Town of Jericho
Development Review Board
Jericho Town Hall
Thursday, August 11, 2016

Minutes
Approved September 8, 2016

Members Present:	Barry King, Joe Flynn, Bruce Jacobs, Stephanie Hamilton
Members Absent:	Jeff York
Guests:	Chris Flinn (Zoning Administrator), Amy Richardson (Secretary), Lisa Hill, Robert Hill, Vern Konczal, Burton Rawson, Phyllis Rawson Mongeon, Edith Rawson McLaughlin, James French, Gladys Zelman, Eric Zelman, Victoria Tibbits, Tom Carroll, Jim Carroll, Will Veve

MEETING AGENDA

- A request to the DRB by Old Morgan Orchard LLC for site plan, conditional use approval and PUD review of a 6-unit (3 duplexes) residential development. This parcel is located at 20 Morgan Road in the Rural Residential Zoning District pending (Low Density Residential District).
- A request to the DRB by Rawson Family Trust for a 2-lot subdivision. This parcel is located at 318 Cilley Hill Road in the Agricultural Zoning District pending (Rural Agriculture Residential Zoning District).
- Approve minutes from July 28, 2016.

Mr. King called the public meeting to order at 7:01 p.m. He read the warning. He asked the members to disclose any conflicts of interest or ex parte communication. Mr. Flynn stated in the minor subdivision hearing, I am the representative for the applicant and will recuse myself. Mr. King read the Interested Persons Law. The public was sworn in at 7:06 p.m.

The DRB members reversed the order of the hearings. Mr. Flynn recused himself.

1. **A request to the DRB Rawson Family Trust for a 2-lot subdivision. This parcel is located at 318 Cilley Hill Road in the Agricultural Zoning District pending (Rural Agriculture Residential Zoning District).**

<u>Applicant's Presentation</u>
Mr. King asked who are the applicants. Mr. Flynn responded he is from DuBois & King, representing the applicants Robert and Lisa Hill and Burton Rawson for this minor subdivision/boundary line adjustment for a parcel of land located in Jericho, Vermont on the town line. He said we did have sketch plan review last December to go over some of the ideas and facts. He stated we are here looking for a final approval. Mr. Flynn gave an overview, noting the following:

- Currently Robert and Lisa Hill own this parcel here in Underhill, noting the location of the town line between Underhill and Jericho.
- Currently they own 73 acres.

- Recently, within the past week, they had a boundary line adjustment with the lands of Rawson that is Underhill and they purchased 46.57 acres from the Rawson Farm.
- Currently as approved now in Underhill, their parcel extends all the way up to here and all of this grey, shaded area is all the Hill parcel.
- The hearing we are on tonight to look at is actually a subdivision of the Rawson parcel because the Rawson's currently own this side.
- Currently the Hill's do not own any land in Jericho; because we are dividing a piece off the Rawson Farm, it is a minor subdivision/boundary line adjustment.
- For clarity, this darkly shaded area is the roughly 100 acres that Rawson will be conveying to the Hill's to farm this large continuous piece that currently is all sugar operations.
- Robert and Lisa have been sugaring all this land and this and this for 20+ years.
- They have basically been leasing/renting it for the past 20 years; they want to formalize and obtain it to keep control of it.

Mr. Flynn stated that is what we are here for, asking if he should address some of the staff comments. Mr. King responded yes, whatever you want to do for your presentation and then we will go to questions. Mr. Flynn addressed the staff comments, noting the following:

- Section 5.2.2: As discussed and brought up at the sketch plan, in essence this parcel has no road frontage in the Town of Jericho, which is correct; but with the conveyance of these two together and the 60' access to the Hill's parcel, while it doesn't have road frontage; it definitely now has access to this. It is not a standalone piece anymore because now this is all going to be one parcel.
- In a statewide, along with Jericho regulations in Jericho's Town view, it is a standalone piece; as far as statewide review, this becomes one large parcel now. It changes the dynamics with the required access; it definitely has access because of access through here.
- Section 10.12.3.1: It is a minor subdivision because of dividing off a piece and because of size under Jericho Town regulations.
- We are not requesting a waiver and we will get to that later.
- Section 10.12.8: Yes, we are requesting preliminary final review as one shot.
- Sections 10.12.9.1 and 10.12.9.3: No streets or throughways are being contemplated, so they are not applicable.
- Staff comments wanted some thoughts on Sections 10.12.9.4.1 to 10.12.9.4.4. Almost all those items reflect either public streets, common areas, bylaws for covenants usually for a PUD or a condominium, restrictions in covenants; none of these apply because first of all it is a sole owner; there is no shared ownership on this piece. Robert and Lisa are purchasing it from Rawson solely for their use. There is no proposed street; they are just going to continue to sugar on it, so there is no need for any legal documentation yet. It is a simple boundary line adjustment/minor subdivision.
- As far as the other staff comments, in regards to filing the plat; definitely, upon approval 180 days we will have the plat filed and legal documents will follow.
- As far as legal documents, you will be looking at a couple of quite claim deeds conveying the land per this plan; south of the line as designated. It would be quit claim deeds to convey any lands of the Rawson Farm south of that defined line.

Mr. King asked can you just clarify the dark grey area on this picture is one of the two lots that is to be created by this subdivision. Mr. Flynn responded that the dark grey area is the lands in Jericho that the Rawson's own to be conveyed to Robert and Lisa. Mr. King clarified the white part below that is the part they presently own that will still be retained. Mr. Flynn stated no, Rawson extends

from that up. Mr. King asked what is subdivided. Mr. Flynn responded this grey shaded area and this grey shaded area; everything up from there is the Rawson Farm.
Mr. King stated on the Jericho side, that we are concerned with, what is the present plat and what is the proposed subdivision. He asked where is the new line that is being created. Mr. Flynn indicated the location. Mr. King stated so it is north of the line, or above that line, is the retained part of the present owners. Mr. Flynn agreed. Mr. King clarified the dark grey part is the new lot that is being created so that it can be conveyed by boundary adjustment to the other side. Mr. Flynn agreed.

Mr. Flinn stated I can pull up an aerial that will show the complete Rawson lot so you can visualize where the line is, but this does the same thing. Mr. King said I just wanted to clarify which pieces we are talking about here. He said the undivided parcel that is the subject of tonight's hearing is the white part above and the dark grey part below, along the town line. Mr. Flynn and Mr. Flinn agreed. Mr. King clarified we are creating this line that goes from the pond, zig zag along to the edge of the town line. Mr. Flynn agreed.

Mr. Rawson stated I had it surveyed for years and years; I have a map that shows it. Mr. King pointed out that although you are an applicant, you are not sworn in, so could you please hang on for a minute; we will get back to you. Mr. Flinn said the Rawson's complete lot is 173 acres; out of that 173 acres, he is proposing to divide off just under 100 acres, which the Hill's are going to procure. He stated his 173-acre lot now becomes a 73-acre lot, approximately. Mr. Rawson noted on our tax bill they have us in for 207 acres. Mr. Flinn said one of us is right; I don't know who.

Mr. King swore in the members of the public who came in after the hearing began at 7:16 p.m.

Board Questions
Ms. Hamilton stated at sketch plan we had the Town attorney clarify whether it was okay to have a lot in Jericho with no access to any roads in Jericho. She asked do you remember what she said. Mr. Flynn responded yes, the comments back were that it was not possible to do this without seeking a waiver because there was no access. He said my rebuttal to that is there is access; although it is not within Jericho, there is deeded access. He stated the Town attorney did quote some Vermont statutes that say you have to have access.

Mr. Flynn said my interpretation of that is, as far as State statute, we meet that requirement. He explained now, with the passing of this and this in conjunction, it is one piece; it is one farm; one entity; per the State. He said if you are looking at it from a statewide perspective and because they have a deeded 60' access here, all the way out to Route 15; now we have access. Mr. Flynn added, coupled with that, there is no development proposed with this; it is going to continue to be sugaring. He said as far as the necessity for access for emergency vehicles or whatever, it is not really; there is no necessity for deeded access to that piece from the Town of Jericho.

Mr. Flinn stated I would concur with what the applicant's representative is saying, but I would also disagree with the Town attorney's interpretation. He said what is going on now is that a contiguous lot is coming under common ownership, which is the Hill's. He said in theory, those three lots are now considered one big lot; they may be on the tax records or the deeds as separate lots, but from a zoning standpoint, since they are contiguous and affiliated ownership, they are now considered one lot. Mr. Flinn said the Hill's have access, road access, on their parcel. He added their parcel is say 70 acres; the one above is 30 acres; and that other one is 100 acres; so now the Hill's own 200 acres that from a zoning standpoint is considered one zoning lot. He stated they are not separate lots and

they have access, so the road issue to me is a moot point; from a zoning standpoint they are all contiguous and considered one lot from a development standpoint.
Mr. King clarified you are saying that with respect to the way that the Jericho Town rules are written or are you commenting on the state statute. Mr. Flinn responded both because the property in Jericho has road access in Underhill to it. Ms. Hamilton asked whether these are going to have different deeds for the Jericho side and the Underhill side. Mr. Flynn responded yes. Ms. Hamilton clarified they are going to have different tax bills from Jericho and Underhill. Mr. Flynn agreed. Ms. Hamilton asked whether there are any other lots that you know of that don't have access in the town they have been approved under state statute. Mr. Flynn responded in this Town no, but in other towns yes. Ms. Hamilton clarified they go over two lot lines. Mr. Flynn said over town boundaries, yes; New Haven is full of old farms.

Mr. Flinn stated from a tax standpoint, the lot that is being created that the Hill's will be purchasing from the Town of Jericho, that is going to be considered a separate lot from a tax bill standpoint. He added from a zoning standpoint, all of those three are considered one and if one has access, all three have access because you can put right of ways or easements to get to that road access. Mr. Flynn said they are all one common owner. Mr. Flinn agreed.

Mr. King asked whether there was anything else from the Board at this point. There wasn't. Mr. King asked Chris whether there was any other testimony from staff notes he would like to get. Mr. Flinn responded no, the applicant knows what needs to happen in regards to the plat and the information to file, so I am comfortable with that.

Public Comment
Mr. King explained the public comment process. He asked if there are any comments on this application. Ms. Mongeon stated that property, I don't know if you have ever been up there, is all ledge and trees. She said it is basically a good area for agriculture, for sugaring. She said some areas you can't even walk through. Ms. Mongeon stated I don't think you people know what type of property that is.

Mr. Rawson stated I got my tax bill yesterday it was $11,600; last year it was $6,800. He said I wish that the Selectboard would reinstate the open lands contract, it would help. He said there was over a 50% increase in our appraisal; they reduced it somewhat, but it is still over a 40% increase. Mr. Rawson said the price of milk is $14 per hundred and we barely breakeven. He said you need to make some adjustment if you want to keep some rural land in Jericho. He stated I hope that you take that into consideration.

Ms. Zelman stated I think it is great if we can keep land. She said maple syrup is Vermont's product and if we can keep land that is forest or whatever and produce a product, I think it is great. She said either a farm or sugaring; it contributes to the economy.

Mr. King closed public comment, noting the comments will be part of the deliberation. He closed the hearing, stating the applicant would receive a decision within 45 days, noting it is usually sooner.

Mr. Flynn returned to the Board.

2. **A request to the DRB by Old Morgan Orchard LLC for site plan, conditional use approval and PUD review of a 6-unit (3 duplexes) residential development. This parcel is located at 20 Morgan Road in the Rural Residential Zoning District pending (Low Density Residential District).**

Applicant's Presentation

Mr. King stated this is a continuation, explaining we did the continuation because there were a number of questions that we wanted to give the applicant time to answer. He asked Will to come up, saying there were a number of questions that were open when we continued and there was a bunch of information back and forth to try to answer them in the interim. He stated we have a lot of new submittals. Mr. King said for the benefit of the public you could just quickly go through those open issues and tell us what the answers are.

Mr. Veve apologized for being late. He thanked the DRB members for hearing us on this continuation, saying I have printed this out as well, point for point and provided the material to Chris Flinn and the DRB members. Mr. King asked if this is the stuff that was sent to him that he passed on to us. Mr. Veve responded yes, except for one planting plan, which we didn't have in time. He said we got those today. He responded to the notes as follows:

- Review and approval of the curb cut from the Jericho Highway Department: We submitted our application to the Highway Department and we paid our fee for $100. We received a copy of our completed and accepted application that was reviewed by Doug, the Highway Supervisor. We completed that.
- Proposed road cross-section profile detail, as well as the driveway design access to the units: We sent that in; it was received by staff; a copy is attached.

Mr. King asked if this is the most recent one. Mr. Flinn responded this is the original site plan, so I can show you the cross-section detail. Mr. King asked is there an update to the site plan. Mr. Flinn responded there is the parking plan, the grading plan. Mr. King said so we will get to those then; okay. Mr. Veve continued addressing the staff notes as follows:

- Review of the legal documents: Comments from the Town attorney, as noted by staff, our legal document package has been accepted.
- Proposed planting and planting list schedule: We supplied the planting list and the planting schedule. Along with that we supplied a typical duplex landscape plan, with our planting list and schedule that is attached.
- Show the designated parking spaces and layout for the units: We submitted that to staff and attached a plan.

Mr. King said excuse me for a second, we will need to refer to that, can you bring up the modified one that has the information. Mr. Veve said it is labelled parking and utilities. Mr. Flinn displayed the plan. Mr. King clarified so this is the new information that has been added since the previous hearing to specify more about the parking and access to the units. Mr. Veve agreed. He continued addressing the staff notes:

- New grading plan that shows proposed contours tying back into existing contours: We updated that, gave that to staff, and attached.

Mr. King asked Chris do we have the grading plan. Mr. Flinn said yes. Mr. Veve stated exterior lighting cut sheet and detail, we submitted that to staff, it is attached. He noted this is downcast LED energy efficient fixture. Mr. King asked are they on the elevations to show where they are. Mr. Veve

said it is the only lighting that is proposed to be used for exterior lighting. He continued responding to the staff notes as follows:

- Answering how trash is to be handled within the development: Trash and recycling will be held in bins inside each unit's garage. There is no immediate plan for utilizing dumpsters.
- Additionally, we are donating $5,000 to the Town of Jericho Highway Department for the use of working together with us and the High School to improve the safety of Morgan Road, in coordination with the Jericho Trails Committee. Together, we have worked in the past few days quite diligently to meet with everybody to assess the availability of the High School working with us. John Alberghini, as the Superintendent of CESU, has said that he wants to do anything in his purview possible to work with us and doesn't see any issue in using the High School property to improve the access along with the easement we are giving to the Town of Jericho. Between the High School, our property, and the combined easements we will be putting together, we believe that we can achieve a good, safe walking path from there. We will also be working with the Jericho Trails Committee to make that a reality.
- Finally, in response to staff's recommendations at the end of the staff notes, it is a misunderstanding. Our representative duplex designs are for all buildings; one, two, and three, which represent units one through six.
- Additionally, in response to staff's recommendation to continue this hearing, we respectfully ask the DRB to consider the following:
    - We ask the DRB to approve the project as we have applied for.
    - We believe, as do our advisors, that we have met all the Jericho PUD, subdivision, and conditional use requirements and met all the items on the DRB's checklist; also including thorough work on the energy efficiency density bonus and responded to all accurate issues asked of us.
    - There appears to be some confusion and we are here tonight to clarify any of those questions that we need to answer.
    - Additionally, any further delays would cause a significant hardship. Vermont, as you know is a seasonal state with extreme weather conditions, and we are prepared to start on our footings, foundations, and excavation work before staff is proposing to have the next meeting.
    - Additionally, we understand that this or the next meeting is an approval or denial meeting and upon approval, the Board has 45 days from the meeting to render its approval; thus pushing our timeline ahead.
    - With that, I thank you very much for your time and consideration. Those are the answers to the particular questions that were asked of us.

<u>Board Questions</u>

Mr. Flynn said regarding the lighting cut sheet, where is the lighting proposed. He asked whether these are just all on the units. Mr. Veve responded it is just simple doorway entrance lighting; there is no street lighting, nothing else proposed. Mr. Flinn stated the proposed exterior lighting; these are the duplexes that are going to be built for buildings one through three, is that correct. Mr. Veve said one through three, units one through six, yes. Mr. Flinn clarified basically your exterior lighting is going to be similar. Mr. Veve agreed.

Mr. King said question about the site plan, this rendering makes sense with the site plan for the first building with the garages in the center and how the driveways are laid out; it doesn't make sense for the other ones. He stated I am wondering what the actual layout is proposed for the other ones; are you going to do the same layout. Mr. Veve responded most likely yes, but we have also supplied

designs of a Colonial that would have a garage on the side; these are just representative. Mr. King said so I guess I'm confused about what the site plan is telling me. He said I see that you show the Building 1, Units 1 and 2 and the rendering makes sense for those. Mr. Veve said because this is a build-to-suit and we don't even know if we will build three; we are not building all at once. He stated our first building that is going in is this building right here and that is how we have designed that; it is the representative duplex. He said if we are going to change anything, it would be to accommodate a garage on the side or to re-accommodate the same design into the drive using the front, or simply come around there. Mr. Veve said right now, that is the way the design is.

Mr. King stated if you were to need to change your site plan at some future time because a customer wanted it set up differently, you understand you would have to do a site plan amendment, right. Mr. Veve agreed. Mr. King clarified so what you are asking us to do is approve this plan, for these six units, in these three duplexes. Mr. Veve agreed. Mr. King stated then the seemingly trivial question comes back then, are there garages on the end of the units in the site plan. Mr. Veve responded if the customer wants a garage on the end unit, yes.

Mr. King asked if the customer doesn't want a garage, then where does the trash go. He said I know it sounds like a trivial thing, but we are required to understand where the trash is going to go; it is one of the review requirements. He stated I know it sounds trivial, but the main thing is that the site plan has got to make sense and be specific to what you are building. Mr. Veve responded if there were no garages, then we would propose a simple outbuilding next to the unit to store the recycling. Mr. King said if you decide to do that, then it would have to be a site plan amendment, which is doable, it is just another process. Mr. Veve agreed.

Mr. King said as long as you understand that you are asking us to approve a site plan; you can't then go build something different unless you formally request a change. Mr. Veve stated we do understand. Mr. King said okay, I just want to make sure; you seemed vague and now I understand the fact of the matter is you don't know what those others necessarily will be and if you change them you might need an amendment. He said that was the major question that we had about several things in the site plan, all keyed off of that; I think I understand now. He said you are really talking about phasing this in some sense; in other words, you don't propose that you are going to start digging holes in all six spots right away. Mr. Veve responded correct.

Ms. Hamilton said are you going to build as there are buyers, is that the plan. Mr. Veve agreed. Ms. Hamilton asked how do you do that with a duplex. Mr. Veve responded we have two buyers. Ms. Hamilton clarified both of the buyers are going to agree together to what the design of the unit is going to look like before you build it. Mr. Veve stated that is one of our challenges; I said, right from the beginning, all the way back to preliminary, I intend to live in one of these units.

Mr. Flynn stated in regards to building to suit, you are showing quite a few units with end loading and some front loading. He said in the event, Units 3 and 4 want to go to front loading, it just changes some things drastically. He stated you have water lines there and now you have to go over the top. Mr. Flynn said I am just somewhat hesitant; those are major changes. He said fortunately if let's say Units 3 and 4 change to a front load instead of an end load, your impervious area is obviously going to drop because you have less driveways. He stated again you have water lines there to consider and to me major changes like that don't guarantee approvals if you come in for amendments. Mr. Veve stated we understand.

Mr. Flynn said those are some big adjustments. He said I see you provided a cross-section of the entryway but maybe I missed it because things roll in sporadically, was a profile ever provided, a true profile. Mr. Veve responded yes, that is in our application for the curb cut approval. Mr. Flinn said the information basically submitted to Doug and Doug reviewed and said it was consistent; there is a gravel road cross-section detail. Mr. Flynn stated I saw the cross-section, but not a profile. Mr. Flinn said an additional profile and additional information, either that wasn't required by Doug, or it hasn't been submitted.

Mr. Flynn stated you said you submitted a schedule of plantings. Mr. Veve agreed. Mr. Flynn asked did we see a plan of where they are going to go, or is this what you are talking about. Mr. Veve responded yes, the buffer we have all discussed, that is along the high school property and along Morgan Road; this is the typical planting and there is a list right there of plants as well for the duplex. Mr. Flynn said we have it for duplex; I know on the original site plan you had place undetermined quantities of deciduous trees needed to screen school from the building site. He asked were we looking for a more definitive amount and information on that. Mr. Veve said we did, in the schedule that I gave included a definitive amount of each tree and each species.

Mr. Flynn said I agree you gave the list, but what is the spacing of where they are going and so one. Mr. Veve responded this has the typical layout for the duplex and then the screening landscape is on the site plan. Mr. Flynn asked can you bring that up. Mr. Flinn displayed it. Mr. Veve said in the very beginning I know we talked about this and that is when we added this screening area based off of the planting list that we just supplied. He said then down along Morgan Road we added this area as well which we are following through. Mr. Flynn clarified you are putting four and four. Mr. Veve said no, that is just the area; at the point that we drew this we didn't have a specific number; now we have a number of plantings.

Mr. Flynn asked what will be placed along the road and along the school; how many. Mr. Veve responded it is in the list that I sent over, asking Chris to bring that up; basically like half and half of the amount. Mr. Flinn stated here is the planting list, so basically here is the list of species. He said there is the number of quantity, noting the following: 4 Austrian Pine; 20 Eastern Red Cedar; 14 Spice Bush; 8 Northern Bayberry; and 10 half caliper Burlap Fat Albert Spruce. Mr. Flynn said what I am getting at is just clarity; you have where it is going around the units, but I still don't see anything that is going to say where are they going on the site away from the units and how many.

Mr. Veve stated in those proposed areas that we have on the original site plan. He said we have no issue in agreeing to a condition to supply an approved landscaping plan to the question that you are asking. Mr. Flinn noted see up here it says place undetermined quantity of deciduous trees needed. Mr. Flynn said it depends on whose opinion; is it the applicant's. Mr. Flinn stated the Board has the ability to say we want you to place 52 deciduous trees. Mr. Veve said I would propose that we cut the trees in half and split them on both sides, so that it is aesthetically pleasing. He said right now on the Morgan Road side we are going to be taking away some problem trees and we will be leaving the hard woods and we will be following our forestry plan.

Mr. King stated do we have, I seem to remember in the previous hearing that you had a plan that that showed which part of the lot is presently treed and which part is cleared. He said my specific question is, I note that this septic system as proposed for Building 3 is backed up along the border there; of course you will have to clear-cut to there to construct it and I think that that then knocks down the screening that presently exists between the site and the High School and that sort of

window would be established there. Mr. Veve responded it really doesn't; that is in a depression, so this is up at a higher elevation. He said I took pictures from yesterday to show the vegetation that has grown back and the vegetation that we have taken out; up here is higher, this right here is a high plateau and it is heavily treed all down here. He said we are not taking any of those; other than the clearance for the views, septics, roads, and building envelopes, we are not proposing any other clearing.

Mr. King stated I didn't understand your answer about the Building 3 septic system. He said that is on the high, it is halfway up, sort of on; if I understand the contours correctly, it goes steeply up from the High School, levels off in the area where that septic system is proposed, and then goes back up steeply to Unit 3, right. Mr. Veve responded that is actually in a low spot right there, yes. Mr. King clarified so it is down below. Mr. Veve agreed. Ms. Hamilton asked Building 3 or Building 1. Mr. King said Building 3. Ms. Hamilton said they are pointing to Building 1. Mr. Flinn indicated the location being discussed.

Mr. Veve stated that is also in a depression, noting the location of the high spot. Mr. Flynn said I do remember at the previous hearing requesting a more definitive plan showing the limits of what was already cleared and where the tree lines are; the whole, I know you have a forestry plan. He said typically, we see what is open, what isn't, what might be meadow; right now we don't have any tree lines. Mr. Veve said I can show you the photos from my last site visit to show you exactly. Mr. King said it would be helpful to get those into evidence as testimony; we can't admit the iPhone into evidence, but if you want to submit the pictures that would be a reasonable way to answer the question.

Mr. Flynn said back to landscaping and so on; screening was brought up in the first hearing. He said typically, it is not up to us to decide what is adequate; usually the applicant comes in with here are the trees and here are how many are needed. Mr. Veve said that is what we are saying; we have given the Board our planting list. He stated I am proposing half is going to go toward the High School, which that whole tree line is already heavily wooded; the other half will go on the Morgan Road side; and the typical planting layout and schedule for the duplexes is clearly marked. He said besides that we are amenable to having any conditioned landscaping plan to additionally give the Board as part of our conditioned approval. Mr. Veve said the property itself lends already well to its natural landscape, so it is our opinion that it doesn't need a lot of landscaping.

Mr. Jacobs asked is your curb cut right where you are driving in and out right now. Mr. Veve responded yes, it is already done; same place, no change. Mr. Flynn asked the applicant to comment in regards to the turnaround with the bike rack; is there sufficient space to turn around. He stated also Units 2 and 4 are the first ones to be built, double stacking is what you are looking at in the driveways. Mr. Flinn indicated the location on the plan. Mr. Veve said that is the driveway. Mr. Flynn clarified so that unit is confirmed, it is going to be built per the elevation you sent along. Mr. Veve said per the application.

Mr. Flynn stated again, can you elaborate that there is sufficient room to back up without hitting the bike rack and move forward with that double stacking in the driveway. Mr. Veve responded it is per all the regulations; that is just to show that even if there were no garages in our plan that we still meet the requirement for parking as per the Town of Jericho regulations. He said in a project of this nature I believe we only need to show parking for six vehicles and we have adequate parking of more than

twice that. He added that is not considering garages, adding garages and everybody utilizes that there is another 50% to 100% more parking.

Ms. Hamilton said the landscaping that you submitted works for Building 1, but wouldn't work for Building 2 as it is on the site plan because it is the garage on the side not the garage in the center; how would you address that. Mr. Veve responded we would be using similar plans, just with another aesthetic layout based on that building and again as a condition to our permit and when we pull the actual building permits with the Town of Jericho and the Zoning Administrator, we have no problem producing a plan that is satisfactory to the Board and the Zoning Administrator for that purpose.

Mr. Flinn stated so for clarity, so everybody is clear, what you are asking the Board to do tonight is to basically approve the number of units; to approve the proposed design and layout for Building 1; and then as you phase into to Building 2 and Building 3, you will be coming back to the DRB for review and approval of those designs and site layouts for the property. Mr. Veve responded no, that is incorrect. Mr. Flinn said that is what I thought I heard. Mr. Veve said I did not state that; our application has always been for this site design layout from preliminary, sketch, through to continuation.

Mr. King asked can you remind us please which zoning district this is in. Mr. Flinn responded it is Rural Residential, which is now considered Low Density Residential; all the same standards apply, just the name has changed. He asked would I be correct in saying what you are asking for is the number of units; the site design shown here; the provided architectural for Building 1; and then I guess I am curious as to, you would submit designs for Buildings 2 and 3 and if they didn't match this site design layout you would have to come back for an amended approval. He asked would that be correct, or is that incorrect too. Mr. Veve responded no, I already agreed with the Chair that if there was a significant change. Mr. Flinn said is that correct; am I correct in that statement. Mr. Veve asked him to repeat it.

Mr. Flinn clarified so what you are asking for basically is the approval of six units; this site design layout as shown with architectural design for Building 1; and then when you come back for Building 2 and Building 3, you will submit architectural designs of those units and those units will either reflect this layout with amended landscape plan for the units, or if the units cause a site design change for the roads and access, then you would come in for an amended review plan, is that correct. Mr. Veve responded if the units require a site design amendment, we would come back to the DRB, yes. Mr. Flinn said so essentially what the Board is looking at is basically potential building footprints for Buildings 2 and 3; proposed site layout as shown; architecturals and design considerations for Building 1; landscaping and building designs for Building 2 will be determined. He stated I would say for your review, just make sure it is consistent, which would be a condition for the approval.

Ms. Hamilton said for my clarification, do the architectural renderings for Buildings 2 and 3 go to you, or does that have to go to the DRB. Mr. Flinn responded it would have it go to the DRB because it is conditional use. He said especially with six units because the six units is a 50% density bonus request, kicks into the conditional use criteria, which is basically on your shoulders, not mine; I don't have the discretion or ability at that point for a conditional use. He said if you amend a conditional use application, it would go back to the DRB. Ms. Hamilton noted this is almost being treated like a phased PUD. Mr. Flinn agreed.

Ms. Hamilton said Barry, I don't have experience where we have approved things and the applicant has either built them or not, to come back later for us to approve different designs. Mr. King stated there is a process in the regulations to do an amendment to a site plan if there is a change to what they want to build, then it essentially reopens the site plan approval with a changed site plan. Mr. Veve said just to be clear, we never proposed a phased development, as per the regulations on phased development, going through this process we met those requirements, but like Chris just said we are here for our site plan final review, our request for the density bonus and a conditional use.

Mr. King stated the reason we seem to be harping on the question of landscaping is that we are being asked to assess whether this proposal comports with the regulations; it is your responsibility as the applicant to give us all of the information we need to determine whether or not it comports with the regulations. He said we don't have elevations for two-thirds of the buildings that are proposed and we don't have specifics on how they'll be landscaped because you have already testified that although they will be similar, they aren't the same. Mr. Veve stated I might be wrong, but through our advisors and my understanding of the regulations, there isn't a requirement to provide elevations.

Mr. King said that is true, there is not a requirement to provide elevations, but there is a requirement to provide a site plan which includes the question of screening and usually what we see in that situation is a plan that shows where the plants are proposed to be. Mr. Veve said from our first sketch review when you mentioned the screening was of concern, we added that to the site plan with the screening along the High School and the screening along Morgan Road and now we are agreeing with you on the particulars of having an acceptable landscape plan, in addition to the detailed duplex landscaping plan. He said as a condition to our approval, we will provide one ASAP. He said these notes and the majority of this we just received and we have had very little time for back and forth, and most of this was happening in real time today; that is no one's fault, but to that point, that is all I have to say about that.

Mr. King stated if we just barely got the information, that really wouldn't be appropriate to ask us to close the hearing and make a decision then because we just barely got the information. Mr. Veve said we still believe that we met all the requirements and we believe that the Board could condition, if you are not satisfied with what we have provided, as staff noted, a conditional aspect to our permit for that landscaping design. Mr. King clarified so you are asking us to deal with the question of whether the screening is adequate in some way as a condition. Mr. Veve agreed. Mr. King said I am not sure how that would work; someone would have to be able to make that determination whether the design was adequate.

Tom Carroll stated I am involved with the construction process. Mr. King asked are you part of the applicant. Mr. Veve agreed. Mr. Carroll said I am not strong in the legals of the Town of Jericho, but where does the building permit process fall in relation to the architecturals and the landscaping that you are asking questions of for the other two lots. Mr. King responded this plan is being reviewed under conditional use; if the conditional use was approved, that would essentially instruct the Zoning Administrator to issue zoning permits for the construction of the buildings. Mr. Carroll clarified there is no building permit process. Mr. King said loosely speaking they are called building permits, but the correct name is a zoning permit. He said this is a conditional use, so the Zoning Administrator doesn't issue a zoning permit until there has been a hearing and the DRB has approved that conditional use. He said if it is approved, then the Zoning Administrator issues zoning permits for the buildings as they are shown on the approved conditional use site plan.

Tom Carroll clarified there isn't any secondary comeback in the process without going through the DRB. Mr. King asked for a change. Mr. Carroll said no, if we were to build them as shown with the garages on the end, architecturally they are different. Mr. King asked different than what. Mr. Carroll responded than Building 1. Mr. King said yes, that is part of the problem. Mr. Carroll stated our intent is to have at grade garage, drive under; that is our intent.

Ms. Hamilton asked for conditional use review do they have to submit architectural details. Mr. King responded no, that is not what we are asking. Ms. Hamilton clarified as long as it stays to the site plan, exactly what it looks like is not necessarily something they have to come for us to review. Mr. Flinn responded correct. Mr. King agreed. Ms. Hamilton stated I wanted to clarify because before when you two were going back and forth, that was something that was kind of brought up; the question of the phased PUD, which this isn't. Mr. Flinn said traditionally, with regard to the conditional use review, on the site plan we would see where are the walkways to the front door; where is the landscaping; and how do those things happen. He said what he has shown here basically is approximate building footprints, and the approximate building footprints are 32' by 56'; that is what the structure is.

Mr. Flinn stated if the structure changes and it is 40' by 40', then the footprint is changed and the layout is changed, so it is much easier if everything is clear to start with, as opposed to changing down the road. He said if it starts changing down the road, because it is a conditional use, I don't have the authority as a Zoning Administrator to accept those or to approve those changes; those changes need to go to the DRB. Mr. Flynn clarified so we could, in essence if they change design on Building 2 and Building 3, have two more full sets of hearings, correct. Mr. Flinn responded possibly. Mr. King stated but if this is approved as it is shown and they build it as it is shown, we are done; that is totally okay to do.

Mr. Veve said to the point of the building footprints, this is everything that we have additionally supplied to the State for the permits that we have received to construct and our stormwater permits for the stormwater releases; that is pertinent to this design as well. Mr. Flinn said the only other thing I would add is that if the Board is to approve it, with regards to Buildings 2 and 3 that the proposed landscape plan is similar, or reflective of what Building 1 is in plant species and quantity. He stated say it is 10 Burning Bush and they propose 3 Burning Bush, well it should be ten; for Buildings 2 and 3, the landscape plan stays consistent. He said if that is a condition and they come in with designs for Buildings 2 and 3 this way and the landscape plan may have a different layout, but the same sort of planning sequence, then I could have that authority saying that is consistent with the approval to issue the Certificate of Occupancy.

Mr. Veve stated along with the aesthetics and we don't have a problem with that. Tom Carroll agreed. He said as far as the landscaping goes, if there is 15 of this and 12 of that; there will be 15 of this and 12 of that. Mr. King said I understand; that is clear. He stated the question that I asked earlier about the screening was about the lay of the land, what is presently trees, and what would be cleared to build the septic systems. Mr. Veve said right here, presently the curb cut is in; this access road to Building 1 is in; this footprint is cleared; throughout the property, the dead poplars that were all falling over have been taken out; some work, my burn pile is right here and the rest is revegetated on site; and the rest of the property has not been cleared. He stated we had a professional Forester go down there, walk the whole site with us again, and put forth that plan and memo. He said our only intent, what we will only do, is clear the limits on the road design, site plan and septic.

Ms. Hamilton said you were going to send pictures, were you able to do that. Mr. Veve responded unfortunately the Wi-Fi is not coming through, but I can pass them around. Mr. King noted it is not important to get them this moment; it is really a question of whether we have sufficient information. Mr. Flinn added that one thing the Board could do if it wanted to with regards to the site and its condition, would be to hold a site visit. He said what that would end up being is to basically continue to the next meeting, go to the site, the applicant could actually stake the areas where the proposed septic is going to be and that would give you an idea of pre and post proposed development; at that point they could close the public hearing if they wanted to and deliberate. He said that could be a consideration if the Board felt they needed to see the existing conditions and what the conditions might be like after development. Tom Carroll said we will do whatever you guys want.

Mr. King stated it is just backwards from what we usually do, which is that you are supposed to make a very specific proposal and we are supposed to say yes or no; not the other way around, where we say it is okay, but we want this, this, this, and this; that is not the way it is supposed to work. He said it is hard for us to write a condition that says it has to be adequately screened because someone has to decide whether in fact it is adequate. He said normally what we are given is a plan and we are asked, what our job is in this whole thing is to see if the plan shows that it is adequate. Mr. King said we are trying to make this work and you are putting us in a bind by saying tell us what you want and we will do it; that is not the way it is supposed to work. Mr. Veve stated I understand that.

Mr. King said we are trying to figure out how to deal with it. He stated you mentioned in your introductory remarks that you had been working on a sidewalk plan; you mentioned something about coordinating with the High School. He clarified so do I understand that the adjacent property owner on the west or northwest, the top of the plan, is the school. Mr. Veve agreed, saying you have another plan that shows that. Mr. King stated that is true that the next adjacent property is the school. Mr. Veve responded yes, we abutt Mount Mansfield Union High School. Mr. King clarified that is that area where there is sort of a berm and a playing field. Mr. Veve responded yes, their lacrosse field and sports field.

Mr. King stated what you were saying is that you have been coordinating with Mr. Alberghini, or whoever, to try to make a sidewalk, or some kind of trail access along Morgan Road, both along the school property and you have already talked about doing an easement to do it along the road frontage for this property. Mr. Veve responded yes, coordinating with the Trails Committee; we had a site visit and did a lot of work there. Mr. King said thank you, I just wanted to make sure I understood what you were talking about. Mr. Veve said yes, and we are donating $5,000 to the Highway Department for that effort.

Mr. Flynn asked have you received your wastewater and potable water supply permits. Mr. Veve responded yes, at the last meeting we had them. Mr. Flynn clarified they found flows sufficient to supply. Mr. Veve responded yes, we have a letter from the High School; a letter from the Fire Department; a letter from the Village Water as well.

<u>Public Comment</u>
Mr. King explained the public comment process; asked if any.

Mr. French made the following comments:

> So, in the last meeting I expressed a couple of concerns about traffic. It looks to me like an additional document was submitted in late July with a little more information about the traffic.

When I examined what was there, it appears to me in one of the documents that it shows the current generated traffic based on 16 family residences. I see the addition of 20 Morgan Road PUD, so it looks to me like the total increase in traffic from this one unit is somewhere between 25% to 30%. I thought I heard in the last meeting that the total number of lots connected to Morgan Road was somewhere close to 30, so I am just looking at that increase in traffic from the one development and I am looking at the potential future development. I just want to make note that that is a substantial increase in traffic for me on a road, especially that section of road that seems kind of dangerous. You have a curve, slopes on both sides, not a great amount of visibility; the road is often narrow and washed out it is pretty much a single lane road at the point where the curb cut is. My question there is, outside the scope of the actual development, are there any conditions to the development to make sure that road is safe? Right now it is completely unsafe for pedestrian traffic, in the winter time certainly, because it is so narrow. This will be at the bottom of one of the steepest pitches in the road. How does that work? We are introducing more risk in traffic, what is the plan to mitigate that?

In addition to the traffic question, the other piece I hadn't thought of asking was in terms of infrastructure. We have got things like approvals from the power company, water company; does telecommunications play into this at all; I am not sure? We are adding another six units, so unless there are upgrades to things like the cable infrastructure, we really don't have much in terms of cellular Wi-Fi there. I know that at the end of our road, internet connectivity for DSL is very poor because of the lines, so that just leaves cable. We are introducing more burden on the infrastructure, so I didn't know if part of the development process entails any kind of study or understanding of what that will do to the approval. We are looking at about 22 bedrooms, so given modern demands on internet connectivity, that is a substantial increase.

My final question revolves around completion of the development, it sounds like there is a plan for three buildings, a total of six units. It sounds like it is not officially phased, but it sounds like officially maybe two are sold, but they are going to try to sell custom build duplexes. My concern is that the project will proceed in some case and not be completed. Related to that would be, what happens if due to financial, or other types of barriers, as some of these questions come up and we have to go before another DRB hearing, the buildings change; what happens if the development gets stuck? Will we have half completed buildings, or just one unit? I didn't know what kind of guarantees are in place or how that works.

Last question, I think these are all single family dwellings. I didn't know if there is anything in the association agreements that speak to subletting, leasing, or whether or not multiple families can share these homes. There is parking for like 14 cars, there are 22 bedrooms. It seems to me like the parking is barely adequate for that type of development already, so if we have additional cars coming in, that also creates additional traffic.

Jim Carroll, representing the Jericho Trails Committee, stated the following:

All of the meetings we have had have been documented with Todd. Can we go back to the site plan? We are trying to create pedestrian access and egress. When we heard what we heard at the last meeting, the Trails Committee was concerned that we have an existing condition, forget about this development. We have communicated to the Town and as a function of a process of getting the approval in here, they are obligated to trim the brush.

Mr. Flinn asked who is they. Jim Carroll responded the developer, it is in the approval from the Town Road Supervisor. He continued his comments as follows:

> What we realized was that the road has not been maintained all the way out to Browns Trace; that the brush and trees and so forth have actually come in and encroached on the road. The Superintendent, the Principal and I went out and we actually walked the road with tape and measures. The existing road, if it had been maintained differently, would actually have sufficient capacity to take a sidewalk on this side. As part of the Trails Committee, we have gotten them to donate, regardless of what the Board chooses to do, they are donating an easement to the Town and they are putting $5,000 into the fund and the school very clearly is saying they don't have any money, but they do have the land and they want it to be safe.
>
> Number one, it was stated that the kids are getting on and off the buses at the Browns Trace, Morgan Road intersection; that is partially true. All of the students in the AM get on buses farther back up Morgan Road per Holly at the Transportation Department. Second, all Elementary students are picked up and deposited back up beyond this development. The only people that walk up the road because the bus doesn't go up there is the Middle School and the High School; the Superintendent thinks there are two or three. That is not acceptable in the present condition, forget about the development, that road needs to be maintained at least to the standard that exists.
>
> What we found is that when they put the water line in and as a result of grading and plowing on the road, the shoulders are now elevated so that you can't walk on it and they are filled with brush. I specifically asked Todd to join us at the meeting and it wasn't convenient for him, but he has agreed to go out there. Everything that I am saying to you is in writing, the Town Administrator has it. The Chair of the Superintendent; and the Principal of the High School; they need to have the kids safe whether this project goes forward or not, but the conclusion of our meetings was that it seems to be quite feasible to maintain the road, starting out at Browns Trace and coming all the way along up to here and make it a pedestrian friendly curb, Phase 1.
>
> Phase 2, the Trails Committee and the Town of Jericho will go after funding to improve that, but right now, today, we really want to be able to make it safe for the kids or anyone else who is walking on the road. It is predominantly a maintenance problem. I have taken pictures of it as well. I think everybody in the Town is in agreement and if in fact it isn't improved, the school will bring the buses for all students all the way up the road because nobody, when somebody raises an issue like that, it doesn't really have anything per se to do with the development.
>
> So the road with the grass sections can be down to 18', but if you go to the fire hydrant there and you go shoulder to shoulder it is 33' of gravel, soil, but it hasn't been maintained. What I was told today is that the Town has actually purchased the excavator that has been doing all that ditching and surfacing, so the work to actually do what we are talking about is relatively minor. They are willing and have already committed, they are going to give the easement to the Town, which is what we want everybody in the Town to do. It would be nice if everybody all the way up the hill did the same thing, so the Trails Committee is going to approach everybody all the way up, so that can be improved. The advantage of putting it on this side is that it can be easily snowplowed by the Town trucks in the wintertime, so it will actually widen the apparent width of the road, so that vehicles can pass one another.

The next thing is that the High School wanted me to repeat, they are very interested in fields and trails, so the landowners have agreed to participate in conversations about how because one of the things that was mentioned was about the cross-country runners. So the school has gone and the students are supposed to run with orange vests on. We are going to try, the High School coaches, the Principal, the Board, whether it is this road, or any other road, they want to have the feedback that they got as coincident to this development because they don't want anybody being exposed without anybody being aware. They are going to go ahead and act, regardless of what happens to this project.

I think that between Todd, myself, Doug and the school, because we really want to get the trails back here, so that the students from Mount Mansfield are not running on Browns Trace Road. It is better for them and so the bigger picture we are looking at with trails is how do we connect into the Rivers' property? How do we bring all this stuff, so that these people up here can walk down here safely? Then go down through the High School property and then get over to Jericho Center. The Trails Committee, we are trying to connect all of this stuff. We would like people to just donate, but the bottom line is this looks much worse than what it is purely because of vegetation, grasses and failure to maintain the side slope.

I think that as a function of this issue being brought up, we will be able to improve Morgan Road to the benefit of everyone. Frankly the only limitation we have run into is that the school doesn't have any money, but they are willing to give a letter of authorization, they are willing to give easements; just as this property has already. No matter what happens, we are going to get all the way to here with two property owners granting an easement, regardless of what happens with this project. We have also talked with them that the ropes course is down in here, and they would like to be able to go through and have some connectivity.

The conversation that the Trails Committee will be having is how can we move people effectively back and through this property. The topography of this property is fascinating because as you can see they can actually have walkouts and drives underneath the buildings and this is all extensively vegetated with a lot of very mature trees. I think it is very exciting because it has solar potential and if we can create this preferred pedestrian access along here. I think it will be a benefit for everybody that is there and everyone who might be here. The real user is the school children; that is the home base for all the running, cross-country skiing, and everything else. Will has agreed, as a former graduate of Mount Mansfield, to do whatever he can within the scope of the project to work with them, so the two properties can blend together along with Morgan Road.

I could actually physically run all of the machines and I doubt it would take a day and a half to do what I described and I would not have to bring in much materials from off-site and the Town actually owns the equipment that they can do it with. They actually built the sidewalk from Barber Farm all the way up to where the new sidewalk was just built, that was done by the Town. I think it is just a matter of us identifying this as a priority and working with it. I am kind of excited that we can get this section done because both parties are in agreement. It is up to Todd and the Selectboard to hear what I am saying and be willing to act on it, but everybody else is ready to go; it is kind of exciting.

The one thing while we were out there, which was amazing, there wasn't a single speeding car. Every single one of the cars going in and out were respectful of the fact that we were in the road

and I can't think of too many roads in Jericho. When we went to cross the road at Packard we didn't experience the same thing. Whomever has set the standard up this road; it is a nice place to live.

Ms. Zelman made the following comments:

It was mentioned at the last meeting about whether there should be some money put aside in case something wasn't done. My personal experience with that is I bought a new condo in South Burlington and it was the last group of buildings that he was doing. He never completed the landscaping that he did for all the other units and we had no recourse to get money from him to complete the planting and the seedlings and the bushes he had agreed to do because it was the last group of condos being built. When we went to the Board, they said we wished we had the builder put the money aside so everything could look the same; that's what they wanted, that was the goal. That is one thing I think that you might think about; and if something dies, then there is money there to replace it for the people who live there as well.

The other thing is that I think Jim French brought up a good point, which I was going to bring up. Is there going to be something in the bylaws if you can't sell your home? My question is these are buyers not renters, is that correct.

Mr. King stated I understand the question. Ms. Zelman continued her comments as follows:

What we ran into is that we had to amend our bylaws at our condo association because what was happening was they couldn't sell the condo, so they were renting it. They were renting it, saying it was single family, but it wasn't. A father bought the condo and rented it out to a lot of UVM students, so we had a serious parking problem and we had young people there who were not respectful of homeowners with motorcycles and cars. So we actually had to amend our bylaws to say that a single family is a single family and it cannot be rented or sublet.

Ms. Tibbits stated the following:

The context of my questions and comments are not anti-development, they are really pro-transparency, pro-following the rules which are complex, and pro-safety on the road. One of the first questions I have are about the permits, stormwater, wastewater, and everything. Have those all been granted given the 22 bedrooms, 3-unit PUD that is currently up before the Board; or was it the 2-unit PUD without the energy efficiency density bonus; or was it 1 single family home with 5 bedrooms? I am just trying to understand if we have a match set of permits that match this plan that is up there.

The second is about road safety. To support what Jim was saying about the traffic study and the 16 single family residences. I don't believe that this took into account that there are two other roads, Sap Hill Drive and Toner Drive, that the only way to enter and leave those homes are through Morgan Road. I think if you take into account the entire neighborhood, that number would be closer to what Jim had said.

Also regarding road safety, my recollection, I am not sure this is 100% right, from the last meeting was that there were a maximum of I think 14 cars that could be parked in the development; I think there were 12 shown today, but I think the number was 14. Given the narrowness of Morgan Road and the proposed easement for the walking trail, cars aren't going to be able to park on the road; nor would we want them parking on the easement for the walking trail. My question is what is the plan for overflow parking? If you have six families, 22

bedrooms; maybe you have a birthday party, or Thanksgiving; it is not going to take much to get beyond 14 cars. What is the plan? Where will those cars park?

I just want to check my understanding to clarify something that was said at this meeting, today. Forgive me if I misunderstood you Mr. Veve; I thought you had said you were interested in starting some of the site work between now and the next meeting because you were starting to feel the pressure about the winter coming. I just wanted to clarify if that was true, if I misunderstood that, or if I heard that correctly. How does that then play into the schedule that you folks have as far as granting the permit and the next meeting schedule?

I wouldn't want to see any additional work done on the site until you folks made your decision and approve the site plan. I was also a little confused and I think I am not alone based on some of the questions the Board was asking, if the site plan is representative only. How do you approve the whole site plan? I have heard a couple of times that the picture of the duplex was representative only of Building 1. Is it typical for the DRB to be asked to approve a site plan with multiple units while there is still this kind of vagueness around what the units are going to look like and how they are going to be positioned? I am just inexperienced and wonder if that is typical for you folks and is that something you are comfortable with.

Mr. French added the following comments:

I thought I heard potentially proposed a site visit regarding the screening. I would like to reiterate what you said, I am not anti-development, but I just want to be sure my concerns were addressed. I don't know if a site visit is warranted by the Board and if that is something other people can participate in, but I would be interested to have various stakeholders that were mentioned before, including Town people, along the edge of the road so we could take a look at it and come up with ideas and see firsthand what might be proposed by some people in terms of widening or adjusting the road.

Mr. King closed public comment. He stated a couple people asked essentially whether the road safety, traffic flows are part of the review process, or to what extent we condition this on road improvements. He explained the way that works, the way the processes interlock, there is a traffic study and the assumptions about how many car trips happen based on the number of bedrooms and the number of buildings. He said the presumed capacity of the road based on the class of the road and what the Town has set up. Mr. King said there has been a bunch of testimony about the fact that Morgan Road has been, whether or not this development is done, problematic in this particular area because it is very narrow. He said the fact of the matter is that the Town has defined it as a certain class of road and what we are asked to do as the DRB is to look at those traffic flows and the number of car trips with respect to the capacity of the road; that is the criterion we will be reviewing.

Mr. King stated there was a question about whether telecommunications and other utilities are a criterion of review; the simple answer is that they are not. He said a development like this has to show that there are adequate places for utility companies to put their utilities, extend electric lines, extend water lines and such. He said site plans typically show where the utilities will be placed. Mr. King added it is not really in our expertise or jurisdiction to say whether any particular utility is adequate; that is really up to the power company, or the cable company, or whomever to meet their regulations as to whether they have adequate service in a given area. He said sometimes there are extensions to the power lines and so on that are part of the development; in this case, the utilities are on the property already, so the internal routing of the utilities is all that is relevant to the site plan.

Mr. King stated someone asked about whether these are single family homes; whether they will be occupied by the owner. He explained there is some definition about that in the regulations; an apartment house is really multifamily. He added there is no difference as far as whether they are owned or rented; that is really up to the homeowner's association. Mr. King said the homeowner's association documents are done in the standard way where the owners of the units are the homeowner's association and they can choose whether or not they can be rented; it is really not a land use concern.

Mr. King said the number of units, the number of bedrooms, the number of cars; all of those are regulated and are part of what we review and if they were to change, there could be a zoning violation that would happen if they weren't maintained. He stated as far as owner occupied or not, that is not a land use or zoning issue, so much as it is how many cars are parked, or whether cars are parked in a way that is not allowed; that could be a zoning violation theoretically if something were to change.

Mr. King stated there was a question as to whether the criteria reviewed here require the representation of the units; in other words we were talking about elevations and what the buildings would look like. He said that is not relevant to the type of land use review that is being done for this development. He added the position of the buildings is relevant for many of the criteria, but the actual shape of them below the standard height limits is not really relevant. Mr. King noted there are parts of Town that have Form-based zoning, but that is not the case out here in this area; the actual exact shape of the buildings is not really a criterion; it is a criterion whether the landscaping and screening are adequate. He said that is some of the criteria we have been working to assess, but the actual shape of the buildings, what color they are, the windows and all of that which would be covered under Form-based Code in parts of Town are not relevant here.

Mr. King stated someone asked about road safety and overflow parking. He said essentially that is the same answer as far as site plan and zoning violations. He said if, in any property, it has a certain number of parking spaces permitted; if they are not in compliance with that, it is a zoning violation and there are enforcement methods as part of the zoning laws. Mr. Flynn stated there was a question about whether the permits for stormwater and so on were in regards to the plan we are looking at.

Mr. King stated there are permits in place for this design; that is one of the reasons we have been asking about this design and this site plan. He said it has to be because as Will pointed out, the septic permits, the stormwater permits, the road permits, and this site plan review all depend on this being the site plan. He said if there was a change later on, it would have to be reviewed as a site plan amendment, which we were talking about earlier. Mr. King said there is a process to do that if something changes in the future, but normally there wouldn't be, so all of the permits we have been talking about, such as the water, the septic, the road curb cut permit, all of those are for this particular site plan.

Tom Carroll stated this woman did have one other question regarding the hold back of funds for the plantings. Mr. King said I didn't hear a question there, but did you have a comment. Mr. Carroll said I believe I heard you say that the landscaping will be part of the issue of the Certificate of Occupancy, so that we will in fact make sure that is done. Mr. King stated yes, thank you for clarifying that. He said as is usually the case with the site plan, the screening and some of the other landscaping aspects are part of the approved site plan and they need to be installed and maintained as they are permitted. He said if that wasn't the case, the way the permit process works is that there is a zoning permit which permits them to start construction.

Mr. King explained then they need to close that permit and they get what is called a Certificate of Occupancy, which closes out all of those conditions. He said that would include all of those plantings being done and so on. He stated the owner of the property would be unable to get a Certificate of Occupancy; therefore they wouldn't be able to close those permits if they didn't meet the site plan. Mr. King said that is again a matter of zoning enforcement. He stated that is what happens if you don't have the Certificate of Occupancy, you can't sell the property; that is the way that the permits interlock.

Ms. Tibbits stated I felt like one of the questions I asked was unanswered. She asked if it is typical for the DRB to be asked to approve a development in this way; a 6-unit development with only a design is firmer on the two units. Mr. Flinn responded it has not been my experience for a conditional use with a 6-unit, 3 duplex project to have an unanswered designs and potential changes in layouts; those things do happen, but they come back for amendments.

Mr. King said I thought I answered that, but let me clarify that it is typical for us to be asked to approve something based on a site plan with building envelopes, clearing envelopes, landscaping, and such but without details of what exactly the buildings will look like; that is typical. He stated if anything in the site plan has to change, then that requires an amendment to the site plan. He said that is a different approval process. Mr. King explained 6 units on this site plan, as it is proposed, is what we are being asked to approve. He said if this site plan needed to change, if the owner decided they needed to change the site plan, they would have to re-apply for a site plan amendment. He stated there is a process for doing that, it essentially reopens what relevant questions are that have changed. Mr. King said thanks for asking that, I thought I had answered that before, but I guess I wasn't clear.

Mr. Flynn stated there were comments from Jim Carroll about working with the Town, the school and so on; I do have some reservations about all this meeting and making changes along this road and so on without seeing any of the design. He said we are asked to approve something. He asked if there is going to be any change in the grading of the project we are looking to improve, with the improvements to the roads. Mr. Flynn stated there is an easement on there to the Town, which I think is a wonderful idea, but if you are going to be grading and changing ditch lines and so on along the road and it impacts the parcel; are those changes going to affect what we are asked to approve; are we seeing everything we should; or is something going on behind our back that is going to substantially change this site.

Mr. Veve responded right now the road and the road widths are within the envelope of the Town's actual ownership and right of way, so we are not proposing, other than our pedestrian easement there, any significant regrading and all of the work that can be done to make these improvements is brush clearing and minor upkeep of what the grader has pushed off. He said to basically clear the brush properly, there is no regrading of significance. Mr. Flynn clarified all the work that is going to happen is going to be within the Town right of way.

Jim Carroll stated there is a permit that requires all of this to be built. He said within that permit, there are things that have to be done along the right of way and this road, like the road I live on, the grader is a problem; it is 14' and the roads are not 28' wide, so when they grade there is a lot of material falling off the end of the blade. He said that material has accumulated on both sides of this road so that you can't walk there any longer and it has become vegetated. Mr. Carroll said my discussion is principally about repairing the existing road and bringing it up to a satisfactory maintenance level involving mowing and re-grading the road. He stated they are going to donate to contribute to help make that happen and then they are also going to do, per this permit which they already have, do clearing here to make sure that the sight distances meet the standard because it is really a maintenance failure to look after it ourselves and

you can see in different places around Jericho extremes where people have berms this high in their front yards because we continue to keep pushing the material from the road surface off onto the shoulder, up onto the lawns. Mr. Carroll stated 35 years ago the road grader always had a York rake on the end of it and it was half the size of the current machine, so that it would pull back into the travelled surface all of the residue. He said it is a maintenance issue to bring this road back to what it was.

Mr. Flynn stated again, my concern here is I don't want to approve something that isn't reflective of all the changes there; so again, the work that is being proposed is within the Town right of way. He clarified you do not plan on any other re-grading over there within this development based on what we are looking at. Jim Carroll responded within the Town right of way and the easement granted from this property and the collaborative agreement with MMU. Mr. Flynn said that is outside of what we are reviewing. Mr. Veve stated on the easement side, we produced a full document to the Town of Jericho to describe every possible use that we were donating to the Town of Jericho for that pedestrian easement. Mr. Flinn noted there is a two page proposed easement that has been supplied.

Mr. Flynn stated you can see my concerns that by re-grading everything; I just need clarification that what we are going to approve, this site plan encompasses everything; there isn't something going to happen eight weeks later that the re-grading and ditch is all of a sudden being pushed onto the developed property. He said I need clarification on that, that what we are looking at is what is the design and what is being built. Jim Carroll responded what I would say to you is that what is being proposed is to have a pedestrian easement, to have a pedestrian pathway, in combination with the existing road that goes from here all the way out to Browns Trace. He said as a taxpayer in Jericho and a person who is concerned about the liability on behalf of the Town of Jericho, now that this has been disclosed, I think this needs to be done as a priority.

Jim Carroll stated it is a matter of just maintaining something that was pretty well done there. He said this is a pretty good sized easement; the water is way over here. He said there is already an existing, but it has not been maintained the way it should be maintained, so the School District is not going to take the chance to leave the kids out at the end of the road unless it is brought up to a standard that is acceptable. He stated they are concerned about the same thing that we are all concerned about, that it is an existing condition.

Mr. Flinn said Joe, you can see that basically there is the property line, that is the easement line, so the water line is within the Town right of way. He noted also too, per this design, before any Certificate of Occupancy is issued, the Street Superintendent Doug will be out there to make sure that what has been proposed is built to what is proposed, then he signs off on that and one of the conditions of the Certificate of Occupancy is that the Street Superintendent has approved the curb cut. He said that will be accepted after they finish total construction and site work, at that point.

Mr. King asked if there was anything else from the Board; there was not. He asked if there was anything else from staff. Mr. Flinn stated Will you handed me a Declaration of Condominium from Moore Common at Packard Road, I am not sure what this is supposed to be. Mr. Veve responded we were entering that into evidence as the document we referred to as the existing documents that will being used in the Town of Jericho. Mr. Flinn clarified this is just an example. Mr. Veve agreed, saying we referenced that from the very beginning in all of our communications.

Mr. Jacobs asked are we clear on exactly what the applicant is giving us for us to want to say the density bonus is a go; do we want to talk about the energy efficiency. Mr. King responded if you have

questions, this is the time. Mr. Jacobs said I am not really clear exactly what standards you are going to; has anything changed. He asked is it still the same as the basic energy efficiency standards that Vermont requires anyway; are you listing specifically where you are going to go above and beyond. Mr. Veve responded we are requesting our bonus based on the regulations we fall under, that was Silver Star that was written, which is the equivalent of Base. He said right now we are working with Efficiency Vermont to build to those standards or above.

Mr. Flinn stated my only comment is that if the Board is inclined to do a site visit, that you shouldn't close the public hearing. Mr. King agreed, saying if we do a site visit, that would be a continuation as we have done a few times in the past when we felt it was necessary. Jim Carroll said I heard from the Efficiency Vermont guy the last time and I am doing a large project. He said this project is being built not to Basic, which is what they are asking your approval of; this project is being built to Stretch; Stretch isn't as clearly defined. Mr. King stated Jim, your status here is as public and as Trails Committee; I would ask that you stay within the rules. The DRB members discussed, agreeing a site visit is not needed.

Mr. King closed the hearing. He stated the applicant would receive a decision within 45 days, noting it is usually sooner. Mr. Veve stated I know on the last meeting you were making some decisions about the density bonus; is that part of the 45 day process. Mr. King responded it is, yes; all of this is all one thing. He said you have proposed a particular thing with a density bonus and everything and it will either get approved or denied.

Ms. Zelman asked how will the public know the decision. Mr. King responded that people who participated and signed up on that list will get the decision; the decisions go to anyone who participated. Mr. Flinn explained the process for mailing decisions to interested parties. Ms. Zelman clarified we can only appeal after the decision has been made. Mr. Flinn responded you have 30 days from the date of a signed decision to file an appeal and that goes to the Environmental Court.

3. Approve minutes from July 28, 2016.
On a motion by Mr. Jacobs, seconded by Ms. Hamilton, the DRB unanimously approved the minutes from July 28, 2016 as written.

The Development Review Board entered deliberative session at 9:05 p.m.

The Development Review Board adjourned at 9:45 p.m.