



August 21, 2025

Scannell Properties, LLC
8801 River Crossing Blvd. Suite 300
Indianapolis, IN 46240

CERTIFIED MAIL

Allen Brook Development
27 Commerce Ave
South Burlington, VT 05403

**Re: SITE PLAN APPLICATION
637 Kimo Drive, Essex, VT
DRB DENIAL #2025-07-D**

Dear Representatives of Scannell Properties, LLC:

At its duly warned public hearing held on July 17, 2025, the Town of Essex Development Review Board (the "Board") voted to DENY the Site Plan Application submitted by Scannell Properties, LLC (the "Applicant") for a proposed 107,000 square foot distribution facility at 637 Kimo Drive.

This decision is based upon the following Findings of Fact and Conclusions, which demonstrate the project's failure to comply with mandatory provisions of the Town of Essex Official Zoning Regulations and Town of Essex Standard Specifications for Construction.

Summary of Non-Conformance with Town of Essex Regulations

The basis for this denial is the project's non-conformance with the following regulatory standard:

- **24 V.S.A. § 4464(b)(1), Town of Essex Zoning Regulations § 5.2(C), & Town of Essex Standard Specifications for Construction § 223.0:** Failure to meet the burden of proof by providing unreliable traffic data and by failing to submit additional data as unanimously requested by the Board pursuant to its authority under the regulations.

I. Findings of Fact

A. Project and Procedural History

The Applicant, Scannell Properties, LLC, has applied for Site Plan approval for a 107,000 SF distribution facility, accompanied by associated parking for 211 cars, 271 vans, 5 trailer

TOWN MANAGER	PARKS AND RECREATION	COMMUNITY DEVELOPMENT	PUBLIC WORKS	ASSESSOR	FINANCE	TOWN CLERK	LIBRARY	FIRE	POLICE
878-1341	878-1342	878-1343	878-1344	878-1345	878-1359	879-0413	879-0313	878-5308	878-8331

parking stalls, 5 box truck parking stalls, and 11 loading docks at 637 Kimo Drive.

The subject parcel, identified as Lot 13 (Parcel ID 2-074-004-013), is located within the Resource Preservation District - Industrial (RPD-I) zone.

The lot was created as part of the 5-lot Saxon Hill Industrial Park (SHIP) Phase II subdivision, which received Final Major Subdivision Approval from this Board on March 6, 2025.

The Board has received and taken into the administrative record the complete application materials, a Staff Report dated March 20, 2025 (revised May 29, 2025), traffic studies and peer reviews, public testimony, and legal and expert analysis submitted on behalf of interested persons.

The Board has conducted duly warned public hearings on this matter, closing the evidentiary record on July 17, 2025.

B. Applicant's Failure to Meet Burden of Proof

Pursuant to Vermont law, 24 V.S.A. § 4464(b)(1), the applicant for a municipal land use permit bears the burden of proof to demonstrate that the proposed project will comply with all applicable regulations. The Applicant in this matter has failed to meet its burden by providing incomplete, contradictory, and unreliable information on critical traffic issues.

- **Board's Authority to Request Information:** The Town of Essex Zoning Regulations, in § 5.2(C), explicitly grant the Board the authority to require additional information from an applicant. This section states, "The Planning Commission or Board of Adjustment may require the submission of additional information at any time prior to public hearing adjournment as needed to determine project compliance with these Regulations." This provision empowers the Board to seek further data when an initial submission is found to be insufficient or unreliable.
- **Misleading Information Regarding State Agency Review:** During the July 17, 2025, hearing, the Board was led to believe that the project's traffic impacts had been reviewed and accepted by the Vermont Agency of Transportation (VTTrans). However, upon direct questioning, the Applicant's traffic engineer admitted, "VTTrans has given an opinion on original SHIP2 traffic study. They have not reviewed our work yet". This admission revealed that a key state agency with expertise in traffic safety had not, in fact, reviewed the traffic analysis for this specific high-intensity proposal.
- **Failure to Provide Reliable Traffic Data:** The Board finds that the Applicant's traffic study is fundamentally unreliable and fails to meet the Town's standards for data quality and methodology. The Town of Essex Standard Specifications for Construction, Section 223.0(2c), requires that traffic studies be based on "the latest ITE Trip Generation Manual or in the absence of ITE data, reliable trip generation data from similar facilities". The Applicant has failed to satisfy either of these requirements.

II. Conclusions

1. Based on the Findings of Fact in Section I.B, the Board concludes that the Applicant has failed to meet its statutory burden of proof under 24 V.S.A. § 4464(b)(1). The Town's regulations provide a clear framework for evaluating traffic impacts. The Town of Essex Standard Specifications for Construction § 223.0(2c) establishes a two-part test for acceptable traffic data, explicitly granting the Board the authority to require "reliable trip generation data from similar facilities" when standard ITE data is found to be unreliable. Furthermore, the Town of Essex Zoning Regulations § 5.2(C) empowers the Board to "require the submission of additional information...as needed to determine project compliance." The Applicant submitted a traffic study the Board found to be unreliable and subsequently failed to submit the reliable alternative data that was explicitly requested by the Board pursuant to its authority under these regulations. This comprehensive failure prevents the Board from making the positive findings necessary for approval.
2. The absence of reliable and credible traffic data, as concluded above, means the Board cannot make an affirmative finding that the project provides for safe and sufficient vehicular access, nor can it find that the project will not create unsafe conditions or have an undue adverse effect on public safety. Therefore, the Board cannot determine that the project is in conformance with the requirements of the Town of Essex Zoning Regulations, including but not limited to § 5.6 (Site Plan Review) and § 5.6(A)(3) (requiring that projects adequately protect public health, safety and welfare).

III. Decision

Based on the foregoing Findings of Fact and Conclusions of Law, the Town of Essex Development Review Board hereby DENIES the Site Plan Application of Scannell Properties, LLC, for the property located at 637 Kimo Drive.

IV. Notice of Appeal Rights

This decision may be appealed to the Vermont Superior Court, Environmental Division, by an interested person who participated in the proceeding before the Development Review Board. Such appeal must be filed within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5 of the Vermont Rules for Environmental Court Proceedings.

For the TOWN OF ESSEX DEVELOPMENT REVIEW BOARD



Ian Carrol, Chair

cc: Langan CT, Inc., 55 Long Wharf Drive, 9th Floor, New Haven, CT 06511
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Allison Barlow, 12 Rosewood Trail, Essex, VT 05452
Andrea Van Liew, 15 Jackson St, Essex Junction, VT 05452
Anne Miller, 60 Sydney Dr, Essex, VT 05452
Betsy Dunn, 2 Cindy Ln, Essex, VT 05452
Bill Silverstrim, 36 Tanglewood Dr, Essex, VT 05452
Brian Clifford, 6 Tanglewood Dr, Essex, VT 05452
Bruce Post, 1 Cindy Ln, Essex, VT 05452
Cheryl Van Epps, 8 Rustic Dr, Essex, VT 05452
Dan Petherbridge, 39 Stonebrook Circle, Essex, VT 05452
Dana Sweeney, 136 Sand Hill Rd, Essex, VT 05452
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David Minkoff, 94 Bixby Hill Rd, Essex, VT 05452
David Skopin, 11 Skyline Dr, Essex, VT 05452
Dawn Grenn, 17 Steeplebush Rd, Essex, VT 05452
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Duane Millar Barlow, 12 Rosewood Trail, Essex, VT 05452
Dylan Giambatista, 12 Arlington Street, Essex Junction, VT 05452
Elisabeth Goodrich, 30 Hillside Circle, Essex, VT 05452
Ella Tabone, 22 Foster Rd, Essex, VT 05452
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Erik Post, 19 Saxonhollow Dr Unit G4, Essex, VT 05452
Gil Allen, 5 Whitetail Ln, Essex, VT 05452
Gina Barrett, 157 Sand Hill Rd, Essex, VT 05452
Gretchen Owens, 24 Margaret St, Essex, VT 05452
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Jessica Fay, 135 Jericho Rd, Essex, VT 05452
Joan Plump, 19 Irene Avenue, Essex Junction, VT 05452
John Hill, 74 Center Rd, Essex, VT 05452
John Sargis, 70 Greenfield Rd, Essex, VT 05452
John Tobey Clark, 119 Browns River Rd, Essex, VT 05452
John Trudeau, 247 River Rd, Essex, VT 05452
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Julie Wolfgang, 148 B Sand Hill Rd, Essex, VT 05452
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Laura Cahill, 44 Ferguson Ave, Burlington, VT 05401
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Lily Kellogg, 148 Sand Hill Rd, Essex, VT 05452
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Logan Allen, 5 Whitetail Ln, Essex, VT 05452

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Thomas Wood, 15 Alderbrook Rd, Essex, VT 05452