusetts Association of Planning Directors, Massachusetts Association of Regional Planning Agencies, and Mass Audubon with a goal to empower local land use officials to make effective and judicious decisions. Trainings are offered on a variety of topics. The Planning Board could also periodically invite Town Counsel or other speakers to share updates in case law or other planning topics such as climate change resiliency or historic preservation (two topics of great interest from recent engagement).
- **Review fees and fine schedules.** To help support expansion of staff and volunteer capacity, the Town should review application fees and enforcement fines. The Town could compare fees and fines to those charged in similarly sized communities. The Town could also consider enforcement costs and use violation fines (including daily fines for each day after notification that a property remains out of compliance) to help pay for expanded enforcement activities.

## Recommendation 8

### Develop a robust community engagement strategy to ensure zoning reflects community goals

This report is one step in a lengthy process of revising the Town’s zoning bylaw. Collaborative and inclusive community engagement will be crucial for the success of future bylaw amendments. To ensure that future zoning changes reflect community goals and have sustainable, long-term support, the Town should develop a robust community engagement strategy for the next phase of work.

- **Building Trust**  
During our review of the zoning bylaw, we heard several comments that revealed a lack of trust between Town officials and residents, and between residents and the business community. Trust is essential in communities like Essex that need creative strategies and solid teamwork to respond to uncertainty and change. The Town’s natural and built character and infrastructure are constantly evolving and continually require citizen input. Although the bylaw includes several requirements

for public hearings, residents expressed that those opportunities are sometimes poorly communicated and the degree to which citizen or bylaw users can influence the outcome of development review decisions is unclear. Building trust and fostering positive relationships between citizens and the Town will be key to making successful zoning changes. The Town should ensure that decision-making processes are clear and transparent, and that the community has a good understanding about what zoning topics can be influenced or changed through community input, and which ones are being guided by established regulations or policies.

- **Community Workshops**

Community visioning is an aspirational community brainstorming opportunity to take stock of where the Town is at and where community members would like to be in the future. This process can help create a shared vision and identify common goals that frame future collective decision-making at Town board and committee meetings. Given that the last comprehensive plan for Essex was adopted in 2004, we recommend that the Town kickoff the next phase of work by engaging in a community visioning exercise to identify the sentiment needed to support successful zoning changes. In addition, the 2021 Local Rapid Recovery Plan recommends that the Town conduct a series of community workshops and informational sessions as zoning amendments are being developed. These working sessions with the community would help determine where new zoning districts should be located and what future development should look like in Essex. The March 2022 community forum asked how residents in attendance at that time would like to engage in future community meetings. There was strong support for continuing to hold virtual events. Once zoning amendments are drafted and ready for public review, employing a virtual online open house that would be available for a short period of time might help expand the engagement reach and generate more support in the long run.

- **Zoning Champions Working Group**

One of the most important parts of a successful planning process is broad and inclusive outreach. For the next phase of work, we recommend that the Town establish a Zoning Champions working group made up of 10 – 15 individuals who will advocate and support improvements to the Town's zoning bylaw. These individuals could be those who engaged the most during this phase of the project, or Board of Selectmen members, representatives of Local Business or Social Groups, workers, Town Meeting members, or other Community Stakeholders. The "Zoning Champions" will participate in a community engagement training process and work with Town staff to implement a comprehensive outreach strategy. This process will lay the groundwork for the needed community engagement to turn residents out for ongoing participation in this zoning project.

## Next Steps

The Town is applying for a state planning grant through the Community One Stop for Growth application process to fund the next phase of work, which is implementing zoning recommendations. Given the breadth of these recommendations, the Planning Board and Board of Selectmen may want to work with the public to prioritize zoning amendments and establish a phased approach to updating the bylaw. First amendments, for consideration at Town Meeting in Fall 2023, could focus on establishing new zoning districts (Recommendation #1) to address the biggest concerns voiced about incompatible land uses and refining the bylaw to make it more user-friendly (Recommendation #5). As new zoning districts are created, use regulations and development standards would be addressed (Recommendation #2). Compliance with Section 3A of the Zoning Act should be prioritized to ensure compliance with state law (zoning amendments must be adopted by December 31, 2024). Components of other recommendations, such as enacting inclusionary zoning, allowing accessory dwelling units, or working with the Conservation Commission on a local wetlands or conservation bylaw could be completed for subsequent Town meetings.

# Appendices

**A. Supplemental Maps**

**B. Summary of Survey Results**

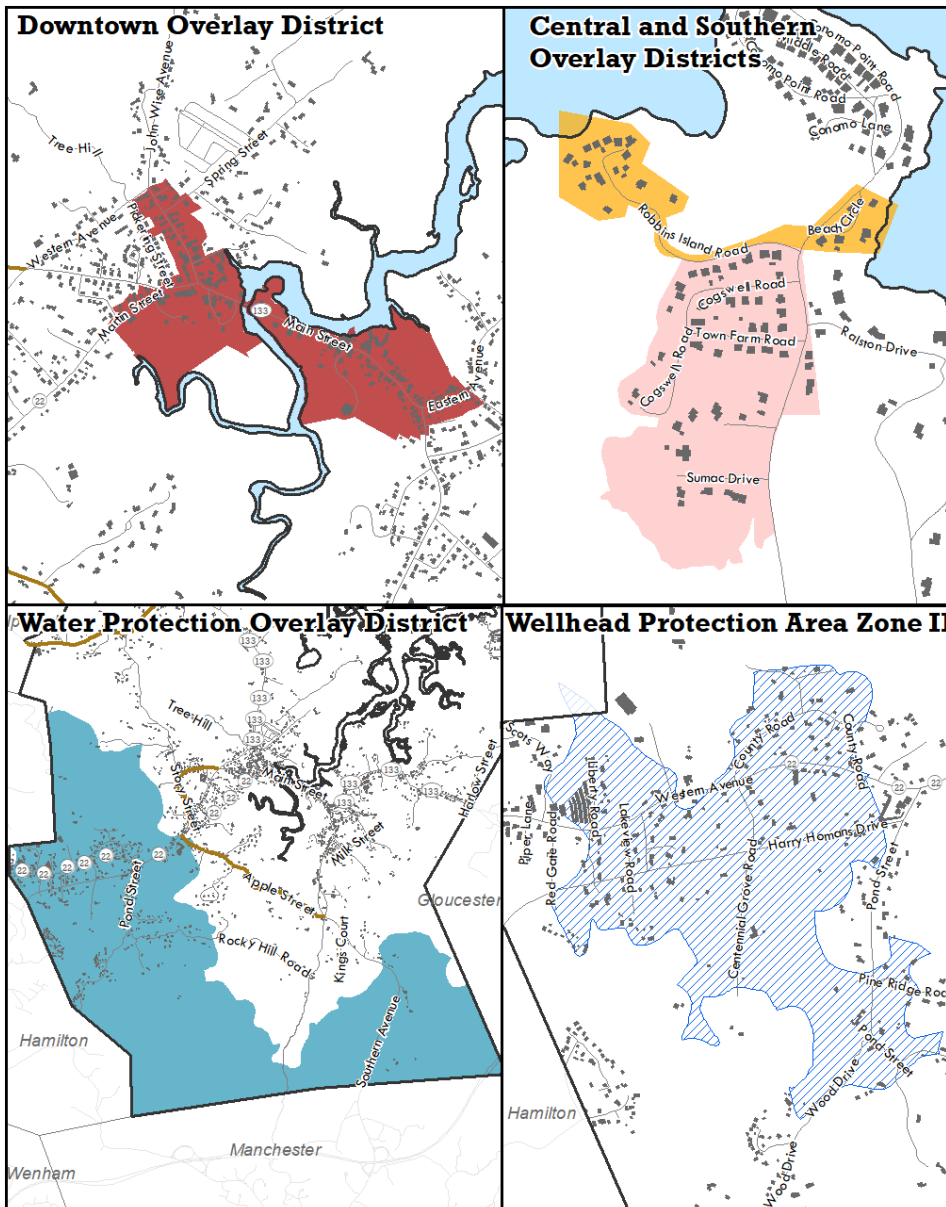
**C. Complete Survey Results**

**D. Written Public Comments**

## **Appendix A – Supplemental Maps**

The following maps were created to better understand the existing development patterns in Essex and will be useful for drafting future bylaw amendments.

**Map A-1: Building Footprints**



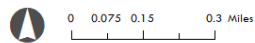
- Building Footprints
- Central District Overlay
- Southern District Overlay
- ▨ Wellhead Protection Area Zone II
- Water Protection Overlay District
- Scenic Roads
- All Roads
- Interstate
- U.S. Highway
- State Route
- Non-numbered route
- Municipalities

The information depicted on this map is for planning purposes only. It is not adequate for legal boundary definition, regulatory interpretation, or parcel-level analyses.

Produced by:  
Metropolitan Area Planning Council  
60 Temple Place, Boston, MA 02111 | (617) 933-0700

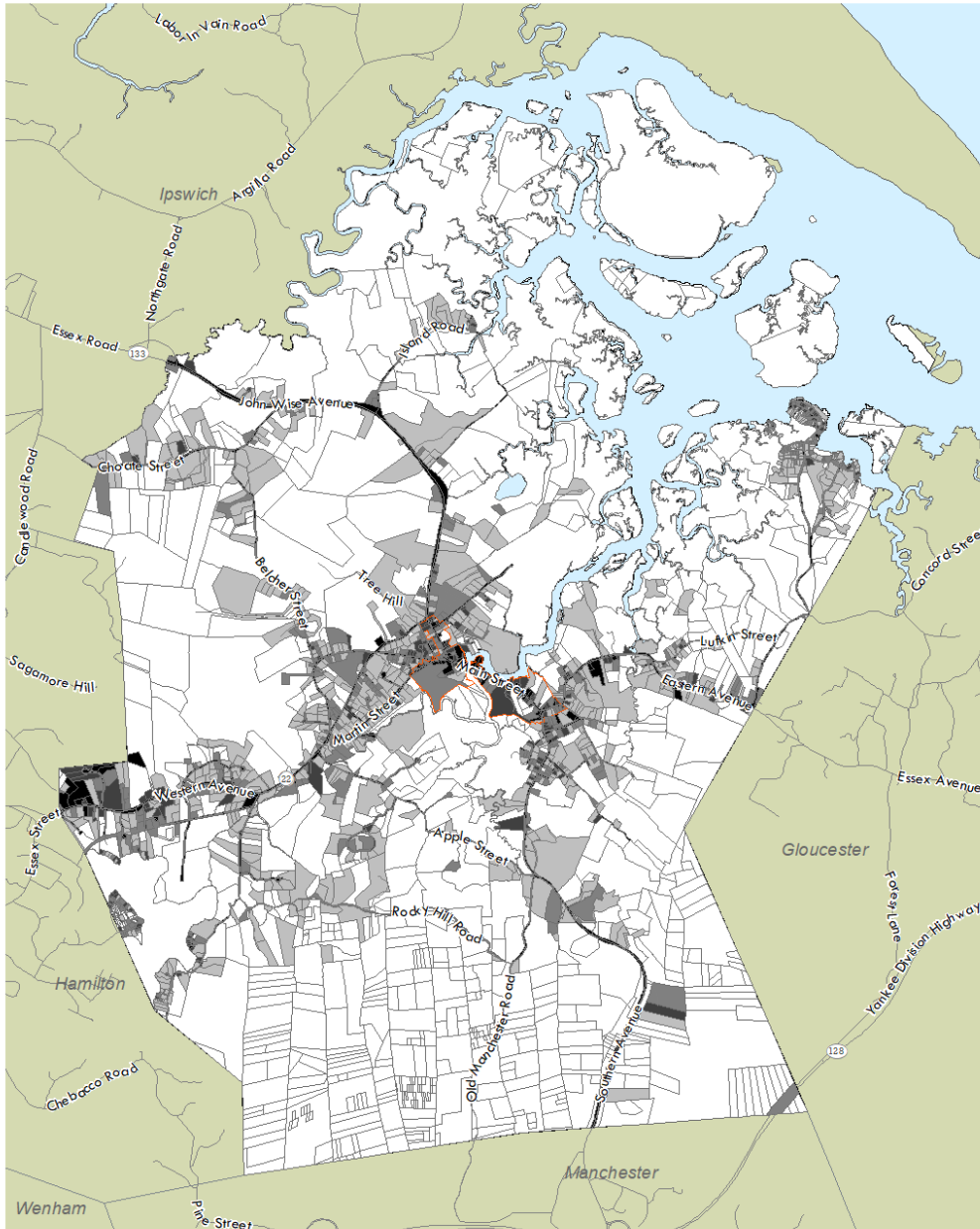
Data Sources: MAPC, MassGIS, MassDOT, Town of Essex

February 2022



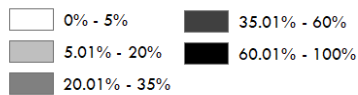
Document Path: \\data-001\public\DataServices\Projects\Current\_Projects\Neighborhood\_Planning\_and\_Zoning\Zoning\_Projects\Essex\_Zoning\_Diagnostic\_Report\Project\_Files\EssexZoning\_BldgFootprint\_2021


**Map A-2: Land parcels by Impervious Surface Coverage**



**Land Parcels by Impervious Area**  
Essex, MA

**Percent Impervious Area**



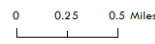
 Downtown District Boundary

The information depicted on this map is for planning purposes only. It is not adequate for legal boundary definition, regulatory interpretation, or parcel-level analyses.

Produced by:  
Metropolitan Area Planning Council  
60 Temple Place, Boston, MA 02111 | (617) 933-0700

Data Source: MAPC, MassGIS, MassDOT

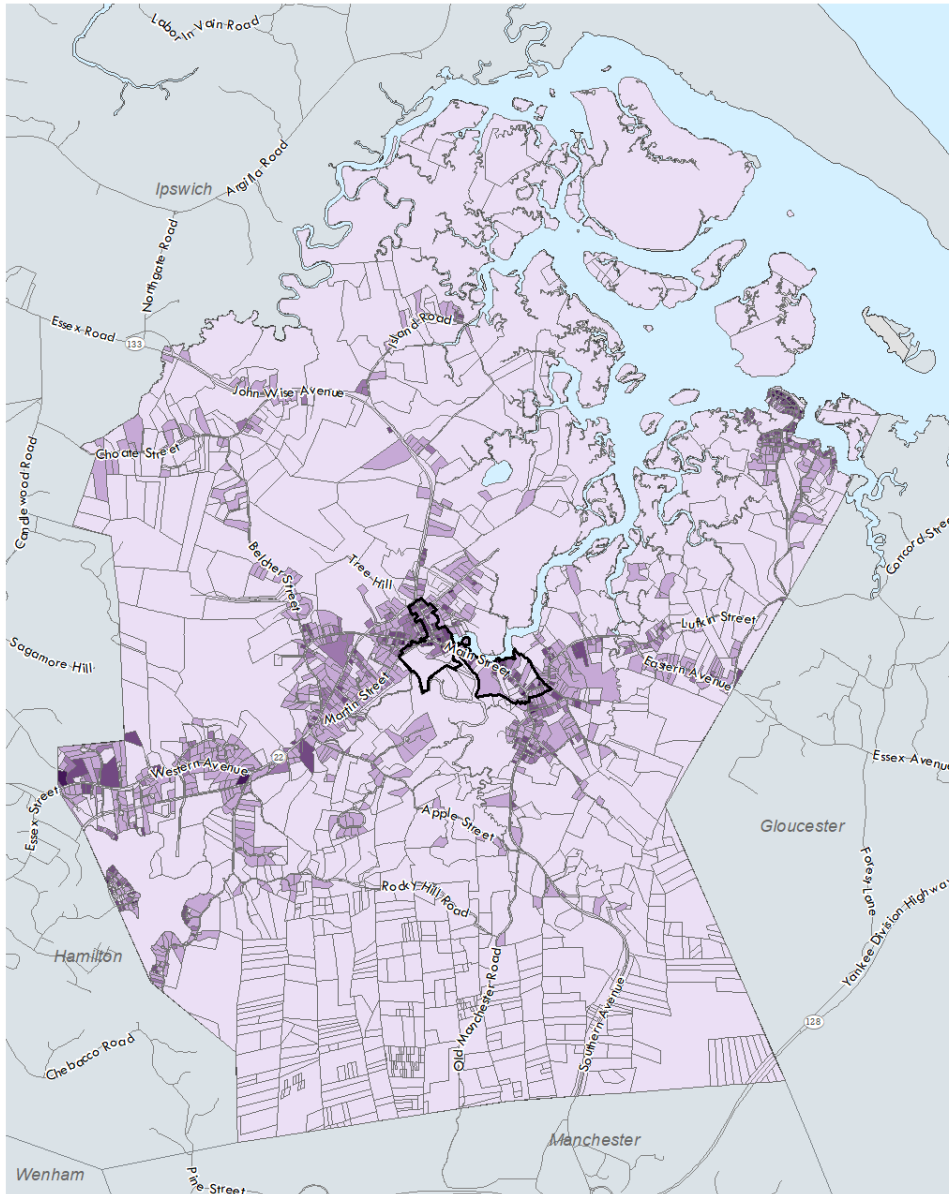
February 2022



Document Path: \\data-001\public\Data Services\Projects\Current\_Projects\Neighborhood\_Planning\_and\_Zoning\Zoning\_Projects\Essex\_Zoning\_Diagnostic\_Report\Project\_Files\EssexZoning\_ImperviousSurface.mxd



**Map A-3: Land parcels by Building Lot Coverage**



**Land Parcels by Lot Coverage**  
Essex, MA

**Percent Building Coverage**

- 0% - 2.5%
- 2.51% - 10%
- 10.01% - 15%
- 15.01% - 30%
- 30.01% - 70%

□ Downtown District Boundary

The information depicted on this map is for planning purposes only. It is not adequate for legal boundary definition, regulatory interpretation, or parcel-level analyses.

Produced by:  
Metropolitan Area Planning Council  
60 Temple Place, Boston, MA 02111 | (617) 933-0700

Data Sources: MAPC, MassGIS, MassDOT

February 2022

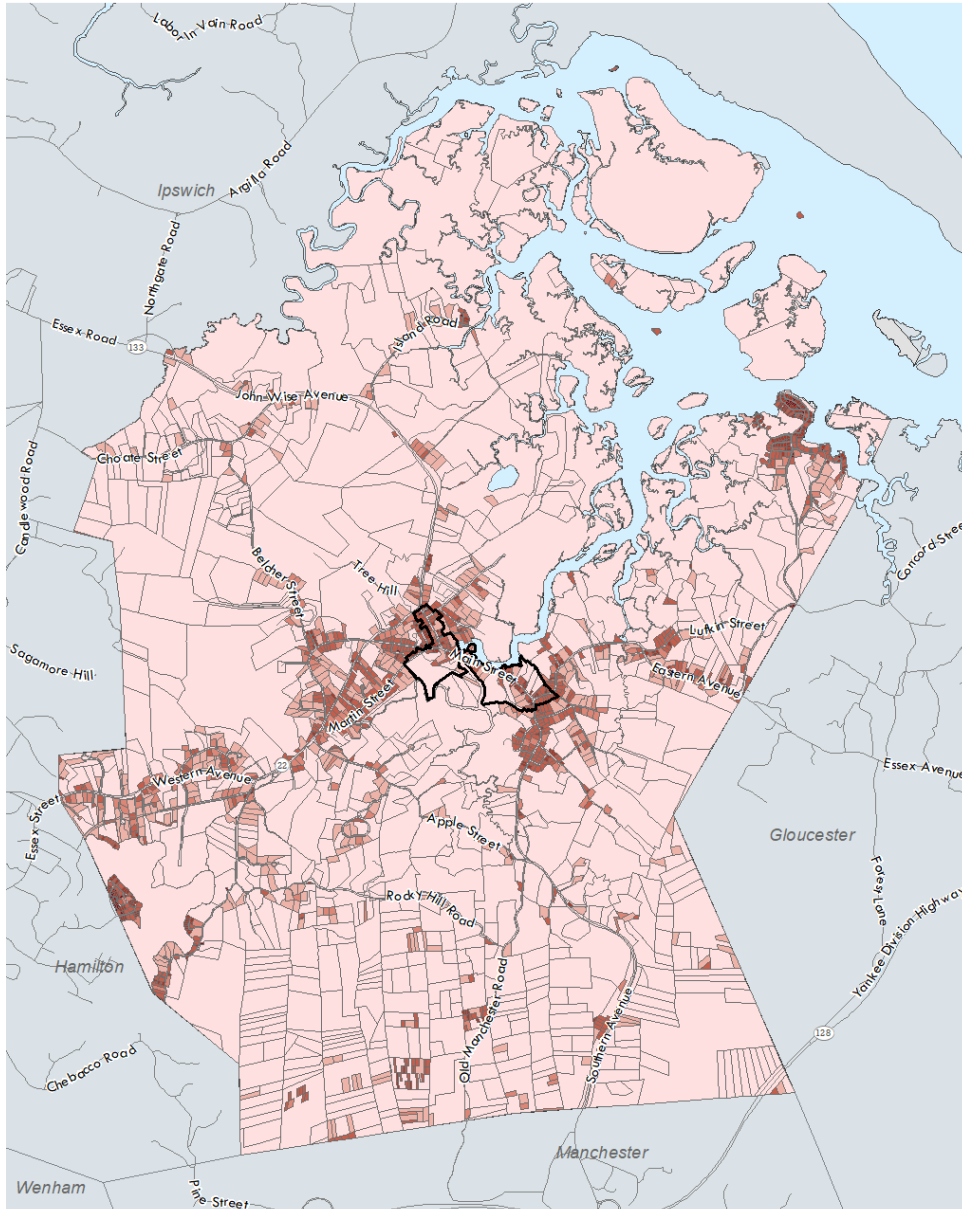


0 0.25 0.5 Miles



Document Path: \\data-001\public\DataServices\Projects\Current\_Projects\Neighborhood\_Planning\_and\_Zoning\Zoning\_Projects\Essex\_Zoning\_Diagnostic\_Report\Project\_Files\EssexZoning\_LandParcels\_LotCoverage.mxd

## Map A-4: Land parcels by Lot Size



### Land Parcels by Size Essex, MA

#### Lot Area (square feet)

Dark Red	< 5000	Orange	30001 - 40000
Red	5000 - 10000	Light Orange	40001 - 80000
Light Red	10001 - 30000	Very Light Orange	> 80000

Black Outline: Downtown District Boundary

The information depicted on this map is for planning purposes only. It is not adequate for legal boundary definition, regulatory interpretation, or parcel-level analyses.

Produced by:  
Metropolitan Area Planning Council  
60 Temple Place, Boston, MA 02111 | (617) 933-0700

Data Sources: MAPC, MassGIS, MassDOT

February 2022

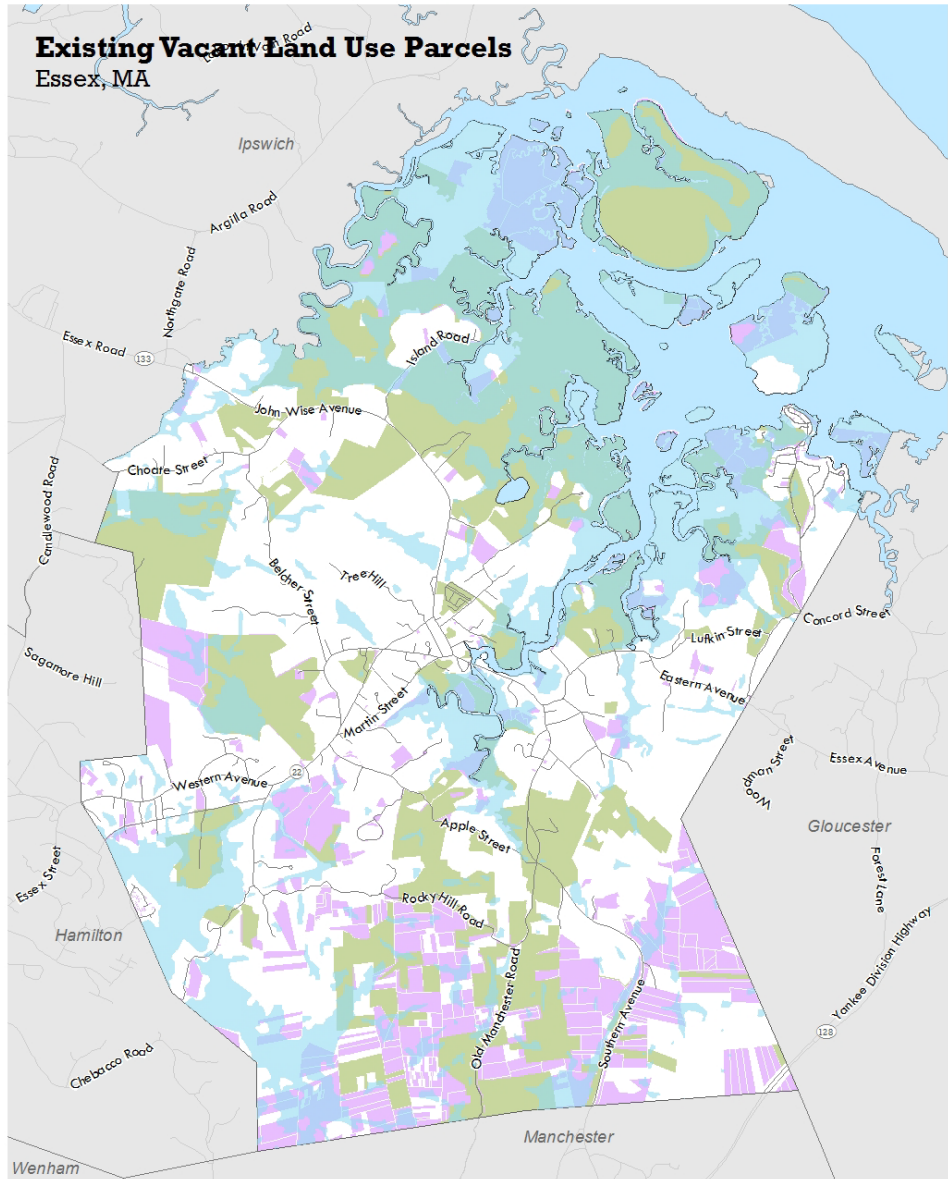


0 0.25 0.5 Miles



Document Path: \\data-001\public\Data Services\Projects\Current\_Projects\Neighborhood\_Planning\_and\_Zoning\Zoning\_Projects\Essex\_Zoning\_Diagnostic\_Report\Project\_Files\Essex\_Zoning\_LandParcelsBySize.mxd

**Map A-5: Vacant parcels (shown alongside open space)**



- Water Resources
- Open Space
- Vacant

The information depicted on this map is for planning purposes only. It is not adequate for legal boundary definition, regulatory interpretation, or parcel-level analyses.

Produced by:  
Metropolitan Area Planning Council  
60 Temple Place, Boston, MA 02111 | (617) 933-0700

Data Sources: MAPC, MassGIS, MassDOT.  
Based on Assessor's data.

June 2022

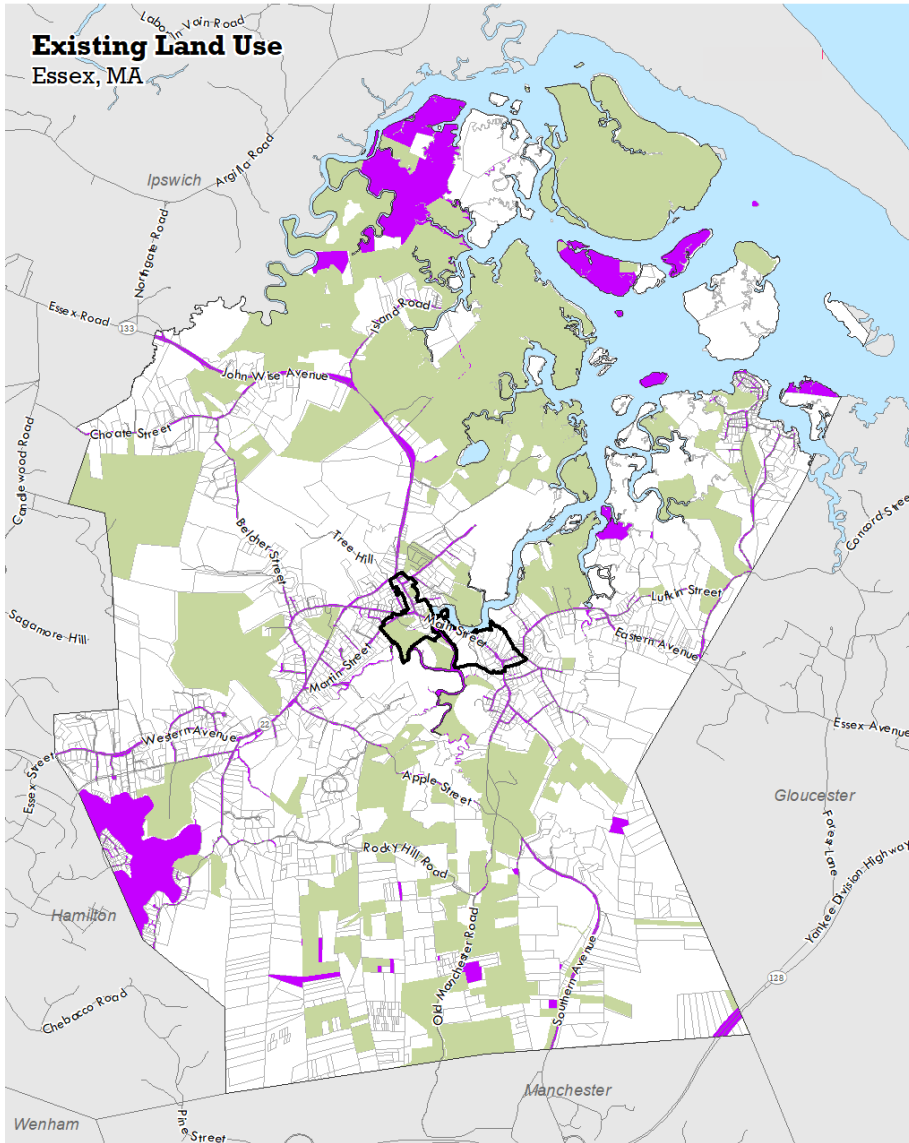





0 0.25 0.5 Miles



Document Path: \\data-001\public\Data Services\Projects\Current\_Projects\Neighborhood\_Planning\_and\_Zoning\Zoning\_Projects\Essex\_Zoning\_Diagnostic\_Report\Project\_Files\EssexZoning\_LandUse\Vacant+Water

**Map A-6: Parcels with missing land use designations**



-  Downtown District Boundary
-  Parcels missing LUC
-  Essex Parcels

The information depicted on this map is for planning purposes only. It is not adequate for legal boundary definition, regulatory interpretation, or parcel-level analyses.

Produced by:  
Metropolitan Area Planning Council  
60 Temple Place, Boston, MA 02111 | (617) 933-0700

Data Sources: MAPC, MassGIS, MassDOT  
Based on Assessor's data.

February 2022



0 0.275 0.55 Miles



Document Path: \\data-001\pub\blc\Data Services\Projects\Current\_Projects\Neighborhood\_Planning\_and\_Zoning\Zoning\_Projects\Essex\_Zoning\_Diagnostic\_Report\Project\_Files\EssexZoning\_ParcelswLUC.mxd

# Appendix B

## Summary of Survey Findings

# Appendix C

## Complete Survey Results

# **Appendix D**

## **Written Public Comments as of 4/11/22**

The Essex Historical Commission would like to take the opportunity to develop Historic Districts and Scenic Byways in conjunction with the broader zoning efforts and proposals being developed by the town.

The Commission understands that the Essex Board of Selectmen in conjunction with the Planning Board are looking into bringing the town's zoning bylaws into conformance with the majority of the Commonwealth's zoning standards. We see these proposed changes as a partnership and method to accelerate the efforts of the Historical Commission in adopting Historic Districts and Scenic Byways to better preserve and promote Essex's unique character and history.

The Commission would like the opportunity to engage in the effort and understand how Historic Districts and Scenic byways might affect zoning bylaws and districts. Historic districts and Scenic byways are changes to the town bylaws and would require the same public interface and approval as the zoning changes. Studies to determine the Historic District boundaries, characteristics, history and rules would need to be completed in conjunction with the proposed districts. Typically these studies are performed after individual house surveys are completed or as larger surveys are conducted.

The HC has from time to time hired qualified consultants to perform studies or reports. In the past the funding for these studies came from the CPA. Unfortunately the commission was turned down in our spring in our request for funding. The CPC's rules seem to have changed (on the state level) essentially eliminating surveys (non-tangible) projects from receiving funding. The HC would like to work with the Board of Selectmen to develop funding for the HC to perform these studies and other work on an annual basis.

Let us know how we can help with this exciting work to engage and enhance our town.

Essex attracted our family for two primary reasons, both related to its rural character: its beauty and its tranquility. We were lucky to find a house on the marsh with a distant view of the river. We never tire of watching the wildlife--especially the deer and birds (ducks, egrets, blue herons)--and enjoying the natural beauty and quiet of the changing seasons. Unfortunately, with the construction and growth of Riversbend and with the increasing desire of restaurants to provide outdoor entertainment, some of that beauty and quiet has been lost. I was grateful for the Select Board's recent adoption of a policy to restore some of the quiet (assuming they implement it).

However, the absence of zoning and the continued pressure for more businesses are sources of concern about the slow erosion of the quiet, scenic, rural character of the town. The current bylaws seem to value this character:

*"6-3.5.1 Purpose. The site plan review bylaw regulates the development of structures and sites permissible under present zoning. The review process considers the following site specific concerns and where necessary requires modification of development proposals to eliminate or minimize potential problems and nuisances.*

*The principal areas of concern are:*

- a. The convenience and safety of vehicular and pedestrian movement within the site adjacent areas and roads.*
- b. The protection of historic and natural environmental features on the site under review, and in the adjacent areas.*
- c. To ensure the placement and aesthetics of the proposed development is safe, healthy, and in keeping with the community and neighborhood character so as to avoid substantial detriment to the community and neighborhood."*

Other parts of the bylaws specifically address the visual beauty of the town by requiring screening of unsightly items and harmonizing man-made structures with nature:



*"d. Existing Vegetation: Minimizing the area over which existing vegetation is to be removed. Where tree removal is required, special attention shall be given to planting of replacement trees and undergrowth.*

*e. Amenities: The applicant's efforts to integrate the proposed development into the existing landscape through design features such as vegetative buffers, roadside plantings, and the retention of open space and agricultural land.*

*f. Town Character: The (building setbacks) area and location of parking, architectural compatibility, signage, and landscaping of the development, and how these features harmonize with the surrounding townscape, neighborhood, and the natural landscape, as far as practicable by minimizing any grade changes and vegetation and soil removal.*

*g. Screening: Screening consisting of a solid fence, wall or evergreen planting, in all cases not less than six (6) feet in height or as specified by the Planning Board, shall be provided, erected and maintained wherever feasible to shield the business and light and industrial uses for any residential property."*

Given these general bylaws and the existence of a town conservation commission, it strikes me as amazing that Riversbend and the large marina were even permitted to be built on that small peninsula at the end of Dodge Street: why Curt was allowed to clear-cut all trees and vegetation between the restaurant and the river; why he didn't have to retain some of the trees and replace some of the vegetation; why he was allowed to put a paved road over the marsh; why no consideration was given to the traffic implications for Dodge Street; why he doesn't have to screen the ever-growing fleet of all those ugly shrink-wrapped boats and the trailers from the view of the many people who live within view of his businesses. Even now, I wonder why he hasn't yet been told that adding a third business to that tiny peninsula, the wedding venue for which he continues to scheme, is never going to be allowed. (I suspect that his plan for a massive barn is just preparation for a future change-of-use application.)

I focus specifically on 35 Dodge Street because it seems emblematic of a darker side of another aspect of the character of the town: the long-standing tendency of town leaders to give business interests preference over the interests of residents who want to maintain the rural character--the beauty and peacefulness--of the town and, especially, their neighborhood. Right now, much of the attention is focused on property near the water, where, increasingly, the goals of businesses seem to be revealed in the new brewery's initial desire to host "boisterous parties," which, thanks to the Select Board, has been thwarted. But businesses can spring up anywhere (eg., the marijuana store, the cell tower), and the town beyond the water is equally lovely and quiet. Some inland people may adopt a "live free or die" attitude and not really care about the conflicts over noise between residents and businesses on the river, until suddenly, a business wants to move in next door to them (e.g., the proposed wedding venue for Island Rd.).

So I am grateful that the Planning Board wants to articulate more specific bylaws that require that both noise and ugliness be contained within the boundaries of business properties wherever they are--a real challenge in an unzoned town that allows businesses and residences to be abutters. How do you stop noise at a property line? Whose definition of beauty shall prevail? What constitutes too much traffic? What does harmonize mean?

However, grateful though I am about the impending development of new bylaws, I worry that, for any bylaws to really take effect, the attitude of some town leaders will need to change. I have heard unpleasant stories from residents who have tried to get the Planning Board and building inspector to apply even the current bylaws when a business applicant has materialized next door. These residents speak of being bullied, demeaned, and intimidated in public meetings, their concerns dismissed as irrelevant. They have felt, as I have often felt, that any appeals to bylaws, any legitimate objections to business desires, are quickly labeled "anti-business" and dismissed using the mindless bromide that "whatever is good for business is good for the town." What is good for business may be good for business; a great deal more analysis and thought are needed to determine if it's also good for the town, a neighborhood or a neighbor. You can't legislate psychological shifts, but one is badly needed in this town.

So unless the Board also commits to ENFORCING THE BYLAWS, Essex will not remain the Essex that many of us want to live in. I have to confess that I wonder whether we would be having this conversation if the bylaws that already exist and that I have cited above had been enforced, so I worry about whether simply creating more bylaws will result in preserving the character of the town. The businesses at 35 Dodge do not "harmonize" with the natural surroundings. The whole peninsula has become an eyesore, and the intention of the owner remains to make it also a noisy eyesore. Why are someone's business goals more important than those of the residents negatively affected by those goals?

Everyone likes to talk about the rural assets of the town and the importance of maintaining the character of town, river, and the Great Marsh, but decisions that allow disasters like 35 Dodge Street and that continue to increase the noise and bright lights that affect the marsh do not jibe with that talk. Ample research exists about the effect of noise and illumination on shore bird populations. It would be nice if the Conservation Commission studied this research and broadened its concern with preserving habitat, wildlife and the character of the town beyond the narrow limitations of Chapter 40, section 8C. Perhaps the Planning Board will fill the void--both for establishing laws and ensuring their enforcement.

At stake, in addition to the quality of life, is the value of residential property, which is quite expensive to buy but which instantly loses value when a neighbor converts a residence to a business or when a business spoils the original view that was part of a property's initial value. The modest meals tax, which is generated only by restaurants and which contributes little to the bloated budget of this small town, cannot offset the potential of new businesses to devalue the property of residential abutters. It seems to me that the potential for devaluation of surrounding property might be another litmus test for any decisions regarding future permits for new businesses.

*Note: the following email was received following a focus group meeting.*

Thanks very much for your leadership during today's Zoom meeting. I have been thinking about some of the points raised, and I want to make sure that MAPC truly appreciates the concerns over noise that many of us, especially those who live along the river and/or in proximity to various restaurants, have. You also heard the same concern expressed about those who have experienced a noisy (non-restaurant) business established next door. I am attaching some excerpts from The Southern Medical Journal that highlight some of the issues.

I think you (and we) have quite a challenge ahead. My experience with humanity suggests that once those clear rules that we like to pretend we want are established, people then spend all their time looking for ways around them. The right of the individual to make more and more money is the summum bonum of capitalism, not any concept of the greater societal or planetary good.

However, I shall do my best to remain optimistic about the chances of your success in threading the needle between the better and worse angels of human nature.

*Attached excerpts from Southern Medical Journal:*

The Southern Medical Journal published a study entitled "Noise Pollution: A Modern Plague." It explains the many health effects of noise pollution, including cognitive impairment, aggression, depression, sleep interference, cardiovascular disease, and other problems, and it states that "particularly vulnerable groups" include the elderly and those with sleep disorders. Here are some further points the article makes:

"Noise has been used as a noxious stimulus in a variety of studies because it produces the same kinds of effects as other stressors. The term annoyance does not begin to cover the wide range of negative reactions associated with noise pollution; these include anger, disappointment, dissatisfaction, withdrawal, helplessness, depression, anxiety, distraction, agitation, or exhaustion. Lack of perceived control over the noise intensifies these effects."

"Other less direct effects of annoyance are disruption of one's peace of mind, the enjoyment of one's property, and the enjoyment of solitude."

"Average outdoor residential day-night sound levels below 55 dB were defined as acceptable by the EPA; acceptable average indoor levels were less than 45 dB. To put these levels into perspective, sound levels produced by the average refrigerator or the sounds of the typical quiet neighborhood measure about 45 dB. Sound levels above this produce annoyance in significant numbers of people."

"The results of annoyance are privately felt dissatisfaction, publicly expressed complaints to authorities (although underreporting is probably significant), and the adverse health effects already noted. Given that annoyance can connote more than slight irritation, it describes a significant degradation in the quality of life, which corresponds to degradation in health and well-being. In this regard, it is important to note that annoyance does not abate over time despite continuing exposure to noise."

*Note: the following email was received following a focus group meeting.*

Thank you for the focus group this morning. I have been looking forward to this conversation and look to continue assisting you in this process.

I did not want to monopolize the conversation this morning. Here are some additional thoughts, items and resources I have been collecting. The town of Essex will be facing significant changes and pressures in the future. A strong zoning bylaw can allow for development to keep the town solvent while also enhancing the reasons why we live here and the draw to the businesses that exist. Zoning can also help protect the town and set it up to better face the challenges that Essex will face as a community and as participants in this planet. As you probably know the town lacks diversity in all categories. I want a zoning bylaw that removes barriers to access, while preventing development that plays lip service to affordable housing (for instance) without actually resolving our need.

Sorry for the long list. I continue to try to develop it and educate myself how zoning fits into solutions for our community. As an architect I can have blinders on planning initiative or have aspirations that are difficult to regulate at that level. I do know that there are many initiatives that can be taken to better our zoning bylaws.

### **Essex Zoning - Historical, Sustainable, Resilient, Health, Ecology, and Equity**

#### **Historical**

##### H1: Historical Districts

- Align Districts with current or future Historical Districts
- Provide Framework for Historical Districts
- Utilize this zoning initiative to develop and define HDs

##### H2: Historical Precedents

- Align Setbacks and Lot Sizes with Historical Use and Implementation per district or region. Allow for exceptions to match surrounding precedent

#### **Sustainable**

##### S1: Solar

- Regulate Solar access at the site level
- Require subdivision solar orientation analysis

##### S2: Wind

- Remove Obstacles
- Create Incentives

##### S3: Geothermal

##### S4: Composting

##### S5: Green/ Cool Roofs

##### S6: Green Infrastructure

- Charging Station(s)

- Waste Management

S7: Building Materials

S8: NET ZERO & Carbon Reduction Initiatives

- Reward All Electric Construction
- Eliminate Gas
- NET ZERO CITY

<https://netzerocitybook.com/>

### **Resilient**

R1: District Power

R2: District Sanitary

R3: Water

- Permit Water Harvesting
- Water Conserving Landscape Standards

### **Health & Wellness**

W1: Micro Farming

W2: Role of Public Health Boards

<https://www.cdc.gov/healthyplaces/publications/landusenalboh.pdf>

W3: Heath Eating and Active Living

- Promote Compact, Mixed-Use And Transit-Oriented Development
- Increase Walking And Biking Through Pedestrian- And Bike- Friendly Street Design Standards

<https://www.healcitiesnw.org/policies/land-use-and-transportation/healthy-zoning-regulations>

W4: Public Lands Access

- Offer Additional Open Space Credits for maintaining public lands access
- Allow/Require Community Gardens as open space set aside

W5: Building Materials

- Exclude building materials that are dangerous to health and ecology
- Promote building materials that are RED LIST FREE

<https://living-future.org/declare/declare-about/red-list/>

### **Ecology**

E1: Dark Sky

<https://www.darksky.org/>

E2: Ecosystem Health

- Targeted zoning - without placing unnecessary constraints on all locations.

<http://conservationmaven.com/frontpage/does-land-use-zoning-protect-ecosystem-health.html>

### **Equity**

Q1: ACCESS

- Mandate Equity Analysis & Provide Minimums
- Develop Deed Restricted Affordable Housing

<https://www.policylink.org/resources-tools/inclusionary-zoning>

Q2: Small Scale Affordable Housing

- Reduce the number of Units that require Mandatory Affordable Housing

### **Links**

NET ZERO City - <https://netzerocitybook.com/roadmap/>

International Dark Sky Association - <https://www.darksky.org/>

Zoning for Sustainability: A Review and Analysis of Zoning Ordinances of 32 Cities in the United States

<https://www.tandfonline.com/doi/full/10.1080/01944363.2014.981200>

Green Zoning: Creating Sustainable Communities Through Incentive Zoning

[https://www.hks.harvard.edu/sites/default/files/centers/rappaport/files/schaffner\\_waxman.pdf](https://www.hks.harvard.edu/sites/default/files/centers/rappaport/files/schaffner_waxman.pdf)

Sustainable Code Intro – RMLUI

[https://static.sustainability.asu.edu/docs/SCN/may10\\_valleywide/Sustainable\\_Code\\_Intro\\_AZ0510.pdf](https://static.sustainability.asu.edu/docs/SCN/may10_valleywide/Sustainable_Code_Intro_AZ0510.pdf)

Hi Essex Planning Board and Andrea Harris-Long, MAPC Land Use Planner,

Unfortunately I won't be able to attend the upcoming Public Forum for the Zoning Bylaw Review in Essex Ma but wanted to submit my thoughts for the record.

First, thank you very much for your planning service in general and for hosting the forum in particular. I don't have a lot of specific recommendations with regards to dimensional requirements or §7.6.2 findings but wanted to offer some more generalized observations and recommendations:

**I. General "Zeitgeist" of the Town of Essex, 2022**

- a) Fiscally, the town government is in good shape but there are some serious budget issues coming up this year and in the near future (school budget, trash removal contract, rebuild the elementary school, water pipe replacement, etc.)
- b) I've noticed a real raise-the-drawbridge attitude in the residents over the past 5 years: No chicken slaughterhouse, no pot shop, no noise, no traffic, no wedding venues, no strangers in Centennial Grove or on our Town Landing, no celltower, no nuthin!
- c) There are a lot of land use pressures on the North Shore, with up to 500 units in 3 developments being proposed, with all 3 of them within 5 miles of Essex's Town Hall .

**II. Land Use Issues Facing Essex**

- a) Housing stock shortage in general, with prices skyrocketing in past 3 years
- b) Lack of affordable housing units in particular
- c) A downtown that is moribund/dying, with empty (and several abandoned) buildings or building being torn down for parking lots
- d) Land user pressures on the periphery of town

**III. Recommendations for PB**

- a) If Essex continues down the path of stratification and homogenization in terms of socioeconomics & demographics, we will wither as a town. We might as well dis-incorporate and ask Ipswich to take us back.
- b) Check out H4363 and see if there are components that we as a town could adopt.
- c) At this point don't care what you do, but do something to encourage more development, density and usage downtown.
- d) Do what you can to help our affordable housing numbers. I would prefer to see a multistory mixed use, affordable housing unit downtown where the fire station was. I am probably alone in this sentiment, but I'd rather see that than see the land on Rt.133 and Luftkin Point Road gobbled up by McMansions.
- e) Reach out to the committees of other town and work together to plan regionally. We need to manage shared resources like the Chebacco Watershed Area in a organized fashion - the "every town for itself" and "your-committee-job-is-just-sign-what's-put-in-front-of-you" no longer works and is no longer an option in an era of pandemics and global warming.

Good luck!

Notwithstanding segmented commercial/residential concerns, I'm interested in learning about water-front zoning, zoning waterways for safe watercraft passage, moorages, and commercial aquaculture.

I'm writing to you because the questionnaire session expired and I couldn't start over, so I'd like to express a few thoughts and considerations here, with your acceptance.

Since moving to Essex 40 years since I've seen the town change broadly, from a white working class cultural backwater to a predominantly white gentrifying bedroom community. There's been marked increase in wealth for many, the economic system has delivered substantially and the societal and environmental repercussions have been successfully denied and outsourced. As I think anyone with a reasonable picture of current affairs has figured, the coming decades are probably going to be riskier, and potentially more fragmented than historically- at least in this country. I think Essex will need to adapt tremendously to thrive or survive.

We know definitely that sea level rise of 1' is expected within 30 years, along with a probable warming to about 2 deg C at current projections, which usually have an inbuilt undercount. If some tipping points, such as the Thwaites glacier are breached, the rise would be substantially greater. The N.east including the gulf of Maine is experiencing increased temperature rise, which will only exacerbate the current storms, precipitation and likely droughts.

Recent Government reports suggest that as temperatures and climate fluctuate, the pressures on society to remain relatively coherent will start to dissolve, especially when accompanied by extensive, pervasive pollution. The timelines considered are a fraction of 30 years.

Populist movements will only grow in response to haphazard government responses to climate disruption

The 1200 year drought in California will continue, and at some point it may be also be recognized as too carbon intensive to continue being central to US food production. A 1' sea level rise in Florida will curtail much agricultural production there also.

We are losing biodiversity at an unprecedented rate, the background extinction rate is one thousandfold the post glacial norm, we are in the Holocene extinction spasm.

So as I see it, Essex needs to be prepared for increasing self sustainability and cohesion against this ramped up environmental degradation scenario. So basically I see a couple ways that things might stay functionally intact a little longer. We need a diverse human population that has a stake and sense of place in this area. And we need land that we can engage with to produce food, both as individual plots and as commercial projects, such as vertical farming.

We need to change wetland bylaws to reflect the importance of freshwater storm mitigation reservoirs and we need to protect the great marsh. So all new concretization of land should be permeable and rain water allowed to refurbish wetlands.

Although I really enjoy living in an extensive woodland I recognize that human living spaces need to be coalesced to allow the land to regenerate as natural buffers against our induced climate change, so all new land disturbance must require ecological review. Overall we have to shrink drastically our human tyreprint, for all concerned.

The overriding situation is that we're culturally disconnected from the planet except for exploitation of resources from the global hypermart. Though many understand this, the guilt, helplessness and inertia from the self perception as being all powerful will only drag on the changes required to our collective behavior. So, broadly the town of Essex needs to be zoned as ecologically savvy.

Any businesses that support local economy should be encouraged, so locally sourced food markets would be welcome, and placed near the currently shriveled town center.

Arable land and clean water are the most necessary requirements, a diverse population can only increase our resiliency, and must be factored in using housing systems that don't negate environmental considerations. Businesses that mitigate nature's response to our idiocies need to be encouraged, such as local fossil fuel free delivery systems. Maybe a town logo of "No Business as Usual" would be useful.

Other possible zones to be considered would be pesticide free, forest regeneration, lawn free etc. We need to act now to reverse the insect apocalypse that we're bankrolling.

Thank you for reading

Proper taxation of commercial properties would do a lot to alleviate some of the concerns of Essex residents, thereby making some additional regulations possibly not as necessary. I commented multiple times on the survey about this and I can't imagine I am alone.

Without higher taxes for commercial uses in place Essex has become a haven for contractors to dump their unsightly and potentially problematic business tools, equipment and supplies. If we taxed these properties the way other towns do those businesses would likely have chosen different more appropriate locations than our small little bedroom community.

Our house is long, and about half of it could be closed off and used for my husband's mother. We were told that if we did this, then we would need to install a new septic system or additional tank beside the existing. This would mean new PERC testing and new drainage in the leaching field. All this of course is super expensive.

The house would not have changed at all, except a door locked in the middle and instead of three people we would have four living here on the property.

In zoning for additional ADU, please be sure that any new opportunities to create more housing are not "automatically" killed by septic rules. Some flexibility and reason must be built into the zoning to allow it to work.

I think it might not be clear for people what the difference is between commercial and industrial development. In future it might be good to provide examples like you did for housing.

A business park is never mentioned. I forgot to write in my survey that this could be interesting use of land near 128.

(I also wonder if you have looked at the business park building that sits at the border with Wenham and can tell residents why that is not very successful. Too old? Or does it bring in good revenues? Does zoning provide standards owners must keep buildings, or require revitalization?)

Finally, the map you provided showing water protection zoning... is all that area valid and that truly needed? Who created it?

The water protection zoning appears to vastly reduce opportunities to build for growth and fiscal responsibility.

The neighboring Town, Manchester-by-the-Sea is creating a Light Commercial District near / not too far from the border with Essex and I'd like to propose we create an LCD too .... one that might be linked by a road to the one in Manchester to create a synergy of a larger area bring benefits to both Essex and MBTS. Can one build in the water protection area? Especially up by Rt 128?