Town of Jericho
Development Review Board
Jericho Town Hall
Thursday, May 12, 2016

Minutes

Members Present:	Barry King, Bruce Jacobs, Stephanie Hamilton, Jeff York
Members Absent:	Joe Flynn
Guests:	Michelle Patrick (Zoning Administrator), Amy Richardson (Secretary), Steve Atwood, Dean Davis, Holly Hall, Graham McAfee, Linda McAfee, Ann Broekhuizen, Steve Wyatt, Donna Wyatt, Dottie Wilson, John Byer, Ann Messier, Christina Jensen, Dan Heil, David Burke, Sue Bentlage, Subha Luck, Jim Bentlage, Ann Kroll Lerner, Lauren Montgomery-Rinehart, Robin Bartlett, Andrew Rowe, Jeff Forward, Joann Osborne, Jim Carroll, Sean Reilly, Eric Parker

MEETING AGENDA

- A request by Atwood Enterprises, Ltd. (c/o Steve Atwood) for final plan amendment to the Norton Meadows Planned Unit Development by removing the footprint lots. This parcel is located at 44 Raceway Road in the Agriculture Zoning District.
- A request by Mount Mansfield Modified School District for site plan approval of site circulation and parking lot improvements at the Underhill ID School and Browns River Middle School. These parcels are located at 10 and 20 River Road in the Village Center Zoning District.
- Approve minutes from April 28, 2016.

Mr. King called the public meeting to order at 7:02 p.m. He read the warning. He asked the members to disclose any conflicts of interest or ex parte communication. There was none. Mr. King read the Interested Persons Law. The public was sworn in at 7:07 p.m.

1. A request by Atwood Enterprises, Ltd. (c/o Steve Atwood) for final plan amendment to the Norton Meadows Planned Unit Development (PUD) by removing the footprint lots. This parcel is located at 44 Raceway Road in the Agriculture Zoning District.

Applicant's Presentation

Mr. Burke introduced himself and Dan Heil from O'Leary - Burke Civil Associates. He stated Steve Atwood has an option on the property and Dean Davis the owner of the parcel is also here. He said the project you saw a little more than a year ago. Mr. Burke said it was approved by the Board, appealed by a group of neighbors, upheld by environmental court, and they have appealed that to the Supreme Court. He said the neighbors also, through their attorney, consulted with Act 250 and because Steve Atwood had done a small project, one of three partners in a six-unit project in Essex Junction with footprint lots, the two projects together are greater than ten footprint lots. He said this project on its own doesn't require Act 250, but because Steve was involved in that other project it is what I call the developers penalty.

Mr. Burke stated their attorney was successful in giving enough information to Act 250 that this would trigger Act 250 as approved. He said the simple thing to do is to remove the footprints; the footprints, it is the exact same project, before there were dashed lines that went around each duplex and down the center wall. He said that was actually one of the things we spent quite a bit of time on because it was somewhat new to Jericho, but the footprint lot is a different way of doing a project that provides for better mortgages. Mr. Burke said when you are buying one of the units you would get 1/3% better on your mortgage rate. He said all of our mortgage money besides a few banks goes out of state and out of state with a footprint they look at it as a PUD and without a footprint they look at it as a condo and it is just different for mortgages.

Mr. Burke said we are not changing anything other than deleting those lines from the plan; it is the same exact project that was approved and upheld minus the footprint lots. He said the staff did a thorough staff report. He said he wasn't really going to go into it except for a couple of new items that I wanted to touch base on because nothing else is changing. Mr. Burke stated one thing that we did have to check when we came in for this was Steve's attorney did provide a letter to the Town, the Town's attorney reviewed it, to make sure that this does still fall under the regulations that approved the project; the Town attorney agreed that is the case. He said the only thing in the staff notes that is different from your previous approval is in two spots in here there is a request from Jericho Trails Committee; the Trails Committee has approached staff to request a 20' pedestrian easement to connect North Meadows along 61 Raceway, indicating on the plan. He stated we will provide that easement.

Mr. Burke said the second part of that is the Trails Committee requested that upon future development, if there was future development, that there be a much longer easement that kind of travelled through the remaining part of Dean Davis' land. He said it is a recommendation because it is not on your Town Plan, there is no path across this parcel shown on your Town Plan maps, so that is why it is a recommendation. Mr. Burke stated Mr. Davis does not want to be tied to that at this point; it is not asking for it; it is kind of asking for a placeholder. He said if and when any future development occurred, we feel that would be the time that the trail easement should be secured. He said I think that is why the Trails Committee worded it as such, it is not on the Town Plan and it is kind of a placeholder request. Mr. Burke said he will try to answer any questions, but it is the same project.

<u>Board Questions</u>
Mr. King said one of the criteria we are reviewing is the use of the PUD process and one of the reasons for doing it is to preserve the rest of that land as open space; that is what the Town Plan asks us to do. He stated the way it was previously structured, there was a large portion of the lot which was in shared ownership and which was described as common open space. He said the present configuration you are proposing is all one lot, there is no division at all. Mr. Burke stated it is all common land and in theory it is even common land underneath the units without the footprint lots. He said it is the same, in theory you gain a little bit, but obviously the area under the units doesn't help you.

Mr. King said the question in my mind is the legal status of the, the fact that it was previously described as open space, now what happens with the rest of that land. He asked how it is used by the common owners is completely up to the homeowner's association and restricted only by what the homeowner's association rules say, is that true. Mr. Burke responded that was true before also, it was common land that was subject to the homeowner's association documents. He said we went through

the documents and those part of the legal documents stay the same: the restrictions, no further development, passive use, all of that, that land is protected, it is being used for the density and there are no further rights on this 28.96 acres. Mr. King said you just testified there is no difference in the description of the use in the new documents and the old documents; the reason I am trying to clarify that is because we didn't get the documents until today. Mr. Burke said typically the Board doesn't tend to look too much at the documents; the Town attorney does have them and will be reviewing them. He said normally what happens is that approval is subject to the legal documents being to the satisfaction of the Town attorney. He said we are certainly fine with being on record that any changes the Town attorney has, we will make. Mr. Burke stated if for any reason there is something in that document that is not consistent with the former, we are not proposing a change, so that would be part of what would need to be corrected.

Mr. York said the future development you are talking about that you wanted to not have the right of way is on the rest of the land. Mr. Burke clarified it is on the rest of Dean's land, a lot of it is fairly undevelopable, but the Board has asked for a placeholder. He stated they haven't asked for an easement; they have asked for a condition that at such time that the land be developed that the easement be provided. He said it really doesn't do anything; the time to do it is at that time. Mr. Burke said as far as the easement that we have some say on now, as far as Steve is concerned to get Dean's permission, that shorter easement we are okay with that condition. He said that is the only one that has been requested in relation to this proposal.

Ms. Hamilton clarified the environmental court decision is being appealed. Mr. Burke said to the Supreme Court, yes. Ms. Hamilton asked if we can make a decision as it is still being appealed. Ms. Patrick said yes. Mr. Burke said at the back of the staff notes, the very last item talks about time periods; recognizing that this project has been appealed, there are time periods to things and the conditional use approval requires us to contact staff within the appropriate timeframes. He said I did not think when I spoke with staff to ask about that, but it is my understanding that during any appeal the time clock stops. He said really, I don't know if the 29 days before the appeal counted, but really no time has run since your approval because it has been under appeal that whole time. Mr. Burke stated my understanding is that any clock with the Town, we can't move forward and any clock is stopped until there is a final decision. He said I don't think we need to do anything with that, I think we are fine as long as it is recognized that the clock is not ticking during any appeal.

Ms. Patrick clarified you are referencing under conditional use approval there is a by-law that says you need to get a zoning permit within 180 days. Mr. Burke responded yes, that last section; typically, I am not an attorney, any time period stops during an appeal process. Ms. Patrick said I can't say for sure, but there is a clause here that says unless the DRB grants an extension. She said if it were to keep going you could request an extension. Mr. Burke said I would ask the Board to consider putting in there not counting any time during an appeal. He said then we are not wasting each other's time coming back because the neighbors continue to appeal.

Mr. King said Michelle, procedurally I think we can find out from the Town attorney which way we should do that, but I think what we will do is when we deliberate we will act on that request and depending on what the Town attorney advises us, we can either add it to the decision or not add it to the decision. He said I don't think we need to get testimony to clarify that; I think we are okay to do it either way. Ms. Patrick said okay.

Mr. King said to follow up on my question earlier about the covenants and such, you are correct that we intend to have the Town attorney review it. He said since we haven't had time to do that yet, what we are going to do is invoke technical review, which is what we would do anyway. He explained what that means is that we are not going to be able to deliberate on this until we get that advice. Mr. King said our hearing won't be complete until we get that information from the Town attorney. He stated I don't think it makes any difference to you as far as what you need to submit unless the Town attorney advises us that something needs to be different in those deeds and such. He said we will need to talk as a Board, to decide procedurally if we are going to invoke technical review to get that advice, do we leave this open, continue it until we get that advice, or can we close and wait for that advice. Ms. Patrick said in the past when technical review has been invoked, I don't believe we have continued the hearing; we have made it a condition of approval.

Mr. King said I am proposing is not that we vote to approve or disapprove; if we approve with conditions and set the condition that the Town attorney approve the documents, we have done that in the past. He said we have a different issue here; we don't know if the documents as submitted do what we require them to do. He said we will have to think about that. Mr. King said if we close the hearing tonight and they need to make a substantive change to what they have submitted, we are stuck; if we leave it open, if we continue, and they need to make a substantive change, we can review the substantive change. He asked if everyone understands the issue; this is an internal Board matter to decide when we will deliberate.

Mr. Burke stated I have been doing this for 30 years and I have seen Boards with a similar circumstance generally keep it open, but sometimes keep it open for the sole purpose of, so that's an option. Mr. King said my understanding is that under our Rules of Procedure we only have two choices: to close the hearing, or to continue it to a date certain; the date certain can be short and at our mutual convenience. He said I don't think there is a third route, at least we have never used it; I don't think our Rules of Procedure supports that. He said I am not certain we need to continue; I am looking for input from the Board on whether you feel like we need to continue or whether we are okay to proceed through the rest of the hearing, close it, and know that we will be able to deal with any issues from setting conditions. The DRB members and Ms. Patrick discussed how to proceed and timing.

Ms. Patrick said when reviewing the application there were a few other things that we discussed with the applicant's representatives. She said one was that I was concerned there wasn't a building envelope around the site; there is, it is just very faint and you can't see it very well. She stated it is there and they said that would act as the limits of construction. Ms. Patrick said that was a concern for me because a lot of this parcel was wetland and contained within the Town's overlay district. She said knowing there was constraints on the construction site is significant to point out.

Mr. King said that is important, noting that as part of the proposal there already was a defined area, which is actually defined by a silt fence on the drawing. He said what we intend on doing is resolving it by conditioning that that be the limits as construction. He said everyone was clear that that was suitable and it protects the overlay district properly. Mr. King stated we decided we can handle that with a condition by referring to what is a feature that is already on the map; that is easy to define, so we aren't stuck trying to define it some other way in the condition.

Ms. Patrick said the only other thing I think is worthy of bringing up is the conversation of whether this is a road or a driveway; it is proposed as a private drive. She said our regulations state that up to

three lots can be served by a private drive; this is one lot essentially. She said our regulations don't say three residences be served by a private drive, it is three lots. Ms. Patrick stated it is a private driveway and they are proposing the standards to be met as a private road, not a public road; the Town will not be taking this over.

Mr. King clarified private road versus private driveway is the issue; there are two sets of standards. He said a private driveway can serve not more than three lots, so this is one or you could think of it as three, but either way it is three or less; depending on how you interpret the rules. Ms. Patrick agreed, saying there was conversation regarding this issues, so I thought it would be wise to bring it up. She said it does not really have an impact on the application.

Mr. King clarified the issue that came up in the staff notes was whether the road needed to meet the private road standard, which is wider than the private drive standard. He said it meets the private drive standard as proposed. Ms. Patrick agreed, saying it would not meet the public road standard. Mr. King said the issue you are trying to clarify is that whether it was a private road more than three lots, or a private drive with three or less. Ms. Patrick agreed. Mr. King said what is proposed meets the standards for private drive, but not the standards for private road. Ms. Patrick agreed. Mr. Burke commented on the road versus drive, that is a discussion we had the first time around, there was the three duplexes. He said there was also a discussion that the environmental court, as part of theirs. He said there is no change there and the regulations haven't changed.

Public Comment

Mr. King explained the public comment process. He swore in those who came in after the meeting started.

Ms. Jenson said I am representing a number of neighbors of the project in the Foothills development: the Stevens', the McAfee's, the Wyatt's, Dottie Wilson, and Subha Luck in particular. She stated I have a couple of concerns:

1) We would request with all due respect that Joe Flynn recuse himself from any participation in this project because of his prior employment by the firm of the applicant's engineer. Whether there is an actual conflict of interest, certainly there is a perception of a conflict in his case.
2) With respect to whether the DRB should consider this case at all, I would suggest that the pendency of the appeal to the Vermont Supreme Court should result in a decision not to hear it. The reason for that is this application opens up the entire project to your review again; all of those issues, the projects compliance with the regulations generally, all of those issues are in appeal to the Supreme Court. The environmental court refused to consider evidence on some of them; we think that we have a strong legal argument that it erred as a matter of denying to do that. I think there is a good chance it is going to be remanded to the environmental court and all of those issues are going to have to be considered. It doesn't make a lot of sense to spend your resources making a decision on a project that can't go forward until that appeal is decided. If you do decide to consider it, the entire application is before you, not just the changes that are proposed to be made. The reason for that is the changes are fundamental to the project. Looking at it overall, you have taken a project that created three lots with three duplexes, turning it into one lot with six residences. You can call it three duplexes if you want, that is what they are; but it is one lot with six residences on it and that changes a number of issues.
3) My clients have letters going through a number of arguments, so I want to try to focus on some of the legal issues. The road frontage for this project in the Agricultural District, 5.8 requires that there be 75' of road frontage; there are 60' in this project. It is not clear to me how this project can

comply with the ordinance if it only has 60' of frontage. The density of the project, changing the design of the project to be six residences on one lot changes the density analysis. Unless the project qualifies for a density bonus, it is too big and it can't be approved. With respect to that density bonus, the ordinance is pretty ambiguous; the bonus is only available for providing elderly housing. The ordinance doesn't tell us what that is, I have no idea what that is; the ordinance defines senior housing. Senior housing is very broadly defined as a residence with one resident over 55 years old; that could be a family with kids in kindergarten; that is a very broad definition of senior housing. Senior housing doesn't qualify for the bonus. Even if elderly housing is provided, and that is not clear, we don't know what the documents say, they are not in force at this time; the DRB only has discretion to grant that bonus if looking at the layout of the PUD, compatibility with the Town Plan, and the ability of the site to support the additional units, a density bonus is appropriate. In this case especially, the ability of this site to support the 50% density bonus that is being requested is very clearly not there. The access to this, we talked about whether it is a road or a driveway and whether a driveway is permissible and I have some opinions on that. What you are talking about doing is having a private driveway serve six residences and looking at the ability of that driveway to serve that number of people based on the topography of the site and the location of the intersection with the public road; you have got some safety problems and it is not compatible with the rest of the requirements of the ordinance. It clearly doesn't comply with the intent of the ordinance and those issues should give you pause in increasing the density allowed on the site by 50%.

4) The project doesn't meet the buffer requirements of the ordinance. In particular, there is apparently a new pedestrian easement proposed; we don't know where that is exactly going to be located, where it is going to be or what the terms of it are going to be. All of those are issues that have us concerned; not because we oppose pedestrian easements, but it is along the edge of the property, it is within the buffer, and it is along the edge of one of my clients' properties. Prior to the DRB's approval of that, I think my clients are entitled to review the details and have an opportunity to comment. The project doesn't provide for pedestrian connectivity; this easement doesn't go anywhere. I don't see any proposal for pedestrian connectivity at all; this is strictly a driving development.
5) With respect to your decision on whether to continue the hearing until you have had an opportunity to review the documents and the Town's attorney has had an opportunity to review them; my clients would also like a chance to review them, so we would encourage you to continue the hearing. Those documents are going to provide the detail for the common space, how it is going to be owned, what restrictions are on its use, what restrictions are on ownership and occupancy of the units in this development. Once again, we don't know what elderly housing is, but the documents are going to be critical to your determination as to whether it is provided.
6) Also with respect to the open space, the ordinance requires that agricultural space be preserved. This project does exactly the opposite; it takes existing agricultural space and turns it into residences. The open space is primarily wetlands, there is no farmable land left in this development.

Mr. McAfee introduced a letter on behalf of Brian and Catherine Stevens who are out of the country; they are abutters to the development. Mr. King said you can submit the letters. Mr. McAfee gave the letter to Ms. Patrick. He said he noted where he lives, saying this letter drafted by Brian and signed by fifteen neighbors, many of which are here, makes a request to the DRB given the submission of the amended plan to consider a number of issues that we are very concerned about relative to the project. He said there are eight total issues, or what we view as defects, that we ask you to consider. Mr. McAfee stated we are layman and we learned that a year ago in terms of this process. He said I think there are a number of issues here, ranging from: the road access and issues around safety with that road access; issues around the buffer zone you have heard about; as well as the question of in general can a

multi-family dwelling be built in the Agricultural District. He said these are things we are concerned about; what we are primarily interested in is doing this project right, so we ask that you consider these issues and come out to the site and do a visit because I think many of these issues are serious.

Mr. Wyatt stated where he lives, saying I also have five letters, which he submitted to Ms. Patrick. He said my wife and I have some serious concerns about the stormwater management plan that is currently planned for this development and we are specifically concerned about not only impacts to our property, but we are also concerned about the safety of the Foothills community well that services 70+ homes and we are also concerned about the health of the Browns River. He said there are three topics I want to cover that are in my letter, with some attachments as well, and there are three requests associated with those comments, as follows:

1) The first request is that the DRB require that a general permit 3.9015 be a condition of approval for this project. As Grant mentioned we are laypeople, but we have learned a lot along the process and we think that if one of these 3.9015 permits is granted, then that would address many of our concerns related to stormwater. Our understanding from the ANR (Agency of Natural Resources) website is that a permit is required if the impervious area of a new development exceeds one acre. The applicant has claimed impervious area of 0.93 acres, so less than that trigger point. However, we hired a civil engineer to do the calculation on our behalf and after reviewing the plans carefully, he arrived at a number of 1.21 acres, which is more than 20% past the trigger point defined by the ANR. Because of this, it seems clear to us that the permit is required, so we request the DRB include that as a requirement of approval.
2) Also a request related to stormwater, what we are asking for here is that a comprehensive stormwater study be undertaken by the applicant, also as a condition of the DRB approval. This request is based on two of the attachments that I have in the letter: the first attachment, Attachment 2, shows some flooding that occurred on our property back in February of this year after a 2" rain storm and you will see in the pictures there, there is a large amount of water both in our backyard as well as exactly where the private drive is planned to be located; we have concerns that the development in this area will negatively affect the flooding that is already observed; the second piece of this request is based on expert testimony we received from a hydrologist that we hired, his name is Andre Torizo; he testified at environmental court proceedings; Mr. Torizo is a certified professional in both stormwater quality and a certified professional in erosion sediment control, in addition he is a certified inspector of sediment and erosion control systems; we feel that he is highly qualified to make an assessment of the quality of the design being proposed here. Mr. Torizo has testified under oath that the project is not meeting several of the Jericho Development Regulations associated with Section 11.13.1, which pertains to stormwater, including not complying with the Vermont Stormwater Management Manual. In addition, he does not see any structures that have been designed specifically to put the stormwater back into the ground, so this is the basis for our concern about our community well; that there are no structures to put water back into the ground, we are concerned that the aquifer that feeds our well will be affected. His final point, which is a serious one, is that he views the discharge plans of this project as impacting the Browns River, which he said is highly stressed and sensitive to disturbance. Based on his expert testimony and his qualifications, we strongly request that this comprehensive stormwater study be undertaken by an expert in the field before this project is given approval.
3) The final point is that we strongly recommend a visit by the DRB to the site. We think that you can only appreciate the issues here by seeing the slopes and the terrain in the area and I think only after seeing that would you really understand the potential impact this development will have on our community.

Mr. McAfee submitted a letter from his wife and himself to Ms. Patrick. Ms. Crowe-Learner, a resident of Foothills, said she is a committee member that represents the Jericho Fire District, which is the municipality that supplies water to the community of the Foothills neighborhood. She said we are recently notified of this development because I believe the wellhead protection was not recognized in the original plan of this development. She requested that the Jericho Fire District be allowed to review the documentation to fully understand the potential impact this development could have on the water that serves 72 households in our neighborhood and that our committee is responsible for protecting. Ms. Crowe-Learner asked what type of wetland we are discussing that is part of the remainder of that property. She said she sits on the Conservation Commission, saying the Conservation Commission has not received the development plan either, nor any of the details so that we can understand how this development might impact the wetlands in that particular area.

Ms. McAfee said her property is adjacent to the proposed driveway, saying she has been at that residence for five years and not one winter has gone by that someone hasn't ended up in my front lawn. She stated I just think that is a dangerous curve and to try to put an open road there would really be a problem.

Mr. Carroll said he is a member of the Jericho Trails Committee, here on behalf of the Chair John Abbott the Chair who is attending a multimodal meeting in Essex advocating for connectivity. He said the Jericho Trails Committee is an advisor to the Selectboard and has the opportunity to give input to the DRB. He stated this particular property, we are positive advocates; we love the landowners to hear what we have to say tonight and to consider donating the rights of way and easements for connectivity, which we do think are burdens on any proposed development within the permitting process. Mr. Carroll said if the landowner would choose to do it in front of the process it is a charitable event, instead of at the end of the process as a mandatory requirement where you lose the opportunity for the charitable event. He said for those of you who heard our application on the trail on Route 117, that was a charitable donation. He said we are trying to come up with a positive method for people to realize that not only is it a benefit to the community, but it is also a benefit to the residents of the development.

Mr. Carroll said as we talk about this particular project, if this is going to be senior or elderly; to have these people trapped to only be able to use cars and not be interconnected with the community through pedestrian or multimodal access we think is a mistake for the development and the fact that we have already got a large development at the Foothills, to not take this opportunity to talk to everybody about creating interconnectivity. He said the Davis property in particular and this proposed development specifically, can be benefited by a multimodal connection. He stated what we are looking to do with all landowners in Jericho is to participate in a wellness society where all residents can be in inter-connectivity.

Mr. Carroll said when you think about the Davis parcel specifically, with an easement along the river, we could create a trail if we could get one or two more landowners to contribute; we could go from Raceway all the way to Cilley Hill, creating an off-road pedestrian access which is good for everyone. He said specifically, if you went from Raceway up through the proposed swale area, diagonally across the slope to connect up to the proposed driveway, it would allow Foothills people to be able to come down to Raceway and the residents in the proposed development to be able to use the access to the Foothills. He said as we develop our village center, the residents could actually walk to the new grocery store.

Mr. Carroll stated we want to be positive advocates when encouraging landowners to take a meeting with us and listen to what we have to say. He said this specific area offers the opportunity for fishing access and for all types of benefits; obviously we don't want to infringe upon the rights of landowners, but we do think that everybody benefits from interconnectivity. He stated the Trails Committee is working on a model, so as to make people comfortable. Mr. Carroll said within that context, we do feel that there is a burden on all of us as a community, but specifically when you ask the community to be able to use its roads, to be able to put traffic on its roads; there needs to be some mitigation to the traffic impact and one of those mitigations are to help the people who are already there avoid the use of their vehicles and the proposed development to avoid the use of their vehicles. He said we think it is an amenity that would actually enhance the overall value and quality of life of people in the development. He stated we encourage all people to think about interconnectivity and multimodal transportation.

Mr. Parker said my law firm assisted Steve in this permit. He said you folks have carefully and thoughtfully considered this a year ago and issued a permit because of your thoughtful and deliberate consideration of all of the factors that you have to in issuing a permit in the first place. He stated with all due respect to my colleague, nothing about this application changes, other than the fact that there are no footprint lots and now we have a condominium association; all the features of the proposal are exactly the same as they were when they were here before you last year. Mr. Parker said those include: changes that are not only not fundamental, but are potentially nonexistent; the road frontage was challenged; the density was challenged; the qualification for the density was challenged; the driveway safety was challenged; open space was also challenged. He said all the experts showed up before the environmental court and the environmental judge said this permit should be issued, just like you did. He said there haven't been any changes; we ask that you approve this application as submitted. Mr. Parker said it is a good project; it is a good location. He said it is not going to create any water problems; if it would have, you would have noticed that a year ago and you would have issued conditions of the permit that would have considered those; there aren't any. He stated it is not within a wellhead protection area; no hydrologist is necessary. Mr. Parker said there are no stormwater issues because we are less than the amount necessary for a stormwater permit. He said I don't know how people drive that end up in Ms. McAfee's front yard, but I think a road there is going to slow everybody down.

Mr. Bartlett said I came to Town in 1943, one of the old dudes in town. He said at that time my folks owned the farm that is now known as Mills Park; my dad sold that and moved down on Raceway, which is Fitzgerald farm, which is now Foothills. He said my eyes have seen that whole are when it was Vermont. Mr. Bartlett said as far as these three buildings here, if you look at the Foothills and all of the houses that have been put there, I do not see how these three more buildings could possibly impact anyone's view. He said we were there for probably 12 years and like every farm business, all you were doing is surviving; my dad ended up having to sell the farm, including cattle and machinery, for $58,000, don't know what a lot is worth up there now. He said three years later it was sold again because the next guy that bought it went down the tubes; there is no money in farming.

Mr. Bartlett said he had an auction, sold all the cattle, machinery, and sold it for $68,000. He stated looking through these old eyes of mine, Dean Davis is in the same situation, there is no money in farming. He said he finally got to the point where he had to give up and what I am listening to here is basically a group of people who are trying to deny him access to his retirement account. Mr. Bartlett said as an old Vermonter it just doesn't make sense to me; this area is so far taken away from Vermont today than it was back then, it is really troubling to me. He stated I have been over every inch of that land that is now called Foothills working with my dad on the farm; I just wanted to put that out there.

Mr. McAfee agreed with Mr. Bartlett, saying that is not the objective of this project, denying Dean Davis of anything. He said our objective and what is written in all of these letters is about doing the proper project that adheres to standards that are set by the Jericho Commission and ought to be followed instead of being worked around. He stated the specific letter my wife and I submitted, is really about acknowledging something that is not brought up in the application, which is the fact that we have a private well on our property, which was not identified, nor considered in the proposal. Mr. McAfee said a larger issue than that involves our concern about the water supply that our entire Foothills community depends on. He said you will see in the letter expert testimony that was also introduced in appeals court from a Professional Engineer we hired, making the statement that the only way to really determine the security of that supply is through a proper hydrogeological study. He said our specific request is that work should be done; we should not be speculating about the quality of that water supply because too many people depend on it and that is the specific request.

Mr. King said there is one question to get answered. He said we know there is some wetland on the parent parcel. He asked Ms. Patrick clarify the wetland overlay and what that is that is on the parcel. Ms. Patrick stated there is a wetland on the parcel, on a big chunk of it, but it is pretty clear and it has been delineated on the plan that the limits of construction are outside this wetland; in fact, they are not going past the slope of the wetland. She said if you see on the plan up here, these contour lines that are really close together indicate the steep slope and this is a depression here, where the water is gathering. She said there is no construction or anything proposed in this area. Ms. Patrick said it is defined as a wetland and is in our wetland overlay, but the project is outside of that boundary and outside a buffer zone. She said there is a small amount of the river overlay, down in this area; that was mentioned in the review process. She stated according to our overlay map, there was no wellhead protection overlay in this area, so I can't speak on behalf of that.

Mr. King said there was a procedural question, someone asked the person who is not here tonight to recuse himself. He said they requested Joe Flynn recuse himself, he is not here and he is not acting on this tonight, so it is moot. Ms. Patrick noted the letters submitted are considered part of the public record and will be reviewed. Mr. King agreed and discussed how all of the public testimony, oral and written, is used in the process.

Mr. Bartlett said he didn't hear anything about where the stormwater is going that is coming down the main entrance that goes up into the Foothills. Mr. King said we outside the scope of what we should have talked about during public comment. He stated staying strictly with our rules of procedure there is nothing new there, we have a lot of information about that. He said if I interpret that as a question from the public, there is a lot of information and it is in the public record for this application; a lot of information is in the application and in the staff notes, so if you are curious about what was presented at the first hearing and what has been submitted, all of that is in the public record. Mr. King said he would point you to that if you are wondering what we have and what was considered.

Ms. Jensen asked if there was any wellhead protection indicated on the map for the community well that is down across Raceway. Ms. Patrick responded not on the map we are currently using, so it may have been updated. She said the one that is part of and adopted by our regulations did not show a wellhead protection area. Mr. Burke stated our plans do show it and the proposed septic is outside of it; it came up at the last hearing; it came up in environmental court; as Eric said, all these issues did. Mr. King addressed the procedural question, saying wellhead protection area are typically protected against incursion with respect to the septic design; that septic design was done and assessed by the State hydrology people to either give them a permit or not. He said we only condition that that permit be in

place, so that wellhead protection area, there are a few things in our regulations that are dependent on that. He said mostly it is all with respect to wastewater and that is part of that permitting process; we don't do that ourselves, that is the State hydrologists that do that work. He stated if they look at it and it is okay, then they will issue the permit; we condition our building permits on the set of permits being done.

Ms. Patrick clarified the Town has a separate Wellhead Protection Area Overlay District, which is perhaps separate than an individual wellhead area, so there is actually very few in the Town of Jericho. Mr. King noted that one of them is the one for the Foothills and it is in the neighborhood, but not in this parcel. Mr. Burke stated it crosses onto the parcel, but is outside the septic; about 15 of their own septic systems are within it. Mr. King said we are outside the normal procedure, but I have interpreted that as a question from public comment and we answered it.

Mr. Burke said as far as continued, if you have any questions for me, I would be happy to answer them; I have answered them before and I will answer them again. He said one big ticket item the gentlemen spoke to is this preserves ag at the best because this allows Dean to keep his remaining land and he is still doing some agricultural activities. He stated this is his retirement, it is a way for him to keep going. Mr. Burke said there is a forest management plan, silviculture is also farming; that was all discussed the first time around. He said the wetland overlay is very vague and there is not nearly that much wetland out there. He stated as far as what was discussed in proximity to the project, I visited the site with the State Wetlands Ecologist and she provided us with a sign off that this project is fine.

The DRB members discussed how to proceed. Ms. Hamilton asked the applicant to go through some of the points from public comment. Mr. Burke stated it is a moot point with Joe, don't know how a person that used to work for us and left us would be a conflict of interest, except for us. He said most of Chris Jensen's comments were legal comments that I don't think are not pertinent to this proposal. He said the road, drive was talked about; the density bonus was talked about; stop me if you want more about what was talked about.

Mr. Burke said there is no change in the number of residences; they are not multifamily; they are duplex per your regulations. He said the pedestrian activity they don't want, then said there is not pedestrian connectivity; we are okay with giving the easement that the Trails Committee has asked for, as far as the strip against 61. He stated it is a pedestrian easement; we would like the larger, suggested easement to wait until later. Mr. Burke said based on Mr. Carroll's comment, I would encourage him or the Board to sit down with Dean Davis. He said it doesn't have to happen as part of this proposal if he chooses to do a charitable donation and it shouldn't happen as part of this proposal. He said it is not on your Town Plan and it is a recommendation.

Mr. Burke said the ag space, I already talked to that quickly; there is a forestry management plan on that area, that is an agricultural use. He stated Mr. McAfee, what I wrote down, I haven't had a chance to review the letters, but I know what the comments are because they came in here and they came in to environmental court during almost a week of sitting in there. He said he mentioned the multi, they are not multi, they are duplex. Mr. Burke said the McAfee's who are to the north of the entrance mentioned the photo on the drainage, we talked about this last time and at court, but there is a low spot right now. He stated first, what you have to know is the 60' right of way was always there for access to this parcel; anybody buying in that development, particularly the McAfee's and the Wyatt's, you bought up against a right of way for access to the parcel.

Mr. Burke stated there is a low spot right here; we are picking up that low spot and we are continuing that swale. He said we are now higher at the property line than it is there; we are improving their conditions. He said based on an early comment that they had before they were opposing the project, they asked about that and we incorporated it into our design. Mr. Burke said the Wyatt's also asked that the light that was at the intersection be removed and we did that as part of the process. He said we have really tried to work with the neighbors here. He said it does meet the regulations; it is a very small project, particularly in comparison to the Foothills, which was a pre-Act 250 project.

Mr. Burke stated their attorney is trying to say don't allow them to do this because we want them to go to Act 250; the Foothills didn't go to Act 250 because it was before 1972 even though most of the houses, a lot of the houses were built after 1972. He said as soon as you had those lots on paper, they were exempt from Act 250, which came into effect in 1972. He said on the stormwater comments, the Section 3.9105 is for stormwater discharges of greater than one acre of impervious; it is not greater than one acre.

Mr. Burke said the court agreed with us; not their person, who did not even have an electronic copy of the plans. He said you are not able to do an accurate measurement if you do not have an electronic copy of the plans. He stated it is just not triggered; it wasn't that we were trying to avoid it. Mr. Burke stated we were trying to cluster the best we can, the calculation came afterwards; are we over, or are we under; if we were over we would have gotten a permit. He said it is a dead line, it doesn't matter if you are 0.99, we were 0.93; if we were 1.01 we would have gotten a permit. Mr. Burke said the storm design is in accordance with the State regulations, even though we did not need to seek a permit and the controls are there. He said regarding the community well, we are outside the wellhead protection area; that was all vetted here and in court. He stated Browns River, I don't think the testimony from a third party who is not present should even be considered, so any discussion of our expert said this or that; unless it is in the documents you have, I don't believe someone can talk on behalf of what their expert said.

Mr. Burke said regardless, the court said you guys did your job and you did it right. He stated the Browns River is not an impaired watershed; the State looks at watersheds and they designate which ones are impaired. He said while their expert says it has some issues, it hasn't risen to the level to be on the impaired list, which is a list at the State. Mr. Burke said we talked about the flooding and we are going to incorporate that into our project. He said the Prudential Committee asked about the wellhead protection area; it does show on the plans and we are outside of it. He said he counted at least 15 systems within Foothills that are inside of it; there are area zones, but we are outside of it and that is what the requirement is.

Mr. Burke said the type of wetland Anne asked about, it is a Class II Wetland; noting a couple years back the State changed their rules where most wetlands are now Class II Wetlands, unless deemed otherwise. He said this one is a Class II Wetland and it comes with a 50' buffer; we are outside of that 50' buffer. He stated Jim Carroll for trails, again we are okay if the Board chooses to approve the removal of these footprints, we are okay with a condition for that short pedestrian stub. Mr. Burke said the other comments they had were reiterations of other previous comments. He urged Dean to say something if he wanted to say something. Mr. Davis stated he is trying to get it done; he thinks it is a good project.

The DRB members discussed how to proceed. Mr. York asked if the documents are the same as they were a year ago. Mr. King stated they are not. Mr. Burke responded they are the same in the body; the difference is the non-footprint. He stated the body of the documents have not changed. Mr. York asked

when if the documents have been available for public review this whole time. Mr. King said the documents as they were submitted in the previous review have been available. Ms. Patrick stated those have been in the public record. Mr. King clarified that the new ones we, the Town, received today. Mr. York clarified the only change from the previous documents is the footprint language. Mr. Burke said as well as when you take away the footprints, it is a condominium, so there is additional language for that.

Mr. York asked if the Town attorney reviewed the previous documents. Ms. Patrick responded she imagines it was reviewed, but she is not certain. Mr. Parker suggested keeping it open until the Town attorney has time to review. Ms. Hamilton said if Claudine reviews them, there is a substantive change and we don't leave the hearing open, can they change it. Ms. Patrick said it is often done after hearings are closed; it is common for legal paperwork to be revised after the hearing is closed and made a condition of approval. The DRB members discussed the procedural implications further.

Mr. King closed the hearing. He explained the applicant would receive a decision within 45 days, noting they will get legal advice form the Town's attorney during the deliberation process.

2. A request by Mount Mansfield Modified School District for site plan approval of site circulation and parking lot improvements at the Underhill ID School and Browns River Middle School. These parcels are located at 10 and 20 River Road in the Village Center Zoning District.

Applicant's Presentation

Mr. Forward introduced himself as Facilities Coordinator, representing the applicant. Mr. Rowe introduced himself as the Engineer. Mr. Forward said we are talking about the parking lot between Browns River Middle School (BRMS) and Underhill ID. He said the parking lot is original, from when the school was built back in the 1970s. He stated there hasn't been a whole lot done to it since then. Mr. Forward said the purpose of the project is to improve flow and that is for safety reasons. He said if you have ever been there during drop off or pick up time, it is a little scary, cars are all over the place on both sides of the driveway. He discussed the current conditions.

Mr. Forward said our primary interest is to try to make sense out of that flow and to try to separate the pick-up/drop off areas between the two different schools in a rational, safer way. He said you would think this would be easy, but it really is pretty difficult. He stated I came on as the Failities Coordinator in October and this plan has been in the works for a couple years. Mr. Forward said there have been several committees who have worked on it, noting the membership of the most recent committee. He discussed their approach to finding a solution, noting there were several different iterations and they were tested out. He said we made some changes based on the testing and feedback.

Mr. Forward said what we have before us is our best shot. He stated we wanted to, we have to do this during the summer because it is a major project for the site. He said that makes it a really limited window; rather than do the permitting process sequentially, we are doing it concurrently. Mr. Forward said they put it out to bid and got the bids back on Friday. He said we have submitted all of the State permits that are required; we are waiting on a stormwater permit and we are hoping we are going to get that. He said we would really like to select our low bidder and start construction the day school gets out.

Mr. Forward said this is one of the hurdles we need to get through. He said we did get the bids back on Friday and they were a little higher than what we had hoped; we are at the high end of where we want to be. He said we are still making plans; we haven't signed with a contractor yet, but we are really hoping to do this during the summer.

Mr. King asked Mr. Rowe to clarify which one is the present state and the proposed state. Mr. Rowe oriented people to the plan, starting over by the Library where there will be a new parking area, short-term for pick up and drop off only. He said right now, a lot of parents are parking along the shoulder. He explained how walkers versus students being dropped off would be handled in the proposed layout. Mr. Rowe indicated where the bus loading and unloading would move to. He stated moving it forward frees up this area for the older students to drop off and it also moves the kids coming on the bus closer to the front entrance. He said right now this is new sidewalk connecting where the end of sidewalk is in front of the school, connecting over to the parking lot.

Mr. Rowe indicated the location of another existing paved area where some of the pavement will be removed; this was added quite a few years ago, but it is not striped so the parking can really screw up the layout in there and be very inefficient. He said there is a large island in here now, that will stay, but it will be reconfigured a little bit; the end of the island gets lopped off and this area of pavement gets removed as well. He described where people will be parking, noting the perpendicular spaces would be changed to angled spaces and the traffic will be one-way. Mr. Rowe said this is existing pavement behind the school now with a row of parking spaces; this would all be new parking in here. He stated the ball fields kind of move around from year to year in that area anyway, so this soccer field would be moved back a little bit and there would be a fence along the edge of the parking area just to keep the cars separate from the play field, but also to help corral the balls.

Mr. Rowe said we have new pavement in this area and a little bit of new pavement here, just to carry that aisle around to line up better with the service entrance at BRMS and provides a little more parking as well. He described how the traffic will flow, noting the various parking areas. Mr. York asked where the end of the current lot is located. Mr. Rowe indicated the location, saying there is currently no, other than the sidewalk that leads directly into the end of the gym, sidewalk here. He said there would be a new sidewalk constructed to connect to the existing sidewalk to the main entrance. He indicated the location of a bus lane and the BRMS bus load and unload zone, which doesn't change.

Mr. Rowe said there is a little bit of a new area here with a median, so the extra bus load and unload zone for BRMS; that will not be used regularly, but will be available for handicapped students, athletics, or a variety of other uses. He said we have a drop off area here, then an exclusive lane for buses, where there are no passenger vehicles moving through that area, so the outside lane is for the through traffic. He said in addition, we have a series of boulders along the shoulder to try to change the behavior of parking on the shoulder. Mr. Rowe discussed the safety concerns, noting some examples. He stated we really want to organize that now and have students picked up only in these areas, or people walking on the sidewalks and the crosswalks to access the parking lots. He said that summarizes how the site will function with this proposal.

<u>Board Questions</u>
Mr. York said on big days that field fills up, asking where those people will park since there will be stones all the way around. Mr. Rowe responded that this would still be available for overflow parking during special events, noting people could go down around the boulders or we could remove

a couple of boulders to allow parking. Mr. York asked if they intend leave the open space at the very end to allow parking when needed. Mr. Rowe agreed that is one option, saying they have the ability to move boulder for a night for a special event.

Mr. King asked for an explanation of the truck circulation with the loading dock and the chip bunker. Mr. Rowe explained how the trucks circulate now, noting they generally come during off hours, when there are few or no cars in the parking lot. Mr. Forward explained the flow now and how it will improve. Mr. King clarified the truck route would be to go reverse of the one-way and back out as they do now. Mr. Forward agreed, saying there wasn't a good way to make the same thing work for all vehicles all the time. He discussed the delivery schedules further.

Mr. Rowe indicated where there edge of the pavement is now, saying there is a light pole right there, so even if they want to cut the corner, they are limited on how much they can cut the corner. He indicated where the new pavement would extend, saying they have a much better line up to get back into the service entrance. Mr. King clarified you are reconfiguring the big island, asking if the existing one is the longer narrower shape. Mr. Rowe agreed. Mr. King stated you are shortening that up, but you are also bumping out the sidewalk; I am just thinking about truck circulation, they can't make that corner. Mr. Rowe asked which corner. Mr. King said I am not clear on the scale here, but there looks like there is not width with the new proposed sidewalk and the smaller proposed island, it is still quite narrow here are the bottom of the island; either end. Mr. Rowe discussed how the trucks can flow in the proposed plan. Mr. King and Mr. Rowe discussed the matter further.

Mr. York asked what regulations require the parking data. Mr. Rowe responded using the zoning regulations. Ms. Patrick clarified if he is asking what number of parking spaces are required. Mr. York agreed. Ms. Patrick said she got a different number than what Andy had proposed, but it is a difference of two spaces, so it didn't seem to make a huge difference. She said there are 33 new spaces proposed, but like Andy said a lot of these are informal spaces, so there is not a really good count when people are actually parking there. She stated they are adding 33 new spaces, as opposed to everyone parking along the shoulder.

Mr. King clarified how many parking spaces the use would require. Ms. Patrick said it is based on the students and there is a different number of parking spaces required based on the type of institution we are talking about, noting the different education types in the regulations. She said I believe it is a quarter lot per elementary and secondary students and a third lot per preschool students, noting there is a higher level of traffic if you are picking up preschool students with a half day. Mr. King clarified you submitted calculations using those ratios correct. Mr. Rowe agreed, saying we were looking at the projected enrollments for next year; enrollment is generally declining. Mr. King said you are proposing within a couple of spaces of the calculation. Mr. Rowe agreed.

Ms. Patrick noted that Underhill ID did add Saxon Hill this year, so they did have an updated student body, which would result in different projections than a few years ago. Mr. King asked if that is in the calculations. Mr. Rowe said it is in our calculation and Michelle's. Mr. York asked about the total number of faculty and staff. Mr. Forward said there are 70 at BRMS and 27 at Underhill ID. He said not all of them will be there all of the time. Mr. York asked if Underhill ID school is underutilized now. Mr. Forward said Saxon Hill helped with that. Mr. York, Mr. Forward, and Mr. Rowe discussed the parking implications of different occupancy scenarios.

Mr. King asked Mr. Forward clarify the status of the permits. Mr. Rowe stated we have applied for stormwater permit, saying the Lake Champlain TMDL (Total Maximum Daily Load) is throwing a monkey wrench into the State's permit process. He said it has been under review for almost 60 days now, we are just waiting for the technical review to be completed. Mr. King asked him to describe briefly, noting you are adding impervious surface. Mr. Rowe said about 0.6 acre. Mr. King said the general plan of the treatment is the same; most of the parking lot runoff is not actually moved off the site, it is sunk on the site.

Mr. Rowe agreed, saying most of the area now is connected to a catch basin here and out in back. He said other than that runoff sheets off and runs into the grassed areas, indicating the location of a depressed area. He said the rest of the parking lot here sheets to the back, either makes it into the catch basin or infiltrates in the area adjacent to the playground and this area here generally flows into the middle and what doesn't infiltrate makes it to that catch basin. Mr. King asked where the catch basins move the runoff. Mr. Rowe responded they go to the Browns River at the back of the athletic fields.

Mr. King stated as you know, we are not the body to review that, that is a State permit thing; but we are asked to review it as part of site plan and we like to understand what you are proposing. He said if the State says it is okay, then we sequence off of that. Mr. Rowe said the two primary areas of new impervious are the parking lot here and the parking lot in the back. He said with this parking lot here, it is sloped from this edge to this edge, sloping back to the existing pavement. He stated we have a depressed area here, which is really required for pre-treatment because we have a perforated pipe here.

Mr. Rowe said the water will have an opportunity to infiltrate in the depressed area; if it doesn't infiltrate, it fills up to a point that it flows into a catch basin. He said if it was a large enough storm where it didn't infiltrate, it would run through a new pipe here that connects to the catch basin and continue through the existing system to the river. He said the new paved area back here and this piece are treated by a grass swale, indicating the location, which flows all the way to a new catch basin. Mr. Rowe explained we are getting treatment in two ways here: 1) with the grass swale that runs along the edge of the pavement; and 2) by disconnecting it, noting the State requirements for vegetated disconnection area. He stated that is why we have a new catch basin here, which is relatively close to the existing one.

Mr. York asked about the new chain-link fence, saying it looks like people will have to go around it. He asked if staff has seen it and that is really what they want to do. Mr. Rowe responded that staff has reviewed the plans; the intent was to have kids coming into the parking lot from one location and to provide a little bit of a barrier for the balls to keep them away from the parked cars. He said it is more to keep traffic through that parking area to a minimum. Mr. York asked whether they had given thought to making a passage through there, or if they didn't want to give up the spots. Mr. Rowe said we could. Mr. York discussed how the fence could seem bothersome. Mr. Rowe said I am not sure how much the fields get used during the school day, saying they are mostly used evenings and weekends. Ms. Patrick asked how high you are proposing the fence to be. Mr. Rowe said 4'.

Ms. Hamilton asked if they have anticipated getting overflow parking from the Library in that side parking lot. Mr. Rowe responded that the purpose of that wasn't for the Library, but it is certainly available for the Library to use. He said the schools probably use the Library parking more than vice versa. He discussed the current parking situation, saying it would be available for them, but that

wasn't the purpose of it. Mr. Forward said the Library hours are usually different than school hours, so it would probably be available. Mr. Rowe said that was what we were thinking, that the demand for the Library is usually on the weekend or in the evening. Ms. Hall disagreed, saying they have story hour during the day. Mr. Rowe clarified if it was during the middle of the day it would generally be available because parents are not dropping off at that time.

Mr. King said it depends on the signage, how it is set up, and whether that is anticipated or not. He asked Michelle about stacked parking, or what it is called when two places use the same parking. Ms. Patrick clarified it is shared parking. Mr. King stated shared parking is encouraged by the regulations; it requires some sort of coordination, noting an example. He said I don't know whether you could consider having the signage cover it, so that it is shared parking. He noted there is no requirement for you to do that, I am just curious of how it is actually going to work because once the parking lot is there, unless there is a tow truck threatening people, they are likely going to park there.

Mr. Forward said one thing we are hopefully going to do is to be much more deliberate about staff parking, noting it will be in different places from where a parent will park during the day. He said with the staff at BRMS, we want to encourage them to park behind the school. Ms. Patrick stated Barry mentioned the definition of shared parking and really the is a little different; it is a way for the DRB to reduce the number of required spaces. She said because there is a kind of pre-existing situation here, the schools are already sharing parking, it doesn't seem like that is a necessary ordinance. Mr. King thanked her for the clarification, saying it is true it is not a condition in any way, I am just curious about how you anticipate it working because it is defacto shared.

Mr. Forward said one of the things I am looking forward to is there will be a lot more signage. He stated we expect there to be some confusion at the beginning of the school year, so we will have folks directing traffic for the first few weeks of school to teach them the new traffic flow. Mr. York asked how well it worked when they ran this trial in the middle of winter, saying he would expect people to continue trying to get as close to the entrance as possible for drop offs. Mr. Forward said we anticipate that is a challenge, it is a problem. Mr. York and Mr. Forward discussed the matter further. Mr. Forward stated this is at least the twelfth iteration and none of them are perfect, but this is the best we could come up with. He said we do think there will be issues, there are issues now. He discussed the current challenges and how they will face them with teaching, enforcement, and signage.

Ms. Patrick said a note on signage, I think there are some folks here that might comment during public comment, I think the Library was concerned the circulation would be changed to one-way and the signage to indicate that. She asked them to discuss how that might impact the Library. Mr. Forward responded we have considered it; it is not an essential thing for us. He said the Library is a discrete use and is not a huge impact for us if they come in and go out the same way; we could start the one way after the Library driveway. Mr. King clarified that is the present state of affairs. Mr. Forward stated it is; that it is not how it works necessarily, but that is the intent. He said that is the way it is and there is not terrific signage right now.

Ms. Patrick clarified it is not essential for the plan for it to be one-way the whole way, it could be two-way at that entrance. Mr. Forward said it is for the school, noting there will be a tendency for people to come back out that way, but we really don't want them to do that. He said it really clogs things up and it flows better if it is one-way. Mr. York noted if there is a median island there in front of the elementary school, people will only be able to go through one-way. Mr. Forward agreed.

Mr. King stated the section of the driveway between River Road and the Library driveway is presently two-way and it is proposed to continue to be two-way. Mr. Rowe said correct, but we are fine with staff's recommendation to change it so that this first section would remain two-way, this would remain one-way, and it would be one-way from this point on. He said if you are coming out of the Library, you could take a left and exit here, but that would be the only people using this as an exit.

Ms. Hamilton clarified that the people in the new parking lot will have to go out and around. Mr. Rowe agreed. Ms. Hamilton clarified there would be very clear signage for that. Mr. Rowe agreed, noting the signage and pavement markings that would be used. Mr. Forward stated that flow worked pretty well. He said one of the things that was challenging was that it backed up some coming around from BRMS and it appeared unavoidable. He said we were encouraged by the fact that there was a shorter parking lot, so there was less room for stacking; with a longer parking lot, there will be more room for parking.

Mr. King said we have a letter from the Fire Department about this. Ms. Patrick agreed, saying he submitted the comments a little late, but the Andy responded to the comments. Mr. King stated that is in the record. Ms. Patrick said she has a question about this parking lot that was proposed as the drop off lot across from the Library, saying part of our regulations for front yard parking requires screening. She stated I believe this constitutes front yard parking, so the Board might want to discuss it. Mr. King asked if it is front or side yard, saying he is not clear what the lot lines are. Ms. Patrick stated there are actually two lots to this project; BRMS is on 20 River Road and Underhill ID is on 10 River Road, the lot line goes right through here.

Mr. Forward stated that with the new modified school district, those lot lines will go away if they haven't. Ms. Patrick clarified they are common ownership, there are two lots. She said the Library lot down at the bottom would constitute front yard parking because it has frontage on River Road right here. She said the Board may want to consider screening for the resident who lives right here, asking if there are any trees or shrubs proposed. Mr. King stated no, there is actually a photograph in the staff notes. Ms. Hamilton said isn't there a rule that if there are over five spaces we can require it anyway. Ms. Patrick responded yes.

Ms. Hamilton asked if they are opposed to put up screening to River Road from that side parking lot. Mr. Forward discussed concerns, including staying within the budget and not wanting to put this project off. He said we don't have it in the budget right now. Mr. Rowe asked if they are talking about a couple of street trees, not a barrier. Ms. Patrick agreed, not a solid wall. Mr. Rowe said the Library has a handful of trees now, so you are talking about two hardwoods in there. Mr. King said this is a public institution and a charitable institution, so you could likely meet the condition without spending money if you found the right donor. He stated our job is to enforce the regulations.

Mr. Rowe said the whole discussion of front yard parking and side yard parking; I would point out that even though the Library is not part of the application, they are on the land owned by the Underhill ID. He said if you look at where that building is positioned and we are talking about front yard parking being anything in front of the building, while this parking is certainly in front of the school buildings, it is on the side of the Library building. He said we are certainly out of the front yard setback. Mr. King said the Library parking is clearly front yard parking. He said in that sense it is an expansion of a non-conforming use. Ms. Hamilton clarified it is not an expansion of the Library's parking.

Mr. King said this is a question about how it is classified; saying I understand its intent. He asked about the setbacks to the inset lot there, whether there is any problem with putting the parking lot there. Ms. Patrick said no, this is in the Village Center, so it is okay if there is parking here. She said that brings up another point; because this is two lots, although it is common ownership, parking is allowed in the setbacks in the Village Center. She stated there are some curbs and light posts here, those are part of the project, so is that okay if they are within the setbacks. Mr. King clarified the rule is that parking is allowed in the setbacks in the Village Center, but structures are not. Ms. Patrick agreed, saying I don't know how you would classify light posts, whether those are structures. She said there are some already there, so it is not a clear interpretation of how you want to look at that.

Mr. King said just to be clear, parking is allowed in the Village Center District in the setback, but structures are not. Mr. York asked about the locations of the setback and the light posts. Mr. King responded the lot line goes pretty much through the middle of the parking lot, right. Ms. Patrick agreed. Mr. Rowe said if it helps the Board, the applicant is going to merge the lots now that the merger has occurred. Mr. Forward said it is on our list of things to do anyway. Mr. King stated to extinguish a lot line is a different thing. Mr. Rowe asked if it has to be done as a boundary line adjustment. Mr. King responded yes, discussing how that would be handled procedurally. Mr. King said the question will be if there are structures proposed to be built in that area that is technically setback. Ms. Patrick noted that really the light posts already exist. Mr. King said that is something we will need to decide.

Ms. Hamilton clarified the lot is under common ownership. Ms. Patrick and Mr. King agreed. Mr. York asked if that is something the DRB can allow. Ms. Patrick stated you could interpret it that these objects are part of the parking; they do make it safer. Mr. King agreed. Ms. Patrick said one more thing, there is no crosswalk proposed; even though this is not main parking for the Library, if it is going to be used by folks using the Library, then there is no crosswalk here. She said it is something to consider for pedestrian circulation. She said there was a little bit of consideration here, the way Andy described it to me, this little lot here would be used for staff. Ms. Patrick stated the idea was that these people would be arriving earlier and therefore they wouldn't be backing out at the end of the day when students and buses would be going through there, so it wouldn't interfere with the circulation. She said I though the Board might want to consider whether or not this is safe for pedestrians to cross, if this is going to be the main avenue for traffic, if there should be a crosswalk at either end of this to connect to a safe spot for pedestrians.

Mr. Rowe said it was suggested and we talked a lot about it being overflow parking for the Library and we are trying to be a good neighbor. He said if it is available and the Library needs it, the intent is for them to use it, but as far as formalizing a connection there, there is no sidewalk over here for a crosswalk to connect to. He stated the purpose is to serve the school, we do have a crosswalk up here and a receiving area on both sides. Mr. Rowe said with this being used only for overflow, it will be fairly infrequently used. He said something can be said for having crosswalks that are either over-marked, or that are marked and aren't being used.

Mr. Rowe stated that leads me to the nine spaces up here; having nine spaces. He said certainly we want safety for the staff who are using those and crossing, whether they are crossing to the ID school or to the middle school, but nine spaces is pretty minimal. He asked if you would you have a crosswalk up here or down here, given that these are all adults, probably not. Mr. Rowe said if you park here, I think they are going to turn and walk to the island to get to whichever school they are going to. He said given the nine spaces that are there, having a crosswalk that is solely for those nine

spaces can look like overuse of the crosswalks; if you have too many there, they tend to lose their effectiveness and importance to the driver.

Mr. King clarified the grey shaded area is presently gravel parking lot or used that way. Mr. Rowe stated this area here is paved; in creating those angled spaces, this is unnecessary, so the pavement would be removed. Mr. King clarified that the present state of affairs is that that is parking over there. Mr. Rowe agreed, adding that if people lined up with the ideal condition, you can get about twenty vehicles in there now, indicating how that could happen. He noted we do have some landscaping down here, we did look at the end of the residence here and there is a little bit of a gap. He stated we did add a few conifers here to block that gap.

Mr. Rowe said as far as the additional landscaping around the parking lots, he indicated the locations of trees and boulders proposed. Ms. Patrick said this was something we discussed; there is a regulation 11.8.5 that is internal parking lot landscaping. She said for every ten cars there needs to be one tree planted in a bed of not less than 40 square feet. She said the Board should decide whether the landscaping proposed meets this regulation, or if there should be some internal beds in the parking lot breaking up the parking. Ms. Patrick said right now they are beside the lot and they are there, which is great, but the purpose of the regulation is to break up the sea of pavement. She said the DRB should decide if that is something they should require.

Mr. Rowe said for maintenance, winter maintenance in particular, we would prefer not to have the islands in there. He said in fact they would go so far as the requirement I think we have met with the three trees here, three trees over there, and providing an additional three trees in lieu of the additional landscaped islands; with the curbed islands we have to take these and move them in, it would break up the pavement, but it also breaks up the pavement in terms of winter maintenance and results in a reduction of parking spaces as well. He stated we propose that if the Board prefers we could add an additional three trees rather than moving those into the curbed islands. Mr. York asked about the regulation. Ms. Patrick stated it is Section 11.8.5 under landscaping. She said this is only relevant for off street parking lots that contain twenty or more cars. Mr. King noted that each of those lots is more than twenty, except the staff lot.

Public Comment

Mr. King explained the public comment process; he swore in people who were not at the start of the meeting. Ms. Hall introduced herself as the Director at Deborah Rawson Memorial Library. She said the concern, there are two signs at the end of our parking lot in the proposed design: 1) a stop sign; and 2) a no left turn. She stated we are fine with the stop sign, but we have concerns about the no left turn though. She said we get between 150 to 200 people a day at the Library, which can roughly translate to about 100 cars. Ms. Hall said by having no left turns, safety is a concern for the school I know, but by doing that they are routing the cars now through their space.

Mr. King said can I ask a jurisdictional question; the Library leases space from the school. Ms. Hall agreed. Mr. King asked who owns the land. Mr. Forward responded the district does. Mr. King said the parking and traffic flow on this road, this is a private inside circulation flow. He stated as far as jurisdiction goes, it is really none of our business who is what, it is just a site plan. He said I am sorry to interrupt, but this brings up the question for me; the question is, whether any of this is a public road officially. Ms. Patrick said no. Mr. King clarified the Town doesn't plow this road and doesn't own this road. Ms. Patrick stated it is not a public road that I am aware of. Mr. Rowe stated it is a private road.

Ms. Hall stated the concern is that the increase of having our patrons having to drive through that loop and the safety concerns because we have all ages of drivers.

Mr. Reilly stated his house is behind BRMS. He said the two concerns I have in looking at this are: 1) the lighting because they are extending that parking lot back farther behind the school; are there going to be lights that will be placed behind there for the additional spots; and 2) a question, with all of this impervious space they will be sending more water into the Browns River, it sounds like the State will be addressing that, but I am surprised we don't have anything like water gardens hanging off of these two lots to basically catch the water before it gets to the river. He said those are the only two concerns that I have.

Mr. King stated there was a question about lighting and where the new lighting is proposed. Mr. Rowe responded there will be one new light here, with that we have good coverage here. He said we purposely did not put a light here; even though you have cutoff fixtures, we didn't want to have that light intrusion across the property line. Mr. King asked the Mr. Rowe to orient us on this plan. Mr. Rowe oriented those present to the lighting plan. He stated there is one new fixture here, there are existing light fixtures on the outside of the sidewalk, and there is another one just beyond the area that is cut off. He said all of those pole mounted fixtures were added about four or five years ago. Mr. Forward said the solar lights were added.

Mr. Rowe said some are solar, some are hard wired; they are all cutoff fixtures, all LED. He said those are the existing lights here, one new one here; moving to the lot behind BRMS, there is existing light here. He indicated the outline of the garden and the location of the garage, noting the location of one new light. Mr. Rowe said there is one light here currently that will be relocated to the center of that island; just to get it a little further away from the potential of being hit by a vehicle. He said these lights are casting the light forward here and here; we have good coverage for this new area, one existing light here that provides pretty good coverage here. He said as you get down into this area, you are getting down to zero foot-candles.

Mr. Rowe asked to move to the overall plan so the gentleman could see where those are in relation to his home. Mr. Reilly asked if those are solar, like the ones you put in on the right. Mr. Forward responded not likely, saying the purpose of the solar and how they were cost effective is that at that time we didn't want to tear up the parking lot to get connected via wire to the school, so they became cost effective. He stated it is less expensive to hardwire them than it is to do the solar. He said in this case we are affecting the entire site, so any new lights we put in will be hardwired lights.

Mr. Rowe indicated the location of the new parking area is right in here, with the two new lights right in here. He oriented to the overall plan; noting for reference, Michelle has some full size plans that show the main portion of the land, but it also shows where the lot line runs through the property. Mr. Forward stated they will be cut off fixtures, in order to eliminate trespass onto other properties. Mr. Rowe agreed, saying the lights that are there are very similar because of change in manufacturers they are not an exact match, but they will be very similar in appearance and in function. He said the lights that are proposed are going to match the poles that are there now.

Mr. York asked if they are proposed to be on 24 hours. Mr. Forward responded no, they will be on photo sensors. Mr. York asked what time they will go off. Mr. Forward stated they will go on at dusk and off at dawn. Mr. King clarified they will be on all night. Mr. Forward responded yes, on a sensor.

Ms. Patrick stated there was a question about why there are no rain gardens. She said that may be a better question for the applicant, but I did want to mention that the Planning Department is trying to incorporate more green stormwater practices into our regulations; it is a time consuming process. Mr. Reilly said he comes from IBM and the put them in, so it was just a curiosity. Ms. Patrick stated it is nothing we can require right now, but we are trying to build those in.

Mr. Rowe said on the overall plan, right now there is a depressed area here that runoff from this area here collects and infiltrates into. He said as I mentioned before, a rain garden is basically a depressed area that has features in terms of plants. He stated we don't have the plants here, but we do have that depressed area; in fact, this is much larger than a rain garden would typically be. Mr. Rowe said this is depressed from the catch basin here, all the way down through; it is picking up run off from the existing pavement and the proposed pavement. He said Michelle had mentioned, in a mapping study the potential for something to be done here; we are maintaining another depressed area here, so anything that is coming off of River Road is going into this area and infiltrates, it continues to have the same opportunity to do that in this area. He said while we don't have the plants that area associated with rain gardens, we have the same opportunity for that stormwater runoff to infiltrate, indicating the locations.

Mr. Jacobs asked if anything is changing with what the Fire Department is requiring with access completely around the building; it sounds like you are not going to negatively impact that. Mr. Rowe said right, I think what they are talking about now is that the access comes off here and keeps going. He said as I mentioned we have a grass swale here, but at that point they are like one on five slope; the swale is just starting here, so it is only about 6" deep. He stated that should not be a problem; there is no need for a culvert, it is just going to be a very gentle dip right there. Mr. Rowe addressed the other comments from the Fire Department: painting the curb yellow is already on the sign and pavement marking plan; they were suggesting in addition to the pavement markings that bus only and emergency vehicle signs be added, but we are not really crazy about that idea since we have the pavement markings and yellow curb. He said if signs were added, they would be at the back side of the sidewalks and having them that far back, particularly in an aisle that isn't open to through traffic didn't seem necessary.

Mr. King clarified you are going to do the curb marking, as you do now and there is pavement markings which are great except when it snows. He said hopefully by then everyone will be trained. Mr. Rowe agreed, saying particularly over here, the signs in here as well. He said here we have the median which should be a clear sign to people that they shouldn't be over there; just the fact that those signs are going to be fairly far off the edge of the pavement, it didn't seem like they were going to be very effective. Mr. Forward said as one of the constituencies, the bus drivers, really liked this plan.

Mr. King closed the hearing. He explained the applicant would receive a decision within 45 days.

3. Approve minutes from April 28, 2016.

On a motion by Ms. Hamilton, seconded by Mr. York, the DRB unanimously approved the minutes from April 28, 2016 as written.

The Development Review Board entered deliberative session at 9:34 p.m.

The Development Review Board adjourned at X:XX p.m.