Town of Jericho
Development Review Board
Jericho Town Hall
Thursday, September 25, 2014
Approved: 12/11/14

Minutes

Members Present:	Barry King, Joe Flynn, Stephanie Hamilton, Wayne Hendee
Members Absent:	Christopher West
Guests:	Jennifer Murray (Planning & Development Coordinator), Amy Richardson (Secretary)
Public:	Leslie Allen, Brian Stevens, Catherine Stevens, Graham McAfee, Steve Atwood, Dean Davis, Donna Wyatt, Stephen Wyatt, Dorothy Wilson, Colleen Springer, John (Jack) Manning, Kevin Frost

MEETING AGENDA

- A request by Atwood Enterprises, Ltd. for Preliminary and Final Plat Review of a PUD minor subdivision. The parcel is located at 44 Raceway Road in the Agriculture Zoning District.
- Minutes from September 11, 2014.

Mr. King called the public meeting to order at 7:00 p.m. He read the warning and explained the Rules of Procedure. He asked the members to disclose any conflicts of interest. There was none. Mr. King read the Interested Persons Law. The public was sworn in at 7:04 p.m.

1. A request by Atwood Enterprises, Ltd. for Preliminary and Final Plat Review of a PUD minor subdivision. The parcel is located at 44 Raceway Road in the Agriculture Zoning District.

Applicant's Presentation
Mr. Burke said this is a similar proposal to what was presented at sketch plan on May 22nd. He stated the parcel is owned by Mr. Davis, noting that Mr. Atwood has an option on the parcel and a separate option on the right of way, Meadow Drive. He said the proposal is for three duplex units. Mr. Burke said it is a 123 acre parcel on that side of Raceway Road that Mr. Davis owns, of which just shy of 29 acres is involved with this proposal. He said all of the land, with the exception of the footprints of the units is now common land.

Mr. Burke said when the attorney did his legal review he said everything will act as common land anyway, so the interior lot lines were removed and just the footprint for the units show, previously they had three lots and common land. He said at Sketch Plan Review the notes had feedback from the DRB and from the neighbors, including letters that came in before and after. He said they took a look at what they had, so in addition to a ten sheet set of plans, this is a minor subdivision and this is a final hearing. Mr. Burke said they made several changes, mostly to address the neighbor's comments. He stated item one in the letter he submitted on August 8th was they changed the buffer from Foothills from 50' to 100'. He said that also involved a slight shift of units 1, 2, 5, and 6 to make sure they were beyond that 100'.

Mr. Burke said one of the neighbors asked about the utilities being underground and they are, saying there is a note on sheet two that states all utilities shall be underground. He said there were comments on screening, mostly from the two neighbors on either side of the right of way. He said the plans do call for evergreen, cedar hedge on the portions of the common line with those two folks that are adjacent to units 1, 2, 5, and 6. Mr. Burke said there was a question on the source protection area for the Foothills well, noting that is State jurisdiction, but it was followed up on. He said the State revised their well area with Mr. Allen, agreeing that their boundary had not been updated.

Mr. Burke stated the boundary was updated and they incorporated that boundary on these plans, noting their proposed sewage area is outside of that boundary. He noted there are about a half dozen Foothill homes inside the boundary, but they are outside of the boundary for the well head protection area. He said on both sides of the right of way, noting the location of the McAfee and Wyatt parcels, there is a low spot in the current right of way. Mr. Burke said it rolls up to the property line about 2' in elevation, it flattens back out and goes down from the property line. He said water gets captured in this area in the springtime conditions. He said the plans incorporated that, picking up the swales to the driveway, regarding and conveying them through the right of way onto their parcel and into their storm system so that they are treated and controlled.

Mr. Burke stated they have improved the situation for both sides; the drainage now has a place to go, instead of being captured. He said the roadway was discussed whether it would be gravel versus paved. He said they are proposing it be paved to the property line of the development, indicating the location on the plan and discussing the reasoning. Mr. Burke said once they get onto the parcel itself, it would be gravel. He stated there will not be any tracking onto the main road.

Mr. Burke said three duplexes are proposed. He noted the last time they had suggested that three would be 55+ and three would be market housing; they are proposing all six to be 55+ housing now. He stated the regulations talk about include senior housing when it talks about bonuses, but they are fine with all of them being 55+. Mr. Burke said they provided trip generation data, both daily, a.m., and p.m. He said based on the Institute of Traffic Engineers (ITE) they are very low trip generations. He noted the regulations are tied to the ITE standards.

Mr. Burke said 55+ is about 50% of non-55+ single family homes when you look at traffic generation; it is essentially equivalent to slightly less than three homes. He said following the attorneys review they eliminated the interior lot lines, showing footprints for those lot lines. He said Mr. Davis wants to make a statement. Mr. Davis stated he has lived there for over 50 years. He said he feels that the Foothills is really part of the neighborhood because when he was a kid Raceway was one road and there were no roads off from it, so everything that was built on Raceway is part of his neighborhood. He said he feels that this should be a nice addition to Foothills.

Mr. Davis said he is happy with the way things are going so far. He stated he thinks it is relatively minimal and it seems like a good way to get in there. He said it makes good access to the road, so that there is no danger of people coming off the road and getting hit because there is good view of everything. Mr. Davis said he looked at the complaint about the trash over the banks. He stated he has never had access to that part of his property because it belonged to his previous neighbors. He said he noticed there have been Christmas trees and stuff thrown over the bank and he is discouraged to see that, but that tends to happen in the country where his hill is their backyard; it seems to be relatively minimal what is in there.

Mr. Burke said he would address the staff notes, noting they were thorough and supportive of this proposal. He said the job for their company with this proposal is to make sure that what the applicant wants meets the regulations. He stated this meets all the regulations and the State standards. Mr. Burke addressed the staff report, page 1, saying there are two numbers that he wants to clarify. He said there is a 28.96 acre number and a 27.99 acre number; noting the difference between the two is the right of way. He said the total land involved is the 28.96 acres, but the 27.99 is pertinent because that is the portion that is actually Mr. Davis' property.

Mr. Burke continued addressing the staff notes with page 2, stating at the bottom of project overview it should say the directly adjacent to the southern edge of the Foothills residential subdivision rather than western edge. He said in previous activity it notes they are between two one acre village zoning districts; he thinks by today's standards if you were to look at the zoning map, we could agree that Mr. Davis' parcel is essentially spot zoned at this point because the Foothills came about and is one acre residential; he is trapped in between the two one acre residential. He said that is mostly because it has been a farm and it stayed agricultural because it recognized it was a farm. Mr. Burke said it does allow for residential, and they are proposing low use residential on that piece. He said he thinks it is appropriate and he thinks it is also important to note that they are in between those two districts as staff has pointed out.

Mr. Burke said on the bottom it talks about the input and he touched on what they changed, noting he is happy to answer questions. He said on the use and permitted density, he thinks this is part of whether the DRB thinks we need to get into this to a higher level than planned unit development. He said with the planned unit development, character of the area is part of the planned unit development; that you are in harmony with the area. Mr. Burke said the question came up since sketch plan whether or not the duplexes are also conditional use within the PUD. He said he did a submittal follow up and he believes the way the regulations are written it is a conditional use in a conventional subdivision, but it is not a conditional use; noting that in a PUD it specifically states it is entitled to have multi-family duplex. He said the exact wording says entitled. He said we can get into that now or later if you would like, but he thinks the DRB decision as to whether or not we get into the conditional use criteria or we talk about it more at the PUD level.

Mr. Burke continued discussion of the staff notes on page 3, saying it points out they have changed the 100' buffer and the lot layout appears to be in harmony with the existing site features. He stated very little topography changes on this parcel; they are doing some for the stormwater drainage. He said the units are one-level units with basements, noting there is a combination of straight foundation, to a walkout foundation on one, to a garden style on one to work with the topography of the land. Mr. Burke said there ends up being the least amount of finish grading possible. He said they feel they are in character with the surrounding area, saying multi-family residential is permitted, entitled within a PUD per the regulations. He pointed out that is the character of the surrounding area, noting there have been suggestions from some that it may not be in character with the Foothills.

Mr. Burke stated that is not the criteria; the criteria is the surrounding area not the abutting development. He said if you do look at the abutting development, there are five distinct styles of homes which he named. He said there is a wide range; providing a handout to the DRB. Mr. Burke said when you look at the character of the area, all of the different projects within a mile that are either multi-family or duplex and are certainly in the area. He pointed out the various projects in the area, noting there is a lot of multi-use duplex, other than single family in the area.

Mr. Burke continued saying on lot layout, the second paragraph is the discussion where Mr. McAfee asks about the drainage, noting he already hit on that. He stated they are picking up that low point and making sure that it gets conveyed onto the parcel and into their stormwater system. He said they submitted stormwater calculations; this does not trigger a need for a State permit, but they did design it per State standards. Mr. Burke said on the last part of that is the discussion that brought up well head protection that has since been corrected and they are outside of that. He said based on those revisions, they had entertained the idea of having individual septic for each duplex and if they had, they would have been within it for unit 5 and 6. He stated they did modify their initial sewage plans to go to a shared system and keep it as far away as possible beyond the zone.

Mr. Burke continued with wetlands, saying the parcel is on the upper plateau and then drops off in two directions, indicating on the plan. He said the wetland starts at some point beyond the bottom of the slope. He said he added to the plan the dimension from the bottom of the slope, which is very conservative, to the point of closest disturbance. Mr. Burke stated it was 95' to the closest disturbance, which is the closest portion of the sewage field. He noted the Class II requirements are 50' buffer, so they are 95' or more and they did not spend extra money to have a wetland consultant when there is no wetland on that slope, the slope precludes it. He said it was easy to show that it was well beyond 50'.

Mr. Burke said the same section talks about the legal documents, which were provided with their August 8th submittal. He said it does talk in Section 6.10 and 6.11 of the legal documents on pages 8 and 9 about the use of the open space. He said Section 6.10 says passive use only; Section 6.11 gets into more detail, clarifying no ATVs, etc., basically leave the land as is. Mr. Burke said on density, the regulations require that they subtract 25% from the land area to establish the base density. He said when you take the 28.97 acres and subtract 25%, divide by the density or acreage per lot, you come up with 2.17 units. He said it is then applying the 55+, you are somewhere shy of the up to 50% bonus for that with DRB approval to get to the 3 lots.

Mr. Burke said your lots are allowed to have single family or duplex on them, or as the regulations state, you are entitled to it. He said the language in the regulations came up in one of the correspondence; it is clear the 25% is not a starting point, the 25% is to make up for, or to acknowledge that you are doing a PUD. He said it is a set number, not a floating number; you subtract 25% and do the math. Mr. Burke said if you want to go to a higher base density, the regulations start talking about density plans and showing a conventional layout, but that is only if you want to go higher. He stated there is no magic way to go lower; the regulations also allow up to 20% of the natural area to be proposed for development. He said that is not to suggest that only 20% can be used for density; the 25% is what you take out for density.

Mr. Burke stated they are not proposing that they use 20%, or any percent of development within that natural area; they are protecting the natural area, which is what a PUD is meant to do and what this development does. He said on the density bonus, the DRB may provide up to a 55% increase. He noted at sketch they didn't hear any negative feedback from the DRB or the staff on the three duplexes, or the six units. Mr. Burke said in determining the density bonus, which it is a requirement if they came to sketch, noting sketch was elective; it was required they talk about the density bonus at sketch. He said in determining a density bonus as warranted the DRB shall consider the overall layout, compatibility with the Jericho Comprehensive Plan. He said he did review the plan and unlike some towns, the zoning regulations comprehensive plan does a good job incorporating the Town Plan.

Mr. Burke said a lot of towns just go through the motions on their Town Plan every five years and they are really dragging behind on incorporating those into their zoning and subdivision regulations; they have a planning tool but the regulations have not caught up with it. He said it appears in Jericho that they are very much in step with each other. He noted the Agricultural District definition is the exact same in the Town Plan as it is in the zoning and so forth. He said he didn't see anything in the Town Plan that their plan contradicts.

Mr. Burke said the most important part that it talks about is the ability for the site to support additional units. He stated with water, they are doing a shared well for each duplex; noting there is a decent water source. He said they have applied to the State for their permit. Mr. Burke said with sewer they have a fully conforming in-ground system here and good soils at the site. He said there are relatively flat slopes. He noted they did the stormwater per State standards, even though they don't trigger the State requirements.

Mr. Burke stated there is less traffic for these 55+ units as compared to three homes. He said six 55+ units, noting he provided the ITE numbers, will produce less traffic by ITE than three homes that are not 55+. He said the school impact is less, noting they provided the school letter. Mr. Burke said noise levels would be anticipated to be less. He said per ITE, three single family homes creates two a.m. peak hour and three p.m. peak hour trips and 29 daily trips; while six of the senior units creates one a.m. peak hour and one p.m. peak hour trips and 21 daily trips. He said that is a little less than three single family homes; noting that a lot of them don't need to rush to work and back.

Mr. Burke continued with page 5 of the staff notes, saying in order to be eligible for the density bonus there are a couple of ways, which he has already touched on. He said their proposal is that they are doing elderly housing. He explained the regulations state it must contain and they are doing 100% elderly housing. Mr. Burke addressed access, saying staff points out that this access is superior to coming off from Raceway Road. He said they agree, noting this right of way has been there since day one when the Foothills was done. He stated it was put there to develop Mr. Davis' property and this proposal is far less than what was originally envisioned with that right of way.

Mr. Burke said this proposal is a function of the amount of acreage that Mr. Atwood is purchasing from Mr. Davis. He said they understand they need to obtain an access permit before the building permit. He said the access road is 24' wide, which is a change from sketch when it was 22'. Mr. Burke said the Fire Department asked for 24' and they changed it to 24'. He said it is actually per the standards a private driveway because it serves three lots and a lot is entitled to a single family or a duplex; so it is a driveway per the regulations. He stated regardless, they meet the cross-section and higher standards as if it were a road.

Mr. Burke referred to the bottom of that page, noting it talks about it becoming pavement as it approaches Meadow Drive. He stated in the cover letter he says they will pave it to the interior property line, indicating the location on the plan. He continued on page 6, saying he wasn't planning on going over the top part, he is in agreement with that part and they meet the requirements for a dead end. Mr. Burke said the Fire District reviewed this at sketch and in the letter, even though they asked for the 24', the letter also stated it posed no concerns; noting they did change to the 24'. He said at the end of the staff notes; he thinks this might be incorrect, where talks about a seven day notice before commencement of construction per Section 10.12.12.1. He said he believes that section is for public infrastructure, public roadways; he thinks the section that applies is Section 10.12.11.3 which requires that their office or another office certify that the construction was done per the approved plans.

Mr. Burke said that would make more sense because they are not public improvements, so why would the Town spend time and money on their consultant. He said the only other part of the submittal he has was whether or not the DRB wanted to further discuss or entertain the need to discuss conditional use criteria.

Board Questions

Mr. King said he doesn't understand what they are proposing in the legal documents about how the lots are broken out because this is a change from sketch. He asked them to explain again what will be conveyed. Mr. Burke responded that before there were two lot lines, indicating the locations, that split them into Lots 1, 2, and 3; and everything else was common land by default. He said when the attorney reviewed it, he said it doesn't matter if you have the lot lines because it will all act as common land anyway and it would be a lot easier if it were all clean and common land. He stated the conveyance is really just for mortgage purposes, but right around the unit itself, the interior dashed line is called a footprint lot for legal purposes.

Mr. Burke said what that does is, almost all of our money goes out of state when we try to get a loan, and it changes the out-of-state lingo from condo to PUD. He said it results in better mortgage rates and less questions; so the attorneys and their office generally always do footprints. He said it allows you to own what your unit sits on. Mr. Burke said there is an additional line in the front that would encompass where you would be parking your car and a little bit in the back that is called limited common element. He said that gives you more control over that area, discussing an example. He stated they don't own it, but they do control it; the area directly behind and in front of the unit.

Mr. Burke said the land itself is all in common, except the land the unit sits on. Mr. King clarified the legals that are proposed are essentially a condo association. Mr. Burke agreed, noting it would be similar to what Brad Gardener did; there are not lot lines there. He said sometimes the older developments, like those in the image he provided, were probably done as condominiums. He said in those, after they are built you file a floor plan for each one; with a footprint you don't need to do the floor plan because they own that footprint. He stated it is better for mortgage purposes.

Mr. King asked whether there are three of those footprints or six. Mr. Burke responded there are six footprints, one for each unit. He stated those are not lots for zoning. Mr. King asked if he could cite where it says in the regulations that that is the case; where this sort of arrangement falls in the definitions. Mr. Burke said he is not positive he can right now, but what most towns have done is simply stated in their approvals because it can't be a lot, it doesn't meet any of the zoning requirements; but acknowledging that is the way everything is being done. He said he believes, whether they knew it or not, there has to be several developments in Jericho already that are the same arrangement. He stated he doesn't know if there is any language that directly addresses it in the regulations, one way to leave it is that either it is appropriate per the regulations, suggesting the Town attorney could verify it; or if they had to go to condos they could, but it is not preferable for mortgage purposes.

Mr. Burke said it is the same exact plan, with or without the footprints; it is just that they do floor plans and individuals would not have as easy a time with their loans. Mr. King clarified what they are proposing is exactly one lot. Mr. Burke agreed. Mr. King asked why we are talking about a subdivision at all then; noting there is a subdivision to split 27.99 acres off from the Davis property. Mr. Burke stated they are clearly a PUD; saying sketch is elective, but sketch and final is the standard process for this PUD. He said in his opinion it is not a subdivision because they are not proposing lots. Mr. King clarified except a subdivision into two lots. Mr. Burke agreed, saying if that becomes a sticking point,

they would rather that the DRB ask the Town attorney their opinion, or they could have their attorney provide one. He stated if the Town attorney disagrees, then the condition would be that these are condos rather than footprints. Mr. King said we will cross that bridge at the end of this and we decide how we are going to proceed.

Mr. Flynn said with regards to the 100' setback, there are portions encompassed by the Davis property with 75' from here around, indicating the location. He asked about the reason for that. Mr. Burke said a 100' buffer is a requirement against the Village District, so it necks back to the standard 75'; noting that most of it is all on the common land. He said because that abuts an Agricultural District, the 100' buffer doesn't apply.

Ms. Hamilton asked if she is reading this right that the access road is 22' in the sketch plans, but you said it is 24'. Mr. Burke said it is supposed to be 24'. Ms. Hamilton indicated the plans that say 22'. Mr. Burke said that needs to be widened by 1' on each side. He stated they are fine with the 24'. Ms. Hamilton asked regarding the row of trees on either side that are supposed to be a buffer, whether there is anything in the agreement for their maintenance. Mr. Burke responded in the homeowners documents there are landscaping requirements. He said with approval, most towns have a three year guaranty on landscaping also; noting he thinks he read that in the regulations. He said there is a requirement not only for maintenance, but should one or more of them die, then they will be replaced. Ms. Murray agreed.

Mr. King asked the applicants to speak to the present use of the 28 acres being split off. He said they mentioned that some of it at the bottom of the steep slope is wetland. He asked about the present use of the rest of it. Mr. Burke responded that the present use is mostly woodland, noting it contains wetland within it and there is a high knob, indicating the location on the plan. He said it is mostly woodland and a fair portion is wet in the spring. He said Dean can add, noting he used to graze his cows in the upper meadow where the proposal is located. Mr. King said there is a water course down at the bottom and a stream crossing on Raceway. He clarified that is not on the parcel, but it is on the adjacent part of Dean's land. Mr. Burke agreed, noting it is a fair amount off from the portion they are getting from him. Mr. King said he is just trying to understand the present use of the whole parcel.

Mr. Davis said where the houses are located is a plateau, probably 50' to 60' above the rest of the land. He said where the septic is, the plateau is a bit an angle that slopes down over about a 50' bank. He stated the woodland area is in the lower area, it is approx 50' to 75' below the land around it. Mr. Davis said there are a few higher areas, maybe 8' to 10' higher than the back part of the woodland that curves around the Foothills. He stated there is some water that runs through the woods, it comes out the other end of his property, and it goes through here. He said he thinks the Town had someone come in and look at it and they called it the Cilley Hill bogs.

Mr. Hendee said on the Norton Lane from the PUD property to Meadow Drive he sees a note that says existing maple tree to be preserved. He asked if that is just one tree. Mr. Burke said no, there is a row of them. Mr. Hendee said the whole row of trees. Mr. Burke agreed it should say the whole row. He said they were planted in a straight line and the right of way is not quite straight. He stated they really tried to work around those with their finish grading so that they can be kept. Mr. Burke said four of them are on the right of way, one of them is right on the edge of the right of way, and two of them are on the Wyatt's property. He said the intention is that all of them would be preserved. Mr. Hendee asked if there are enough trees to provide a visual buffer between the driveway and the houses. Mr. Burke said yes, noting the other side actually has quite a few, indicating the location. He said there were some comments about the possibility saving more in the right of way.

Mr. Burke said first and foremost, the people that buy next to a right of way, buy next to a right of way; at some point that right of way is going to be used. He said the benefit is that it has not been used since 1970, noting it was just before Act 250 that the Foothills was done or it would have been a different development than if it needed Act 250. He said it is rather unlikely with the 24' road, required slopes, and picking up the drainage, that additional trees can be saved. Mr. Burke said they are comfortable saying that if they can save a tree or two here, they certainly will; it just costs more money to take them down, but he is not suggesting that they can beyond what is shown. He stated both the Wyatt's and the McAfee's homes are a reasonable distance from the right of way and the proposed units.

Public Comments

Mr. Allen asked whether the letters that were submitted at sketch review will be part of this deliberation. Ms. Stevens said they have new, revised letters to give to the DRB. Mr. King said he would take oral comments and then accept written comments. Ms. Stevens said she is bemused by the statement that 55 year olds don't leave their homes in the morning; she doesn't know many that don't work. She asked how the 55+ will be guaranteed; will it be guaranteed in perpetuity; and is it a covenant.

Mr. Stevens said he is curious as to the regulation regarding the 55 itself; it appears in the consultant's proposal alluded that seniors, 55 and older, don't make this number of trips. He asked what the regulation is with regard to who lives in that house; is there a regular family in addition to that 55 year old individual. He said that would then preclude the comments made by the consultant regarding trips and density. Mr. Stevens said to be fair, he is not sure he understands the total requirement regarding the 55 year old eligibility. He asked if that means only 55 and older can live there.

Ms. Springer stated she lives along the steep slope, formerly was Lot 4. She said when they first moved into Meadow Drive they were considering contacting the State because there are a lot of toxic materials behind their house. She said they were advised that because it was farm land it wouldn't really be worth it since farm land has a lot of protections. Ms. Springer stated her concern now is on water supply for the new property. She said she has pictures, noting some items that are there and that they are pretty old and pretty deep. She asked if there will be any environmental testing done on that material to see if it is safe to be next to a water supply.

Ms. Springer said if it is determined that it is going to be removed, there are two trees on her property that have white ribbons tied around them, noting she does not know what that means. She said they were not there before this proposal. She said if there is some sort of removal to be done how it will be accessed because it is pretty wet down there and she doesn't know if they could drive in there. She asked if there is a plan to go through the property in the Foothills to remove any toxic or hazardous materials that are on that property. Mr. Stevens asked about the process and when a decision would be rendered.

Mr. King said they have had a number of written comments submitted tonight and in the interim received by the office. He stated they all are part of the public record for the hearing, available to the public for review and to the DRB during the review, noting that addresses one of the questions. He said the next question he has is what the legals are that back up this definition of senior housing. Mr. Burke said they are proposing all six units be 55+. He said in talking to Chip Ward at Ward & Bath, who did the legal documents, there is a legal requirement followed. He referred to Section 27.1 on page 28 of the documents states there must be at least one person 55 years of age to qualify to reside in the unit; noting if a spouse is younger that is okay.

Mr. Burke said persons under the age of 19 may reside as guests for a maximum of 90 days in a 12 month period; no school age children. He noted college students would be able to live there during the summer. He said these age restrictions apply to the owners, to the renters, and to house guests who occupy the unit in the absence of the qualified owner. Mr. Burke said there is an occupancy exception that if your spouse passes away and they were the 55+, you are entitled to remain there until such time as the surviving spouse remarries and the exemption goes away. He stated it is in perpetuity; it does restrict all children under the age of 19 for the 90 day maximum period. He said the standard legal requirements, Housing for Older Persons Act.

Mr. King said there was another question about traffic trips. He said the ITE standards were used and asked about the classifications were on the standards, whether 55+ is the dividing line. Mr. Burke stated the ITE dividing line does not state what it is. He said ITE is the industry standard; the regulations specifically say ITE. He said whether it is higher or lower, it is the same for single family. Mr. Burke said the category looked at was single family home, noting he looked at three categories. He stated the more important part is that the regulations have trigger events for when traffic is an issue and the proposal falls so far below those trigger events. He said the triggers are that we increase traffic by 25%.

Mr. Burke said if you look at just the Foothills, they increase it about 5% based on ITE numbers. He said if you have more than 50 a.m. or p.m. peak hour trips per ITE; they have one per ITE. He said if you have more than 200 daily trips; they have 21. Mr. Burke said there doesn't need to be any more than that. He said there are standards in the regulations and they fall way below the standards for any traffic issue.

Mr. King said there was a procedural question about the form of this hearing. He stated the applicant chose to do a sketch plan and combine the preliminary and final hearings. He said that when this hearing closes, the DRB would have 45 days to render a decision. Mr. Burke said perhaps Ms. Murray can comment, they submitted for a final plan hearing. He said they were warned as a minor for sketch; the staff notes at sketch and the staff notes tonight are for a minor project, so there is no need to talk about a combined preliminary and final. Ms. Murray clarified he was just reading the warning; the point is that the DRB has 45 days to render the decision. Mr. King agreed, noting there were two questions: what does final mean and when will a decision be made. He said it is final.

Mr. King asked someone to comment about trees that are marked; access to those trees; and what that means. Mr. Davis responded he marked those when he went to look at the trash on the property. He said he was trying to figure out exactly where his top of the hill was. He said the pieces of tape were put there to determine whether the stuff is on his side or their side. Mr. Davis discussed the previous ownership of the property, noting that he has never had any access to that part of the property. He said other owners have thrown the stuff over the bank, noting he looked at most of that stuff and he didn't see any oil containers, discussing what he did see. Mr. Davis also discussed how it may have gotten there. He said he has never really had access to it before.

Mr. Burke stated they did receive the photos that Mrs. Springer sent. He said from those photos you can see it is not very much stuff. He said he spoke with Mr. Atwood about it and they are fine with removing the visible items in there by hand, as a condition of the approval. Mr. King asked where the photos were taken. Mr. Burke said he does not know. Mr. King asked Ms. Springer if the photos were taken on the bank adjacent to her property. Ms. Springer said yes. Mr. King said the open question is what access Atwood has to that bank. Mr. Burke said they can get access easily, indicating the location of a dirt driveway, noting it is easy walking and they are not going to use equipment.

Ms. Springer asked if any testing will be done. Mr. King asked whether any environmental testing will be done. Mr. Burke said no. Mr. Stevens asked where the flood plain delineation is that was used in the planning. Ms. Murray displayed the map and Mr. Burke indicated on the map. Mr. Stevens asked about the green lines. Mr. Burke responded that is a habitat zone, so those are directly from the Town regulations. Mr. Stevens clarified the Agency of Natural Resource (ANR) maps were not used. Mr. Burke said no, they are required to use Town maps for a Town application. Mr. Stevens asked if the Town considers ANR maps. Mr. Stevens and Ms. Springer submitted written comments.

Mr. King asked Ms. Murray if she had anything she wanted to get testimony about. Ms. Murray said she hasn't read the letters submitted tonight, but she read other letters. She said one comment was about the lamp post. Mr. Burke said he didn't know which neighbor it was, either the Wyatt's or the McAfee's, noting they received these letters and largely they incorporated them into the changes they made. He said they are happy to try to answer other comments. He said one of the letters noted they appreciated the changes made and asked about the possibility of saving additional trees. Mr. Burke said the letter pointed out there are no streetlights in Foothills at the existing intersection and they would rather not have a streetlight at this intersection; noting they are okay with that. He said that is something he does as a standard, but it is not a requirement. He said this is actually a driveway, so where they call for a streetlight on sheets, 1, 2, and 7 near the entrance they are okay with removing that streetlight.

Mr. King asked whether the proposal is with a streetlight or without. Ms. Murray said they are saying it is okay if there is a condition. Mr. King clarified if there were to be a condition that there not be a streetlight they would comply with it. Mr. Burke said they are fine either way. Mr. King said the present proposal has it, but they would be open to a condition that there not. Mr. Burke stated they are fine with no streetlight.

Ms. Murray said she had gotten some feedback because she had shared letters with the engineer, which is allowed because they are public record. She said the reason she does that is that is how you get what you want. She wondered whether we should skim or read the written comments out loud to look for other requests. Mr. King said he was just doing that and he thinks we have covered most. He noted that all the people who wrote these letters are here for public comment as well. He said it looks like the subjects were covered in these; we have covered in the presentation or public comment. Mr. Burke said he was leafing through them also and he tends to agree with what they changed or what they talked about. He said when he went over the triggers for traffic study in the regulations; the one he left out was 20 homes. He said he gave other triggers and it is any one of these triggers that would trigger the need for a traffic study.

Mr. King asked what the ITE numbers are if they weren't senior housing. Mr. Burke said he did three single family, noting duplexes run about 80% of single family. He said if you had six, you would be equivalent of 4.8 single family homes. He said approximately 80% trip ends for a duplex, as for a single family. Mr. King asked what the assumptions are in ITE for a single family home; what would the upper limit be if it wasn't. Mr. Burke said he did it based on three with the submittal, so it would be times two; for six it would be 58 trip ends, four a.m., and six p.m. peak trips.

Mr. King said we have a proposal for a two lot, one is the combined lot. He said he is wondering if by the definitions we have a procedural difference. Ms. Murray stated she doesn't really agree that it is two lots; you have three or six footprint lots and a connected wall. She said she had previously thought of this as three footprint lots with three duplexes. Mr. King asked whether that changes the status. Ms. Murray clarified what Mr. King was asking. She and Mr. King discussed the procedural question,

agreeing to run the PUD subdivision process. Mr. King clarified it doesn't change the substance of the review process and Ms. Murray agreed. He said they will render a decision within 45 days, but it is usually sooner.

2. Approval of meeting minutes from 9/11/2014.

On a motion by Mr. Hendee, seconded by Mr. Flynn, the DRB unanimously approved the minutes from September 11, 2014 as amended. Mr. King and Ms. Murray discussed the process for posting the minutes.

The DRB entered deliberative session at 8:25 p.m.

The Development Review Board adjourned at x:xx p.m.