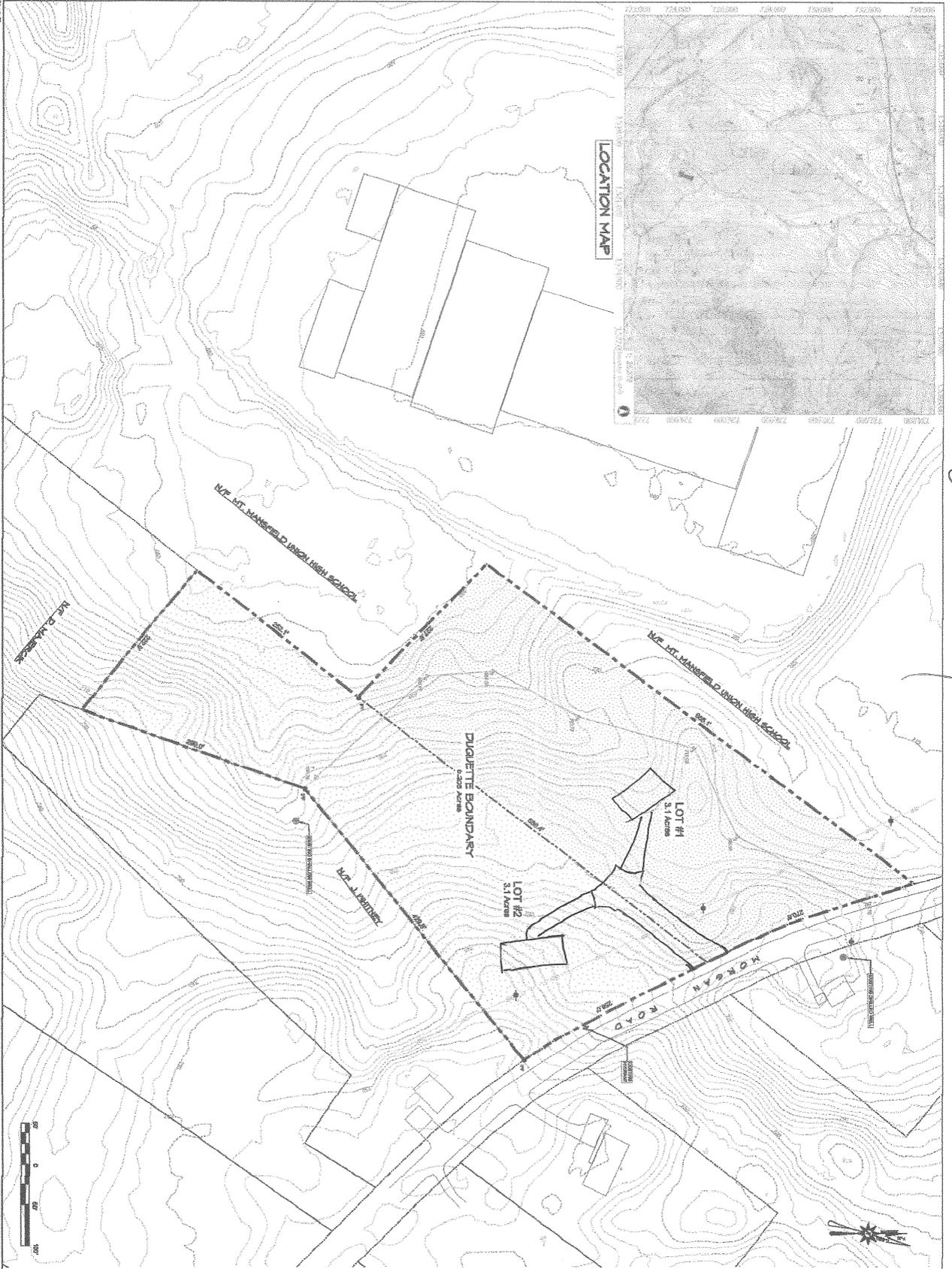


DENSITY PLAN



 DUSTY COLA ARCHITECTURE 105 CENTER ROAD JERICHO CENTER, VERMONT 05475	<p>Project Title: OLD MORGAN ORCHARD LLC 20 MORGAN ROAD JERICHO CENTER, VERMONT</p>	<p>Scale: AS SHOWN</p> <p>Project Number: 5-247</p> <p>Drawn By: TAM</p> <p>Project Engineer: _____</p> <p>Approved By: _____</p>	<p>DATE: 03-26-2018</p> <p>TIME: 1:45 PM</p>	<p>PROJECT NO: C1-06</p>
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June 7, 2016

Mr. John King, Chair
Town of Jericho
Development Review Board
67 Vermont Route 15
PO Box 39
Jericho, VT 05465

Re: Old Morgan Orchard, LLC PUD Application

Dear Mr. King:

This letter is pursuant to the Town of Jericho Development Review Board's (hereinafter "DRB") request for a legal opinion regarding the number of dwelling units allowable in the referenced PUD proposal, based upon application of the Energy Efficiency Density Bonus (hereinafter "EEDB") available under the Jericho Land Use and Development Regulations effective April 9th 2015 (hereinafter the "Regulations"). The primary purpose of this letter is to establish that the project qualifies as a conventional 2-lot subdivision, and therefore should not be subjected to the penalty in Sub Section 10.13.7.1 of said Regulations otherwise applicable to PUD's. The penalty does not apply, because the project qualifies under 10.13.7.2 of the Regulations for the EEDB. Therefore, it is my opinion that the Old Morgan Orchard, LLC (hereinafter "OMO," "Applicant," or "Client") PUD project qualifies for the EEDB, and the subject permit application should be granted.

To further explain my opinion, and OMO's request that the DRB grant EEDB **encouraged** by the PUD regulation, please consider the following facts information I have reviewed as part of my analysis in this matter:

1. Town of Jericho Land Use and Development Regulations, effective April 9th 2015 (the "Regulations");
2. Jericho Town Plan, adopted January 1st, 2016;

3. Staff Notes, dated April 21st 2016, prepared by The Town of Jericho Zoning Administrator;
4. The minutes prepared by the Zoning Administrator and given to our OMO's representative;
5. Our client's presentation materials, P.E. design, survey, layout, permits, letters and supplemental information that has been provided to the Zoning Administrator previously and presented to the DRB.

I note that OMO's application a for a minor PUD subdivision, and will accordingly be reviewed at the time of final review pursuant to Sections 10.12 and 10.12.3 of the Regulations. In addition, OMO's application meets all criteria of Section 10.12 et seq. of the Regulations.

OMO has submitted a PUD permit application for three duplexes, allowable after application of the 50% density bonus pursuant to Section 10.13.8(b) of the Regulations. Efficiency Vermont has assisted the applicant to ensure the project meets or exceeds the Energy Efficiency Standards ("EES") defined by the Regulations. See Letter from Jeffery Gephart of Efficiency Vermont, dated May 3rd 2016 (clearly defining the appropriate program and its new designation as Energy Star 3.1). This information has been shared with the Zoning Administrator and it has been verbally relayed to our client that the project satisfactorily meets the definition of Energy Efficiency for Density Bonus allowance under Section 10.13.8(b) of the Regulations.

Accordingly, a third additional duplex dwelling unit is permissible pursuant to the following sections of the Regulations:

Section 10.13.7 Permitted Density: Total approved residential density in a PUD shall be determined by calculating the total number of potential lots in a conventional subdivision. As provided in Section 5.6 (Density), each potential lot in a conventional subdivision shall entitle the applicant to one [1] single family dwelling, or two [2] multifamily dwelling units within the PUD, provided all other requirements of these regulations can be met. This procedure shall not apply to affordable or elderly housing in the Village Center District, which in accordance with Section 5.6, shall be limited by lot coverage rather than by the number of dwellings per acre. The maximum number of potential lots in a conventional subdivision shall be determined in accordance with the following:

Section 5.6 Density Residential density, not including accessory apartments, dwellings accessory to a farm, and guest houses, shall not exceed one [1] single family residential unit or two [2] multifamily units per minimum lot area for standard subdivisions set forth in Section 5.7.

The Applicant's Density Plan, as presented, establishes that the primary Lot consisting of approximately 6.2 acres can be conventionally subdivided into 2 lots meeting all of the requirements of the Rural Residential Dimensional Requirements for Standard Subdivision and Conventional Developments, per the table below.

5.7	Table of Dimensional Requirements for Standard Subdivisions and Conventional Developments						
	OS	FOR	AGR	RR	VIL	COM	VCTR
Minimum lot area (acres)	10	10	10	3	1	1	0.25
Minimum road frontage (feet)	400 (1)	400 (1)	400 (1)	200 (1)	120 (1)	150 (1)	75
Minimum front yard (feet) 2	35	35	35	35	25	50/30 (3)	25
Minimum side yards (feet) 2	25	25	25	20	15	20	10
Minimum rear yard (feet) 2	25	25	25	20	20	25	20
Maximum lot coverage	5%	30%	30%	40%	40%	60%	60%
Structure height (feet, maximum)	34	34	34	34	34	34	45

Looking then to Sub-Section 10.13.7.1 of the Regulations - Permitted Density - and considering the rules for calculating potential lots in a conventional subdivision, the starting point is the total size of the parcel being 6.2 acres. According to the DRB's staff notes relative to this project, *the minimum lot area in conventional subdivisions in the RR zone is 3 acres. The total parcel acreage of 6.2, divided by 3 equals 2.1. Taking 25% of 2.1=.525, and 2.1-.525 = 1.575. Accordingly, the total number of potential lots from the subject parcel is 1.575 lots, before considering any density bonus.*

Thus, relying on Sub-Section 10.13.7.2 of the Regulations - ***Density Plan - The total number of units in a PUD may be increased if the Development Review Board determines the maximum number of potential lots in a conventional subdivision on the same parcel of land would be greater than that permitted in Section 10.13.7.1 above.*** Such a determination shall be based on a density plan showing the number of potential lots in a conventional subdivision meeting the following criteria:

- (a) Each potential lot shall satisfy all the dimensional requirements of the applicable zoning district;
- Each of the Applicant's lots satisfies all the dimensional requirements of the RR 3 zoning district.**

(b) Each potential lot shall contain an area of compact, contiguous, buildable land equal to or greater than 10,000 square feet.

Each of the Applicant's potential lots contains an area of compact, contiguous, buildable land greater than 10,000 square feet.

(c) no more than three [3] lots from the original parcel may be served by a private driveway;

The PUD application establishes that no more than three lots from the original parcel would be served by a private driveway.

(d) proposed public roads and driveways must meet appropriate regulations, including but not limited to: the requirements of the Jericho Public Works Specifications and the Jericho Subdivision Regulations (e.g. maximum slope, length, curvature, etc.) taking account of proper site distances, with due regard for topography and natural obstacles, etc.;

The Applicant's proposed road/driveway meets the requirements of the Jericho Public Works Specifications and the Jericho Subdivision Regulations, all with due regard to the existing topography.

(e) for the purposes of density calculations all other provisions of this and other regulations shall be considered.

The Applicant has clearly considered and demonstrated compliance with all other provisions of the Regulations.

(f) Sensitive areas such as those listed in 10.13.4.2. shall be clearly delineated in the density plan, and avoided to the extent possible. The DRB shall provide direction to reorganize the layout to minimize disturbance to these features. The overall layout of the PUD shall minimize the disturbance of the areas listed below:

(a) Areas with slopes greater than twenty-five percent [25%],
There are no slopes in the PUD proposal greater than 25%.

(b) Prominent hill sides, ridgelines and significant rock outcroppings,
Not applicable. There are no prominent hillsides, ridgelines, or significant rock outcroppings in the PUD area.

(c) Areas containing prime or statewide agricultural soils and other productive agricultural and forest land.
Not applicable. The proposed PUD is not situated on agricultural soils or productive forest land.

(d) Historic and cultural resource areas
Not applicable. There are no historic or cultural resources situated on or near the proposed PUD.

(e) Scenic Resources

Not applicable. There are no scenic resources situated on or near the project.

(f) Large Habitat Blocks

Not applicable. There are no large habitat blocks situated on or near the project.

(g) The density plan shall be presented at sketch plan review. If the applicant elects not to participate in sketch plan review, the request shall be made at preliminary review.

The density plan was presented at sketch plan review.

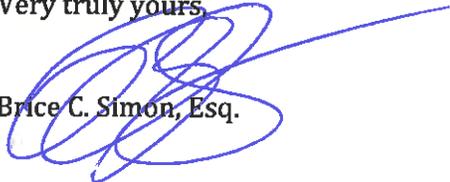
In summary, the Applicant has demonstrated that it meets all of the necessary requirements of the following Sections of Regulations:

5.6	Density
10.13.7	Permitted Density
10.13.7.1	Potential lot calculation
10.13.7.2	Density Plan
10.13.8	Density Bonus
10.13.8	(a) Energy Efficiency allowance for density bonus

Considering all of the facts and Regulations reviewed herein, as well as all of the information available to the DRB, it is my opinion that the Jericho DRB should apply the EEDB to this OMO's proposal and grant the Applicant's request for conditional use approval for a PUD with a total of three duplexes.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,


Brice C. Simon, Esq.