



Town of Jericho  
Development Review Board

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Jericho Town Hall  
Thursday, May 26, 2016  
**Approved June 9, 2016**  
**Minutes**

Members Present: Barry King, Joe Flynn, Bruce Jacobs, Stephanie Hamilton, Jeff York  
Members Absent: None  
Guests: Katherine Sonnick (Town Planner), Amy Richardson (Secretary), Randy Babineau, Tanner Palmer, Sharon Boardman, Dean Davis, L. Christopher Yandow, Josh Girard, Stuart Alexander, Peter Heil

MEETING AGENDA

- A request by Great Northern Development, LLC (c/o Josh Girard) for combined preliminary and final Subdivision review of an 8-lot, 7-unit PUD on a +/-37 acre parcel. This parcel is located at 3 Raceway Road in the Agriculture Zoning District and the Village Zoning District.
- A request by L&S Properties (c/o Joe Bissonette) for sketch plan review of two multifamily dwellings (totaling 4 units). This parcel is located at 329 Vermont Route 15 in the Village Center Zoning District and the Character Based Zoning District.
- Approve minutes from May 12, 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. King noted that we did get some information today from the Conservation Commission that was also sent to the applicant regarding the first hearing. He read the Interested Persons Law. The public was sworn in at 7:06 p.m.

- 1. A request by Great Northern Development, LLC (c/o Josh Girard) for combined preliminary and final Subdivision review of an 8-lot, 7-unit PUD on an +/-37 acre parcel. This parcel is located at 3 Raceway Road in the Agriculture Zoning District and the Village Zoning District.**

Applicant's Presentation

Mr. Heil introduced himself and Mr. Girard, the property owner. Mr. Heil said it is the same as the site plan submitted with the ortho lines, distributing plans to the DRB members and staff. He stated this is a combined final hearing, which you saw previously at sketch. He said the parcel is located at 3 Raceway Road, pretty close to the intersection of Route 15. Mr. Heil said the proposal is for seven single family lots with a private road down into the development. He said it will be served by municipal water and on-site sewage disposal, as well as on-site stormwater. He said the staff notes do a really good job covering everything.

Mr. Heil said I will go through and cover the red items, but if you have any questions or comments feel free to stop me at any time. He noted the following:

- A lot of these comments, Michelle who put the notes together, just acknowledged we conformed with the statutes;

- Section 10.12.2 – this project is a PUD (Planned Unit Development) because of the size of it; we are proposing seven single family homes; we are not, not including the common land, Lot 8 is the common land, which is the majority of the parcel;
- No waivers are requested as part of this application, we meet all the setbacks, coverage, frontage requirements, etc.;
- The review standards will be treated separately;
- You have seen this back in December as part of sketch plan; the concept planned was part of our sketch plan, where we took the comments from the hearing and incorporated them for combined preliminary and final review, which is in front of you now;
- The first item to really address would be Section 10.12.7.1 – the plans do show the wetland that we had delineated, as well as the flood plain; the wetlands were delineated, we do show a buffer and the flood plain;
- The flood plain is labeled from the FEMA (Federal Emergency Management Agency) map for the 100-year flood hazard zone, which is the same as the Village River Overlay District which we will address as part of the Conservation Commission comments that we received today as well;
- The plans do show the soil types, there are no slopes in excess of 25%, therefore not require any conditional use; no prominent hills;
- The area does contain prime ag soils per the definition of prime ag soils; however, as far as we know the site has never been used for agricultural purposes, only occasional haying of the field during the summer;
- The lot layout is showing on plan sheet #1 to help prevent encroachment into the wetland and the flood plain we are proposing split rail fence to permanently demarcate the buffers;
- During construction we will be installing silt fence to stop sediment entering into the buffer and wetland areas, which will occasionally be cleaned out as necessary per the State Erosion Control and Sediment design;
- We are not proposing any broad categories; it is just residential;
- All the information for the vehicle, roads, cross-sections are shown on the plans and details are provided; they meet all the Town regulations, including the public works specifications for Town roads; all of that information has been provided and does meet the regulations;
- As part of the plans that we did provide, sewage disposal, stormwater treatment, and there is no shared parking indicated on the plan;
- Stormwater is treated on the site; the shallow roadside grass swales, which lead to an infiltration basin as well as an outfall spreader; the treated stormwater then flows overland through the wetlands and eventually to the Browns River;
- The project does require a State stormwater permit, which we have applied for and will be forwarded upon receipt; we do meet the rules as far as stormwater;
- For sewage disposal, we have applied for a wastewater permit from the State as well, per the locations of the sewage disposal systems (indicating the locations on the plan); they are all treated on-site; however, Lots 5, 6, and 7 are off lot, back up here because when we tested the soils are just better suited out there versus closer to the wetlands where there is a higher water table;
- The wastewater permit is currently under review; all sewage disposal will be treated on site;
- Sections 10.12.8 and 10.12.9 – we are requesting combined preliminary and final plan review tonight;
- Streets – the red item says no streets are proposed, access is as proposed drive; I think there is clarification further on in the staff notes, but it is a street because it serves seven units, which meets the threshold to be a street; it is going to be a private street, but it will be built to public

standards in the event that the road would ever be taken over in the future; that is a clarification, that we are proposing a private street and not a private drive;

- The legal documents were submitted as part of our final application submittal; we understand the Town attorney will review these and if there are any changes necessary, we will definitely make those;
- Section 10.13.1 – we are proposing a PUD; part of the development, we are only proposing seven lots out of the maximum 27 units allowed per the density; the staff notes does go into this further, with some restrictions that would occur because of the flood plain and other things; we are only proposing seven units and a large part of the land, approximately 30 acres will remain open space to be used as passive recreation by all of the landowners;
- Section 10.13.4.1 – the wetlands are shown on the plans as demarcated; we only located and delineated the wetlands closest to the project; there are additional wetlands on the parcel; however, it doesn't affect the project at all; indicating the only wetlands that the project really comes close to on the plan, noting we are staying entirely out of the buffer;
- The River Overlay District is labelled on the plans, as the flood hazard area from the FEMA map, noting it is the blue line on the plan; it is based on the 100-year flood from the FEMA maps and it does correspond to the River Overlay District based on the Town maps;
- There are no slopes greater than 25%; we will get into it further; some relatively steep slopes, but nothing in excess of 25%; there are no prominent hills, ridgelines, or outcroppings;
- This site does contain prime ag soils; however, the only use we have ever known of is it just being hayed, with no known agricultural use in the past 15 years;
- The VAST (Vermont Association of Snow Travelers) trail does run through the property on the old railroad bed; as part of the sewage disposal fields here (indicated location), saying we are proposing to relocate it just outside of the sewage disposal fields;
- Staff notes that this area could be considered a scenic resource adjacent to the Browns River; we are preserving the majority of the site, over 80%, as open space for passive recreation, so the scenic resources are still very much there;
- The residents of the neighborhood will have full access to everything, shared; all the lots share a common property line with the open space, so they have full access; there is also an existing opening between Lots 5 and 6; there is also an existing path before Lot 1, which will be maintained and will be able to go toward the river if desired;
- As noted, the habitat blocks are all outside the proposed building envelopes and the project does not have any effect on any of those;
- Open space shall have a coherent purpose, such as preservation of a wildlife corridor, scenic outlook, or creation of interlocking trail systems, preservation of some similar feature; the common land does propose the majority of the site to remain open space, with the residents having full access for passive recreation, maintaining the purpose of preservation and scenic of the Browns River and the rest of the property;
- The legal documents do include designation on the open space restrictions there; further, the open space is located in both the Village and Agriculture Districts within the property; the proposed residential units lie entirely within the Village District; the Village District is separated by a red line, pretty much splitting the Browns River, so the project parcel does go north of the Browns River, but we are not proposing any changes or anything over there; the project itself lies entirely within the Village District;
- The open space is the majority of the parcel, 84%, so it meets and very much exceeds the open space requirement of 25%; per the rules, narrow strips of open space land shall only be approved when necessary to connect significant areas when designated to protect linear resources, such as streams or trails; the only two now existing narrow strips are here, in between these units which

connect onto Route 15; we are proposing to connect the water line through here; there is an existing municipal water line that stops approximately here because we are proposing to connect just prior to there, run the water line down, and it will serve the units right off the edge of the road; the other narrow strip is up here and that is just an existing layout of the parcel, we are not proposing any changes or anything;

- Productive ag land – this site does contain prime ag soils; however, no crops have been grown here and it has only been used for haying purposes in the field;
- As you can see on the site plan, the road gains access off of Raceway Road; there is a little bit of a steep bank here, so the road does meet the 10% maximum public works standards;
- Down here is the area where I keep talking about the hayfields, so all the open space is the area where it has traditionally been hayed in the past;
- Open space – we understand the Town attorney is reviewing the legal documents; the open space will be maintained in equal ownership among the units for passive recreation purposes;
- Section 10.13.7 – permitted density, per the zoning regulations, the theoretical density of the parcel is 27 units and we are only proposing seven units; however, staff does note that site constraints such as the River Overlay District and flood plain would potentially allow for substantially fewer units; again, we are not anywhere near the maximum density allowed on this parcel; we are not seeking any density bonus;
- The zoning dimensional standards tables provided, again show that we meet or exceed the minimum allowed lot area, frontage, setbacks, coverage, within the Village Zone and no waivers are requested there;
- The lot coverage varies between the Agriculture and the Village Zones, but since the project is entirely within the Village, I will stick to that; the 40% maximum coverage within the Village District, we are only proposing 3%, or 1.1 acres, so we are well below the allowed maximum;
- The buffer zone between lot boundaries and the boundary of the PUD shall be maintained to provide screening sufficient to prevent adverse impact on adjacent properties; the minimum is 50', which we are providing along this property line, specifically right here; everywhere else we are proposing a minimum 100'; everywhere else abuts to common land, open space; we are proposing the minimum 50' buffer zone for PUDs;
- Variable lot sizes are acceptable within PUDs provided that they advance goals of the Jericho Town Plan; staff feels that various lot sizes proposed are appropriate;
- A conditional use review would be required if we were proposing an accessory office, storage, common laundry, living, or dining area, and indoor recreation facility; however, we are not proposing any of these amenities, so conditional use does not apply;
- PUDs shall provide for vehicular and pedestrian connectivity to neighboring developments wherever possible; I believe in talking with Dave who did the sketch plan hearing, this was talked about before; we are not proposing any potential vehicular connectivity; the road gains access off of Raceway Road into the project where it serves the units and from here it is wetlands; we are stopping just short of the wetlands and buffer to prevent any impact to the wetlands; we are not proposing any of that;
- There are no existing pedestrian facilities along Route 15 or Raceway Road, so we weren't proposing anything there because there would be nothing to connect to;
- Phasing of PUDs – I believe this was touched on at sketch, but the intent is for all site work, including the road, water, stormwater, septic systems, to be done at one time, so one phase; then the individual sale of the homes would be market dependent, so those would happen as each lot was sold;
- Section 11.1 – for access, goes back to what I had discussed before; because we are proposing serving more than four lots, we are proposing seven, we do need to propose a road, not a

driveway, which has been designed to public standards; however, at this time we are proposing the road remain private; we did provide a road maintenance agreement to the Town for the Town attorney to review; the profile shows that here there is a steep section, but we are maintaining a maximum 10% grade, which is allowed per the public works standards;

- Traffic and trip generation – we did provide the trip generation based on the IT trip generation data;
- Section 11.1.5g – proposed access is located off of Raceway Road versus proposing a road off of Route 15; it works better here; it is a much less busy road, so we are not getting into issues of traffic there; at sketch, there were some concerns about this intersection; we did an AM peak cue count to see how many cars did back up in the morning peak trip hours and there was a maximum of two at any given time, so we feel that is not an issue; during the day it will only get better; two cars would allow cars to back up prior to the entrance to the Merchants Bank, so there would still be adequate distance for anyone pulling out of Merchants Bank to hop into the cue if that ever did arise;
- Section 11.5.2 – adverse impact from the proposed development on existing roads; we are only proposing seven units, which correlates to 67 daily trip-ends, which isn't a lot; as a comparison, the Nestlebrook condominium unit has eight units and they are not really adversely affecting any traffic in the area; for a comparison, we are proposing less than what would go on there, so we feel there is no adverse effects onto any of the roads in the area;
- We are proposing the road be called Bittersweet Lane; we understand the E-911 Coordinator is going to determine the addresses for each of the units;
- Section 11.1.8.7-b – is what I just talked about regarding connectivity of the proposed road; due to the impacts to the wetlands, we feel that it is not pertinent to propose a connection through the wetlands because it would harm the wetlands; we are proposing a dead end road that only serves seven units, so we feel it is appropriate for this style of project;
- Pedestrian facilities – we are not proposing any pedestrian facilities along or connecting to Route 15 or Raceway Road because there is nothing to connect to; the existing VAST trail will stay the same, we are not proposing any changes there, other than slightly relocating a small section to allow for sewage disposal; no real changes there to access of the VAST trail;
- Section 11.4.2 – gets into the septic disposal areas for Lots 5, 6, and 7, which are located off lot behind Units 2 and three; this is because of the site soils on-site just allows for better treatment of the sewage up there;
- Section 11.4.8.2 – Lots 5 and 6, the proposed property lines are shown going into the buffer area; however, the building envelopes stop at the buffer, so there will be no building within the buffer or the wetlands; split rail fence will be constructed along the entire section to permanently demarcate where the wetlands and buffer are, so no impacts are proposed; we feel that the slightly larger lot sizes allow for more desirable sell of the lot, so we are not proposing any changes to the lot layout as shown here; there are no impacts to the wetlands, other than lines on paper encroaching into the buffer;
- The next comment, a split rail fence will be provided along the wetland buffer during construction; silt fence will be installed at the same location prior to construction to prevent sediment entering into that buffer area;
- Section 11.5.2.1 – there are slopes between 8% and 15% here, indicating the location on the plan; the proposed road grade will be a maximum 10%; we have applied and obtained a construction general erosion permit from the State, so we meet all of the rules and regulations for that; we do show stone check dams along the steep part of the road to slow down the stormwater runoff; prior to the start of the bank, we are proposing dry wells shown here at the top of the bank, so any stormwater associated with the road flows into these dry wells where it infiltrates on-site prior to

discharging down the steep part; that just allows less water and less potential for erosion activity through that steep part; the road is proposed at a maximum 10%; however, the existing slopes along that bank are somewhere between 15% and 25%, or approximately 18%; we are proposing approximately 7,800 square feet, which is less than the conditional use review requirement of 10,000 square feet;

- Section 11.6.1.4 – recreation open space common land, the VAST trail will be slightly relocated to allow for the sewage disposal to be constructed; the building envelopes are shown outside of this relocated trail;
- Water supply – again we are connecting to the existing water main along Route 15; a new 8” water line will run from the connection into the project and each unit will be served by a typical ¾” copper water services;
- Sewage disposal – I think the first part of the red comment could be struck, designed to be completed at preliminary; we have provided a full design of the sewage disposal layouts; again, all treated on-site, with Lots 5, 6, and 7 treated off lot behind Units 2 and 3 due to the existing soils;
- Landscaping and shade trees – we are proposing 31 street trees to be installed along the road, noting the location; we are also proposing a cedar hedge along this property line here, that way anyone turning into the project, it prevents excess glare going into the Church parcel;
- All new utilities will be underground; however, there are existing telephone pole lines along Raceway Road which will need to be relocated; there is one approximately right in the center, so they are going to relocate that pole, which will then drop our power underground to serve the project;
- Stormwater – again, the project proposes shallow grass channels along the road, which goes to a low point in the project, flows along the road to a low point, to this outfall before the treated stormwater discharges via overland flow into the wetlands, then eventually to the Browns River; we are proposing two dry wells at the top of the bank to infiltrate as much water as possible prior to the steeper section of the road; all stormwater will be treated on-site and we have applied for a State stormwater permit;
- Section 11.13.1.4 – again goes into stormwater, we are meeting all the water quality recharge criteria per the Vermont Stormwater Management Manual; I think this is a carryover from the last time, the first section of the red itemized notes says “the applicant has indicated that the proposed coverage is 1.9%.”; that should read approximately 3%, which correlates to 1.1 acres; I think before we were proposing 1.09 acres, which I believe is where the 1.9% mistakenly came from; all stormwater will be owned and maintained by the homeowners association, which the legal documents do describe;
- Section 11.13.2.1 – at a minimum all construction shall comply with erosion control practices detailed in the most recent version of the Vermont Low Risk Site Erosion Sediment Control Handbook; we have obtained a construction general permit and we do provide all of the required erosion control devices and the development, as noted, is outside of the fluvial and hazard zone of the Browns River.

Mr. Heil said that is pretty much it for the staff notes, saying there are some additional comments we would like to address. He said we sent this over yesterday to Katherine about site work; if approved, recently as part of the drinking water and groundwater protection division permit it has been taking six to seven months to gain a permit, which has been dragging out a lot of projects and it will affect this project. He stated if this project would be approved, we are requesting that some sort of condition be written in the approval that general site work to be allowed, including roads, stormwater, utilities such as power; with the only work not allowed, water and sewer work, which is under the

purview of the State wastewater permit. Mr. Heil said we understand that we need that permit prior to any of the water and sewer work to be allowed. He said before issuance of a Certificate of Occupancy for any of the units, the units obviously have to have water and sewer serving the home, so there is no issue for us waiting to do water and sewer work once we obtain the wastewater permit. He stated that could potentially drag us out into early winter, hopefully it will happen much sooner; we are requesting that general site work of the road, stormwater, gas, power, etc. be allowed to happen once we obtain Town approval and the rest of the necessary stormwater, erosion, vTrans permits, etc.

Mr. Heil said to the Jericho Conservation Commission review letter that was forwarded today, they addressed four items and I provided Katherine with our initial response via e-mail this afternoon, as follows:

- 1) We do show the River Overlay District boundary; it is labeled as the Flood Hazard Area per the FEMA map; we would be okay with a condition or adding it to the plans to this note, that the limits of the 100-year flood hazard area per the FEMA map and Town of Jericho River Overlay District; it is shown based upon this blue line here, which is entirely on the north side of the existing VAST trail, old railroad bed;
- 2) Lot 5 and 6 property lines going into the buffer areas; the property lines do go into the buffer areas; however, we feel it is not necessary to revise those based on buffer as we are providing split rail fence along the buffer after construction; during construction we will be providing silt fence to prevent sediment from entering into the buffer area; we feel it is not really an issue; we are not impacting the wetlands at all;
- 3) Stormwater, we do show the stormwater spreader right outside; however, it is treated stormwater; the State doesn't allow any water into waters of the State, including wetlands, if it is not treated; during their review, they make sure that we meet the treatment water quality standards, which we have shown as met;
- 4) We have provided the legal documents which shows how the common land will be managed by the seven lots equally.

Mr. Heil stated we feel items one through four have been sufficiently addressed.

#### Board Questions

Mr. York said you are asking us for expedited, early permits. He asked the applicants to be very specific about what they are asking the DRB to rule on. Mr. Heil clarified I am not asking for you to expedite permits; what I have done on another recent project in Hinesburg, a normal permit condition we would typically see would be no work shall start or no building permit shall be obtained until all necessary permits have been obtained and forwarded to the Town, including the wastewater permit. He stated the wastewater permit depends on the drinking water permit for construction of the water line, which they do the flows and pressures and the isolation distances. Mr. Heil stated because this permit is potentially going to take up to six or seven months, that would potentially delay the start of construction to November or December, which is not ideal. He said we are requesting that general site work be allowed to happen for everything other than the water and sewer work, which will be dependent upon the issuance of the wastewater permit. He said any other permits, including stormwater, construction general, vTrans highway access; any other permit, other than wastewater, we will forward to the Town prior to pulling the building permit.

Mr. Flynn asked if the delay is related to the permit application now being all on-line, it is longer and more drawn out; is that why there is the big backlog. Mr. Heil responded that is the wastewater

permit; that is not where the backlog is happening, the backlog is happening at the drinking water and groundwater permit to construct. He said you may know or have heard the name Greg Bostock; he recently retired, so now they only have two engineers reviewing the whole State, so that is where the backlog is happening. He added the wastewater is contingent on the drinking and groundwater permit to construct; the wastewater permit will not be issued until the permit to construct is issued and the permit to construct is currently taking six to seven months to obtain.

Mr. York said the split rail fence are being put on somebody else's property, asking if the property owner could just take them down. Mr. Heil responded I think the homeowner's association documents show that they will need to be maintained; if they don't show that, we will definitely add that the buffer area shall be maintained and no work or any disturbance shall occur within this area. Mr. Flynn suggested that each lot should probably contain that language too, noting Lots 5 and 6. Mr. Heil agreed Lots 5 and 6 specifically should. Mr. Flynn asked if Lots 5 and 6 specifically state that in their deeds. Mr. Heil responded we can add that.

Mr. Flynn said there are roof drains and footing drains; I see you have a couple discharging out by the wetlands in the back. He asked what is going on with the rest of the other five units. Mr. Heil stated the ones that we can daylight, Lots 5 and 6, are daylighting and will just overland flow; Lots 1, 2, 3, 4, and 7 along outside the private right of way, there is an easement benefiting all these lots for a footing drain connection. He said approximately 3' to 4' underground there will be a footing drain, connecting here, daylighting into the stormwater infiltration outfall spreader. He said each lot will connect to this 4" pipe that follows the road and based on the elevations. Mr. Heil said we do have a note on the plan that it is our intent that each of these units, if they choose to put a basement in, they will probably have to require some sort of a sump pump, but that will be up to the developer. He said all the footing drains and roof drains will be treated via this carrier pipe to the stormwater soil.

Mr. Flynn asked if that is the reason why you are not showing any grading plan in regard to the elevation of the house and where they will be sitting. Mr. Heil responded yes, saying the elevation of the homes, they are custom single family homes, so most likely they will not be these perfect rectangles, there will be some jigs and jogs. He said once you get down into the development, this is all 2%, I believe, on the road, so if they want to raise the house up a couple feet from the existing grade it is not going to be an issue for the steepness of the driveways. He stated that is kind of why we are showing the houses without grading around them; they are allowed to move if they choose to slightly within the proposed building envelopes, but they are going to be custom, nice single family homes.

Mr. Flynn said the question I have on that is, if you have a landowner builds on Lot 1, then Lot 3, and Lot 2 is still vacant; Lot 1 and 3 do some grading, next thing you know they are dumping water on Lot 2; will that create any problems because it is a flat site, one lot getting surface runoff. Mr. Heil responded say Lot 1 gets built, you are going to build it up, you are not going to dig down deeper, so you are coming off the road. He said if you build it up, all the stormwater is going to sheet in towards the road, so there is a slight pitch down here so the water does have the intent to flow this way. He stated once you build the houses up, all the water will sheet into the roadside channel systems. Mr. Flynn clarified you will either move it to the back or the front, not to the side lots. Mr. Heil agreed.

Mr. York asked about the land across the river, what is that currently. Mr. Heil responded that is currently open space, there is nothing on there. Mr. York asked if it is pastures, or scrub. Mr. Heil

agreed, saying it is pastures and small brush; it's not really an open field like this. He said the change in color is just small vegetation, no major trees or anything like that; we are not proposing any changes to that.

Mr. King asked the applicant to summarize what the homeowner's association says about the management plan for that open space, especially that space along the road. Mr. Heil stated specifically I cannot; I am not an attorney and didn't write the language. He said we do understand the Town attorney will be reviewing this to make sure that the Town is okay with the way it is written and to make sure the open space will be utilized in perpetuity as open space, no future allowed building or structures would be allowed; passive recreation would be encouraged. He said as far as specific language, I am not entirely sure.

Mr. King said I am just trying to establish that those covenants have to project the River Overlay as it is described; there are some specific restrictions on use. He clarified they are not prepared to testify about what the documents say. Mr. Heil said no. Mr. Flynn said most of the stuff in here pertains to the lots and the infrastructure you put in for the lots, nothing for the other side. Mr. Heil stated we can add it, if in your condition of approval, we have some sort of language or reference for the River Overlay District; we can have the attorney include those for sure, if it is not already there.

Mr. King said there is a similar question about the wetlands buffer in the back; I understand you are proposing that the lot lines go over into the buffer and that means what you are essentially doing is selling with the owner of Lot 6 some land which is strongly restricted in its use. He said there is nothing wrong with that, but they need to know that approximately 0.1 acres of what they bought, they essentially can't touch because it is in the wetland overlay; if they are okay with that, we are okay with that. He said it is a very specific protection that we can't permit around, it is virtually the fact that it is in that overlay. Mr. Heil responded we can definitely specifically add language to the deeds for Lots 5 and 6. Mr. King said I am hearing that you are about to get a condition to make that be so; it sounds like that is not a problem, but it needs to happen to be in compliance.

Ms. Sonnick stated I do have some comments back from the attorney, so I am guessing that wasn't forwarded out to you, it came in on May 11<sup>th</sup>. She said there are bullet points as follows:

- 1) Suggested wetland buffer restriction in Lots 5 and 6, so the attorney is already on top of that; and
- 2) Request for some deed language for the common elements for Lot 8; I don't think he has actually proposed what those are, so that would be beneficial to discuss.

Mr. King said we have two issues: 1) Wetland buffer which are Lots 5 and 6; and 2) Common land itself is in the River Overlay District and that has some specific protections. He said the Conservation Commission in their review pointed that out as well, so I think we are all on the same page with what needs to happen there. He asked if we can please clarify the terminology here about streets, roads, and driveways. Mr. King said I think everyone is clear what needs to happen, but this is by our regulations a private road; you are correct that there are public roads specifications and it appears to meet them. He clarified it is not a street, it is a road; our regulations describe them as either a driveway or a road and this is a road. Mr. Heil agreed.

Ms. Hamilton asked if we received a letter from the Fire Department. Mr. King said I think it was mentioned in the notes. He said we talked about this at sketch about the configuration of the driveway and you did mention you had done a queuing study, so I think that answers part of it. He stated the question at sketch was about the operation of the bank access driveway and this new

proposed access, how they were going to interact with respect to left turns out of this and right turns out of the access driveway. Mr. King said there was some discussion at sketch about reconfiguring this to make the curb cuts in a slightly different place; don't know if you can tell me if you have addressed some of that. Mr. Heil responded we didn't propose any changes to the curb cut locations. He said this is part of the parcel that is part of the common land, so the option would be to put a tight kink in the road and come out perpendicular across from the access drive; however, we feel keeping the road back from Route 15 as far as possible is better served for the project and for any cars in the queue along Raceway Road.

Mr. King stated you said you did that queuing study and you saw a maximum of two cars queued to turn right there. Mr. Heil responded we saw a maximum of two cars queued backed up on Raceway Road. He said we did the study between 6:30 -8:30 a.m., which is before bank hours, but historically that is when you are going to have the maximum amount of traffic; people going to work, to drop the kids off at school, etc., but that is all before bank hours. He stated there wouldn't be a lot of traffic coming in and out during the peak hours.

Mr. King said it is not clear on the size of things here; give me some scale. He asked if a couple or three cars are there, does that interfere with the end of the road or not. Mr. Heil responded no, to the midpoint of the bank access driveway here from the edge of the pavement of Route 15 that is approximately 48'; standard car is approximately 15' or 15'; a parking space is 18' deep. He stated you could have two cars easily backed up allowing 5' or so in between, so there is still plenty of room for a car. He said if it was coming out of the bank in the morning and there were the maximum two cars already here, there is still plenty of room for a car to pull out and safely get in the queue without getting additional cars.

Mr. King said it is not your responsibility to make the bank parking lot work; I was more concerned about queuing back to the access. Mr. Heil said the queuing is back to here; you would have to have six to seven cars, which our witness count wasn't showing. Mr. King thanked him for clarifying, saying I just wasn't sure about the dimensions. Mr. York said isn't there another entrance to the back of the bank. Mr. Heil agreed, indicating the locations of the access on the site plan. Mr. York clarified it is not right across the street from where you are proposing this. Mr. Heil responded no, there is one up the street and there is one here. Mr. Girard added that most people on the other access don't use it as an entrance to the bank, but as an exit. Mr. Heil noted there is drive through here that is a one-way, going this way, so most of the traffic is exiting out here instead of over here.

Mr. King asked about the configuration of the road; how is that set up for the part of the road. He also asked whether the right of way establishes the roadway. Mr. Heil responded it is a right of way and in the event that the road was ever taken over by the Town, the right of way could be just deeded over to the Town. He said it will be built to the public road standards and it will be maintained and shared between the seven lots, which is spelled out in the road maintenance agreement provided to the Town. Mr. King said you are proposing to set up this plat with a 60' right of way established there for whatever future use. He stated this comes back to the question of pedestrian facilities; if in the future as we hope, the long term plan is that there would be sidewalks along Route 15 and on Raceway Road, so it would make sense to also be able to connect there. He said in this kind of a situation you can fit the roadway and sidewalk in the width of the right of way. Mr. Heil agreed.

Mr. King said I don't think we need to do anything different for the purposes of this construction. He stated the only other question I have is whether it makes sense at this point to look for a right of way

on the road frontage of Raceway Road and I don't know how that ties into what the regulations say for that. He stated in the last several years the Plan has been asking us to look for a right of way on this kind of frontage when the rights of way aren't wide enough for that future use when we do something like this, to go ahead and plan for them; I am not sure whether the right of way on Raceway Road is wide enough or whether they need that additional right of way easement. Mr. Flynn clarified wouldn't you look for one over the common land and across the right of way. Mr. King said that's right; that would allow connectivity in some future sidewalk. Mr. Heil indicated the location. He said we would be okay with providing a 10' wide easement for a potential future pedestrian sidewalk or multiuse path.

Mr. King stated we can deal with that in a condition if it is appropriate by the plan; we will have to check to see if that is one of the roads; I suspect with it being in the Village that we will ask for that. Mr. Heil responded that we would be okay with that. Mr. King clarified that all of the project, the building envelopes and everything are on the Village Zoning District side of the line. Mr. Heil agreed. Mr. King clarified the river is the dividing line. Mr. Heil said yes.

Mr. York stated a lot of times we see these maps with septic field and there is a replacement septic field; I don't see that, particularly with those that are on common land. He asked how does that work with septic on common land. Mr. Heil responded you are correct that in in ground sewage disposal does require replacement; a lot of times they are in between each other. He said because of the site soils, we are proposing all mound systems with the exception of this one, which is a pressurized system; all mound systems are also pressurized. He stated in the event of a failure the State rules allow the system, since it is already built up above the ground to just remove all of the material and build it right in place where it was previously approved and build the same system.

Mr. York asked how does it work if you put a mound on the common land, does that land get deeded. Mr. Heil responded no, the land is shared by Lot 7, so Lot 7 has all the rights if that sewage disposal field does fail, he has all the rights to replace it. Mr. York clarified that the little piece of land belongs to Lot 7. Mr. Heil said it is on the common land, so it is owned by everyone, including Lot 7. Mr. King asked if there is a formal sewage easement as part of the documents as well. Mr. Heil responded that because it is on common land, a formal easement is not required.

Ms. Sonnick stated our attorney does suggest some septic easements for Lots 5, 6, and 7 across the other lots to get to the septic. Mr. Heil said we are providing an easement for Lots 6 and 7 and part of Lot 5; each of these units will be served by a pump station; Lot 6 has an easement across Lot 7 for the forcement; once Lot 7 goes in, it goes under the shared common road, so no easement is required there; once it gets onto Lot 5, there is an easement benefiting Lot 6 and 7 on Lot 5; once you get into Lot 4, the Lot 5 system is picked up, so there is an easement benefitting Lots 5, 6, and 7; after you get onto Lot 4, it is on common land, so no easement is required.

Mr. Flynn clarified there is remaining common land on the other side of Browns River for this. Mr. Heil agreed. Mr. Flynn asked what is the access to that and does it need access for future farm work and is there another way to access; will it be continued. Mr. Girard responded there is nothing you can do on the other side of that river; the property line comes right here and then it goes; once you cross the river right there it is a pretty wooded area and it goes into a real nice meadow that is not part of our land, then it cuts back across this way and it stays pretty wooded, then abuts up to the Davis farm, which again is not part of our land; it comes back across our land, but it is all unusable, but it is

walkable. Mr. Flynn said the reason I ask is if a farm tractor needs to go through the subdivision to get to anything back there. Mr. Girard responded no.

#### Public Comment

Mr. King said there was written testimony from the Conservation Commission. He explained the public comment process.

Ms. Boardman said I live on one of the properties that abuts the wetlands. She stated I am wondering with the mound system proposal, since they are going to be above grade. She said right now it is an ag type field, I am wondering if that will be seeded with lawn or mowed as lawn; what that is going to look like. Ms. Boardman said right now it is a wild field with lots of birds and deer and other animals that use it; I think that lawn would change the character of that open space.

Mr. Babineau said I am an adjacent landowner; I am not sure what the distance is between the wastewater and the river there. He stated there is a lot of erosion right now; there has been about 15' in the last year or so; I am just worried about the VAST trail being there and what will happen to that with the erosion and also if the wastewater will eventually run into the river. He said we bring the dogs down there a lot.

Mr. Alexander asked what, if anything, do our land use and development regulations say about preservation of prime ag soils. He stated my concern is not so much that it has only been used for hay for the last 15 years, as to whether or not we need it for food in another 15 to 100 years.

Ms. Boardman said I would like to advocate on behalf of the wildlife that use the Browns River corridor; there is a lot of fragmentation. She said it is estimated that about 6,000 acres of land a day are developed; the impact of putting houses there is not only the footprint of the house, but the lawns, the driveways, the decks, potentially pools, and other things that might come with a custom home. She noted having lived along that river the past 22 years, I have seen a lot of moose, black bears, and all kinds of smaller mammals use that access; it connects Mount Mansfield right down to the Champlain Valley, so it is not just a prime ag site, but it is also a prime wildlife site. Ms. Boardman said I am worried about fragmentation and loss of that access for those animals that travel along that corridor.

Mr. King said there was a comment on what the typical management or maintenance plan is for the area that is set aside for the mound system and perhaps the rest of the yards. He asked what is the typical plan and is there a covenant on that. Mr. Heil responded typically for any residential home, it will be lawn; grass covered, the mound systems typically are grass covered and are mowed. He said part of the erosion control; we definitely want grass cover as quickly as possible to prevent erosion. He stated all the lots will have the right to do what they want to do on their lot, other than inside the wetlands buffer area inside Lots 5 and 6; it is the intent for the majority of the lots to have a lawn around the house. Mr. Flynn asked if the mounds are typically kept mowed. Mr. Heil responded the closer to the house are; typically when you mow the lawn, you mow around the house. He said typically, the majority of the systems we spec out are mowed; I don't think there is anything preventing them from having excess hay growing instead of grass; that wouldn't disrupt the system at all.

Mr. King said there was a question about the river corridor and the erosion and the change of the water course and how that affects the systems in the long run. Mr. Heil said as far as affecting the systems, it doesn't; part of the reason why we are doing mound systems is because of the separation to ground water; by building the systems up and bringing in the high quality sand, the affluent is then able to filter

through the sand prior to reaching the groundwater. He said at that point the State looks at it as treated sewage; by the time it enters the groundwater, it is considered treated and it naturally flows to a low point, which in this case is the river. He stated it won't affect pollution, it meets all the EPR regulations, so we are good on that. Mr. Heil said as far as erosion along the river, that is kind of what rivers do. He said rivers never stay the same course, water is very erosive, but we are not proposing any changes. He said we do not want to get any changes of the natural river; as far as the effectiveness of any of the systems, it won't.

Mr. Flynn said looking at the contours, it looks like the contours show one thing and the river shows another, like the bank. Mr. Heil stated the contours are generated by LIDAR from 2004, the image is from 2013; nine years, so rivers change based on the difference of the contours and the orthographic photos. Mr. King said you show where the VAST trail is now and where it will be relocated; it comes along the old railroad bed. He asked if the railroad bed continues then along that straight line. Mr. Girard responded it comes up here and dead ends here. Mr. King asked where did the railroad go, it went somewhere. Mr. Davis said it goes straight through all the way to Raceway Road, along my field; it comes out probably 300' from the bridge on Raceway Road; straight line.

Mr. King pointed out it is between the old disturbance and this site, the other side of that. Mr. Davis said see that little dogleg that now is there, that wasn't; that area has been eroding steadily for the last 10 to 15 years; it is going slowly but surely. He stated I can understand why someone might be concerned about the VAST trail where it turns because that bank is still eroding and if somebody were to make some rip rap in there it would prevent it from going more. He said eventually, from my experience, it will go through railroad bed and it will keep going until it makes a big dog leg out in that area. Mr. Davis said it is a little bit of a concern for the septic system in the long run, in the next like 20 years, not in the next three or four.

Mr. Flynn said you can see the difference right now. Mr. Davis said it used to be straight, it just took a slowly meandering curve right there. He said it has found a spot where it is soft and it just drops right into it and that is what it is doing in that dog leg right there. Mr. Girard explained what is happening there is that it is coming around and there is a tree holding that, right around in here. He said three years ago when we had that big rain storm overnight and everything flooded out; that bank took some erosion. He said there is a tree sitting right there and it just is holding onto everything and the water is just sitting there.

Mr. Flynn said I wonder how that would play into the maintenance agreement for that area. Mr. King agreed, saying it is a concern. He clarified the present state of things is that there is a wastewater permit that has been applied for as designed here. He said we don't know whether in fact the State would say that it is okay to put that there. Mr. Flynn said I wonder if it is a concern for something in the covenants to allow that if they had to do something; I'm not sure. Mr. King said I'm not sure either. Mr. Flynn said I think the covenants already talk about being able to maintain and take care of infrastructure for the benefit; I think it also mentions that. He asked which unit that is for. Mr. Heil responded it goes Lots 5, 6, and 7.

Mr. Flynn stated I thought there was something in there that says that if Lot 5 fails, Lot 5 is responsible for repairing it, not the association. Mr. Heil agreed, saying if each individual system fails, that respective individual is responsible for repairing it. Mr. Flynn said if the river takes over Lot 5; where do you make that separation of community holding the river back as opposed to letting Lot 5 deal with it. Mr. Heil responded that if it destroys Lot 5 sewage system, then I would say Lot 5 would be

responsible for replacing it. He stated if the river destroys any other common open space, shared feature, then it would be the responsibility of all seven. Mr. Flynn and Mr. Heil discussed the matter further.

Mr. King said I am questioning whether the system as you propose it is going to pass muster, being on the outside of a curve in the river and the restrictions being what they are and making any improvements in the river bank. He stated you can't go in and put rip rap in just because you feel like it. Mr. Heil said no, you can't; to do any improvements to the river, which we don't want to get into, we would have to get a State river corridor permit. He said as far as the wastewater permit goes, like Joe said it is State controlled and under State purview, and not under the Town's purview; it meets the setbacks and it meets all of the rules in the regulations.

Mr. King said you have asked us to let you begin construction on the improvements without getting that wastewater permit in place yet. He said if the State decides nope, this Lot 5 system doesn't pass muster, it is too close to the river, then where are we. Mr. Flynn asked if there is another viable spot to put Lot 5's system. Mr. Heil responded that is the most viable spot; I'm not sure and I am not going to testify that there definitely is another spot, but it does meet the separation requirements to the river and it will meet the State wastewater permit standards.

Mr. King said we had a third question about what the regulations say about protecting prime ag soils. He said essentially it is in the description of the PUD process, that is one of the PUD process might do is protect prime ag soils. Ms. Sonnicks agreed, noting there is language that says the overall layout of the PUD shall minimize the disturbance of the areas listed below and one of those is prime ag soils. She said it doesn't say can't be developed; it says minimize the impact. She said there is question about what is productive, that is somewhere else where it talks about if it is productive. Mr. King said I think Stuart's question was whether those soils, by virtue of being that soil type, get special protection. He said we know what the soil types are, those are delineated.

Ms. Sonnicks stated I know it shows up at least three times in the PUD; as far as other spots in the regulations under general subdivision, I don't know off the top of my head, but I would be happy to look that up when we can. Mr. Heil added that by preserving 84% of the parcel in open space, outside of the development lots, we are minimizing the amount of impact to the prime ag soils. Mr. King said just to make the distinction; are there prime ag soils elsewhere on the parcel. Mr. Heil stated these are the four soil groups; I don't believe I added the ag soils classification. He said prime ag soils per the State are numbered by numbers one through fourteen, with numbers one through seven designated primary agricultural soils. He said I know especially ADA is in group six, the ADA is these soils up here, so this is all considered prime ag here.

Mr. Heil said the majority through here is preserved in open space. He explained ADA soils are highly infiltrative, so that is why we are proposing the dry wells there for the on-site stormwater for the first section of the road to infiltrate. He said as far as the other ones, off the top of my head, I can't give you a prime ag classification group. Mr. King asked if we have that map. Ms. Sonnicks said yes, noting I don't have it with me. Mr. King clarified that we have it, so we can use it in deliberation to compare to the map. He said that is the best information we have at this time is the description and we would have to look back and we will do that as part of the deliberation process. Mr. Flynn asked Mr. Davis when the last time was that you can remember that crops were grown there. Mr. Davis responded probably when the Browns lived there, it has been a long time since they lived there. Mr. Flynn asked if he remembers corn or anything. Mr. Davis discussed how the field has been used throughout the years.

Ms. Sonnicks said in talking about the easements, the Town is just kicking off a scoping study for some sort of pedestrian connection between the two village centers. She said there is question about where it is going to go and where is the best place for it, noting there has always been talk about something along the railroad bed as a pedestrian or bike path. She said it doesn't maybe make the most sense back there, but maybe it does. Ms. Sonnicks stated it will be an alternative that will be considered, noting it may be thrown out quickly because it is too remote. Mr. Flynn noted there would need to be a couple of bridges. Ms. Sonnicks agreed, saying there was thought maybe we would get people off Route 15 and down Raceway Road as a way to connect, so I think having that connection on Raceway Road, setting that aside as a possibility makes sense.

Mr. King closed the hearing. He explained the applicant would receive a decision within 45 days, noting who receives notice of the decision.

**2. A request by L&S Properties (c/o Joe Bissonette) for sketch plan review of two multifamily dwellings (totaling 4 units). This parcel is located at 329 Vermont Route 15 in the Village Center Zoning District and the Character Based Zoning District.**

Mr. King stated the hearing was postponed at the request of the applicant until June 23, 2016.

**3. Approve minutes from May 12, 2016.**

On a motion by Ms. Hamilton, seconded by Mr. York, the DRB unanimously approved the minutes from May 12, 2016 as written.

The Development Review Board entered deliberative session at 8:35 p.m.

The Development Review Board adjourned at 10:15 p.m.