

REPORT TO THE JERICHO DEVELOPMENT REVIEW BOARD

DEVELOPMENT REVIEW BOARD HEARING DATE: July 14, 2016

REPORT PREPARATION DATE: July 11, 2016

APPLICATION TYPE: Planned Unit Development

APPLICANT/OWNER: Jennifer Borch

DESCRIPTION: A request to the DRB by Jennifer Borch (Representative: Andy Garb) for a 2 lot Planned Unit Development. The parcel is located at 45 Packard Road in the Village Zoning District.

IDENTIFYING INFORMATION:

LOCATION: 45 Packard Road

PARCEL NO: PA045

TOTAL ACREAGE: ± 2.45 (± 1 to be subdivided off, ± 1.45 to remain at PA045)

ZONING DISTRICT(S): Village

EXISTING USE: Residential

PROPOSED USE: Residential

NOTICE OF PUBLIC WARNING/ ABUTTERS:

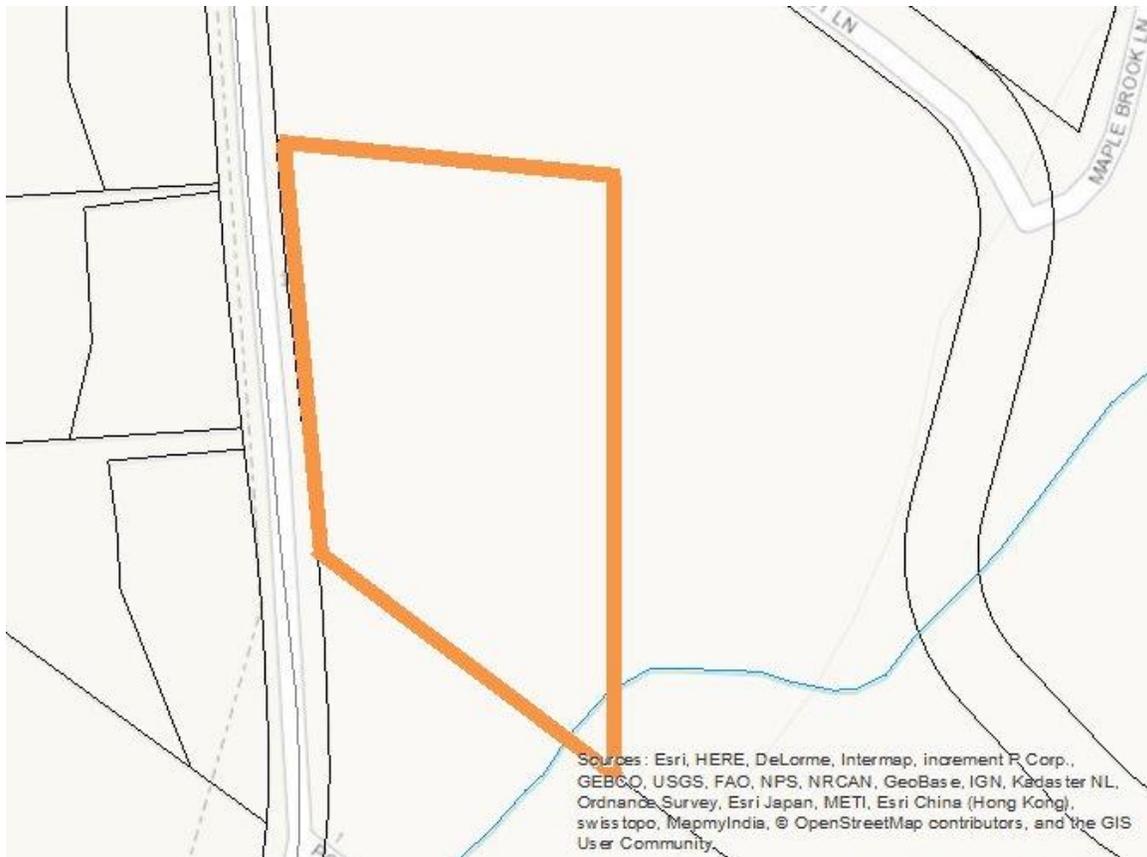
Notice of Public Warning published in the Mountain: *June 16, 2016*

Notice of Public Warning posted on: *July 1, 2016*

Notice of Public Warning sent to abutters on: *July 1, 2016*

Notice of Public Warning sent to the applicants on: *July 1, 2016*

LOCATION MAP:



^ Route 15

PROJECT OVERVIEW

This applicant applied for a minor, 2-lot subdivision located at 45 Packard Road that was heard on 2/25/16 for *Sketch Plan Review*. During the hearing there was discussion in the propped lot layouts and the lack of proposed street frontage for the proposed lot. The applicant expressed their desire to have/keep an existing structure (shed/barn) on lot #1 thus limiting the street frontage for the newly proposed lot #2. The discussion between the applicant and the DRB then turned to the possible merits of the request being reviewed as a PUD. The applicant developed and submitted a request for a 2 lot PUD which is reflective in the materials previously provided.

The property is located within the Village Zoning District and the minimum lot size in the Village Zoning District is 1 acre. The parcel in question is 2.45 acres in size. A highlight of this project includes a proposed shared driveway, based on the limited amount of road frontage (existing: approximately 336 feet. The minimum in this district is 120 feet, which is possible but would require the existing driveway to be relocated). The property is also within a portion of the river overlay district.

PREVIOUS ACTIVITY

This property is the original existing house of the Moore Commons subdivision (Black Walnut Lane). This 2.45 acre property and house were subdivided from the larger parcel in 2003, thus is exempt from the 120 month bylaw under §10.12.3.2.

Since 2003, there is no recorded activity on this parcel.

DEPARTMENTAL REVIEW AND COMMENTS

This application is a 2 lot PUD, thus subject to §10.13 and review pursuant to 10.12.3.1. (Subdivision Review) and §11.0 (General Development Standards). This property is also located within the River Overlay District, and thus subject to §6.5.

10.12.3.1 Minor subdivisions shall include any subdivision of land, or the re-subdivision of a previously subdivided parcel within a period of 120 months, that results in the creation of three [3] or fewer lots (not including open land in a PUD) and which does not require the construction of any new public or private roads. Minor subdivisions shall also include an amendment to an approved subdivision which does not result in a major subdivision. Minor subdivisions shall require final review approval pursuant to Section 10.12.9. See below

10.12.3.2. Major subdivisions shall include any subdivision of land, or the resubdivision of a previously subdivided parcel within a period of 120 months, that results in the creation of four [4] or more lots (not including open land in a PUD) or which requires the construction of any new public or private streets. Major subdivisions shall require preliminary and final review approval pursuant to Section 10.12.8 and 10.12.9. This application is being reviewed as a minor subdivision. The 2.45 acre property and house were subdivided from the larger parcel (which later became Moore Commons) in 2003.

10.12.4. Waiver Authority: No waiver is being requested.

PLANNED UNIT DEVELOPMENT REVIEW (10.13)

10.13 Planned Unit Development Review

10.13.1 Purpose. Planned Unit Developments (PUDs) are intended to further the goals and objectives of the Jericho Comprehensive Town Plan, the purpose of the underlying zoning district by permitting flexibility in the application of land development regulations, and the purposes below. Flexibility is encouraged in site and lot layout, building design, placement and clustering of buildings, use of open areas, provision of circulation facilities, including pedestrian facilities and parking, and related site and design considerations that will best achieve these goals, objectives and purposes:

10.13.1.1 To encourage compact, pedestrian-oriented development and to promote a mix of residential uses, nonresidential uses or both in village centers. *Not applicable for this submission.*

10.13.1.2. To encourage provision of affordable housing. *Not applicable for this submission.*

10.13.1.1.1 To encourage any development in rural areas to be compatible with the use and character of surrounding rural lands. *The application complies and meets this standard.*

10.13.1.2 To provide for the conservation of open space features recognized as worthy of conservation in the municipal plan, such as the preservation of agricultural land, forestland, trails and other recreational resources, critical and sensitive natural areas, scenic resources, and protection from natural hazards. *The application complies and meets this standard.*

10.13.1.3 To provide for efficient use of public facilities and infrastructure. *Not applicable for this submission.*

10.13.1.4 To encourage opportunities for energy-efficient development. *Not applicable for this submission.*

10.13.1.5 To provide a mechanism by which property owners may create small building lots while retaining large tracts of contiguous land. *Not applicable for this submission.*

10.13.2 Applicability: PUDs are encouraged for all development in Jericho. PUD review shall be required in the following circumstances:

10.13.2.1. When a subdivision results in the creation of three [3] or more lots within a period of twelve [12] months, and in the judgment of the Development Review Board a PUD will better meet the objectives of the Jericho Comprehensive Town Plan. *The DRB discussed the PUD options to the applicant during Sketch Plan Review and the applicant subsequently amended and develops a PUD plan and request. It is staff's belief this was done one to accommodate the applicants design desires as well as it enables the preservation of the rural street scape and the surrounding environs.*

10.13.2.2. Multiple principal structures are proposed on a single lot. *Not applicable for this submission.*

10.13.2.3. Construction or substantial improvement of a single structure containing multiple uses with a total floor area in excess of

10,000 square feet is proposed. *Not applicable for this submission.*

10.13.3 Coordination of Review: Applications for PUDs shall be reviewed pursuant to Section 10.12, Subdivision Review. PUDs may be classified as minor or major subdivisions, pursuant to Section 10.12.3. A PUD may include any permitted or conditional uses in the District which it is located, subject to all required review. Any subsequent zoning permit, site plan or conditional use approval within an approved PUD shall incorporate all applicable conditions of the PUD approval. *This application should be classified and does meet the standards of 10.12.3.1(minor subdivision)*

10.13.4 Designation of Open Space Lands: All PUDs shall make provisions for the preservation of open space, except that open space land shall not be required for PUDs located in the Village Center District. The lands set aside to be preserved for open space shall be reviewed and approved by the Development Review Board, in accordance with the following:

- 10.13.4.1* The following areas shall be contained within the open space portion of the PUD or otherwise protected through building envelopes and deed restrictions on individual lots:
- (a) Areas within the Wetlands Overlay District, *N/A*
 - (b) Areas within the River Overlay District, *There is a small portion of the applicants property within the district in the south east corner and it lies within the newly proposed protected area/common land*
 - (c) Areas within the WHPA-1 area of the Wellhead Protection Area Overlay District, and *N/A*
 - (d) Areas within the Natural Resources Protection Overlay District, except as provided by Section 6.4.4.1. *N/A*

- 10.13.4.2* 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%], *N/A*
 - (b) Prominent hill sides, ridgelines and significant rock outcroppings, *There are existing stone walls on site which reflect the previous historical nature and use of the property.*
 - (c) Areas containing prime or statewide agricultural soils and other productive agricultural and forest land. *N/A*
 - (d) Historic and cultural resource areas *There are existing stone walls on site which reflect the previous historical nature and use of the property.*
 - (e) Scenic Resources *N/A*
 - (f) Large Habitat Blocks *N/A*

Where feasible, these areas should be contained in the open space portion of the PUD or otherwise protected through

building envelopes and deed restrictions *The areas/descriptions are contained outside the proposed building envelope and located with the proposed protected area/common land.*

10.13.4.3 Open space land shall have a coherent purpose, such as the preservation of a wildlife corridor or a scenic outlook, or creation of an interlocking trail system, or preservation of land with agricultural potential, or some similar feature. *The proposed open space (protected area/common land) preserves rural street scape as well as the existing stone walls that reflect the previous historical nature and use of the property.*

10.13.4.4 Land designated as open space shall be indicated with appropriate notation on the final development plat. Open space land shall be subject to appropriate deed restrictions stipulating the permitted and restricted use of such lot, and establishing the person or entity responsible for its maintenance. *The applicant's plan indicate the proposed area of the "Open Space" as well as they have provided a proposed "Declaration of Conditions, Easements, Obligation, Liens, Rights, and Restrictions of 45 Packard Road's Planned Unit Development"*

The Town's Attorney has review this and offered the following comments

As we discussed, the following is a summary of the issues involved with the Packard Road Project at this point.

1) The larger issue is whether the project should be reviewed as a minor subdivision or as a PUD. In reviewing the Town Regulations, it seems it meets the minor subdivision requirements and shouldn't necessarily be required to be a PUD. You mentioned you would look back in the minutes to see why the project changed from subdivision to PUD. If it continues as a PUD, we note the following issues concerning the open space:

a) The Regulations require 50% of the PUD parcel as open space. The subdivision plat shows .61 acres of common space on a 2.45 acre lot, so the open space acreage requirement isn't met. *Please note that in the Village District the requirement is 25% which this application meets.*

b) We understand the shed/barn on Lot 2 will be torn down, but there remains a shed/barn on Lot 1 within the open space. It's not clear in the regulations if the shed/barn can remain. We have seen structures in open space areas in other towns, but rarely. If it's acceptable for the Town, then the building and its maintenance and potential replacement should be addressed in the Declaration. *The applicant should develop these declarations and or address this concern. The DRB should find that it is acceptable and the declarations meet any existing and future concerns.*

c) From our conversation, we understand the roofline does not encroach and the boat and camper have been moved, so those are no longer issues.

d) Section 1.4(C) of the Declaration refers to the Protected Area Easement. It's unclear, however, who the easement is benefitting. Are there mutual easements between the lots? *The applicant should address this and make sure it is clear prior to any approval.*

e)The Declaration allows for gardening in the open space, although the Regulations don't specifically list gardening as a use for open space. Agriculture is allowed, so we would need to determine whether gardening would fall within this category. *The DRB will need to determine this and could place appropriate conditions if needed.*

2) Section 1.4(B) of the Declaration refers to a Pedestrian Easement and Section 2.1 goes into more detail on the maintenance and upkeep and the easement eventually being executed in favor of the Town. It's not clear whether this is happening in the short term. If not, the Town should have assurance that the easement will be turned over, perhaps in the form of an Irrevocable Offer of Dedication of the pedestrian easement. We should also see a Certificate of Title on the property and ensure that the pedestrian easement area has been discharged from any mortgage. *Staff is unsure of the history or status at this time.*

3) Mentioned above are the Offer of Dedication, sidewalk easement, and protected space easement. I'm not sure whether you want us to review these before approval, or before the mylar is filed, but they should be reviewed at some point. A proposed deed for Lot 2 should also be reviewed to make sure it, at a minimum, includes reference to the Declaration and the DRB approval. As with the other documents, it's up to you as to when you want to require it be submitted for review. *These documents should be developed by the applicant so they can be reviewed and commented on prior to any approval.*

10.13.5 *Configuration of Open Space:* The Development Review Board shall determine the configuration of open space land based on the following:

- 10.13.5.1 The configuration of the open space land and the covenants governing its usage shall reflect the purpose of the open land and be suitable for its intended use. *The DRB will want to ensure and find that covenants are adequate and that the proposed use is suitable it will also want to find that the existing shed/barn within this area is acceptable.*
- 10.13.5.2 Open space land shall not be required in the Commercial and Village Center Districts. Open space shall be equivalent to at least 25% of the entire parcel in the Village District, and shall be equivalent to at least 50% of the entire parcel in the remaining districts. *The application complies.*
- 10.13.5.3 Open space land shall be configured to provide for large contiguous open space lands on the parcel. Fragmentation of open space land shall be avoided to the greatest extent possible. Narrow strips of open space land shall only be approved when necessary to connect significant areas or when designed to protect linear resources such streams or trails. *The proposed open space(protected area/common land) is contiguous and not fragmented, also it dose protect the linear street scape resource.*
- 10.13.5.4 If the parcel to be developed contains currently productive agricultural land, the acreage set aside as open space land should be of a quality, size and configuration that make continued agricultural use possible. *N/A*
- 10.13.5.5 Open space land shall be contiguous with existing and potential open space land on adjacent parcels. *Staff has not made a determination on adjacent open space parcels.*

10.13.6 Ownership of Open Space Lands: Open Space Land may be set aside as common land, as a separate undeveloped lot, or as a portion of a single lot, outside of the building envelope, to be held in private ownership. Open space land shall be dedicated, either in fee or through a conservation easement approved by the Development Review Board, to the municipality, an owners' association comprised of present or future owners of the subdivided lots, and/or a nonprofit conservation organization. The ownership type shall be consistent with the best means of maintaining or managing the resources on the site. All costs associated with administering and maintaining open space and/or common land shall be the responsibility of the applicant and subsequent landowners.

10.13.6.1 Common Open Space: The following provisions shall apply to commonly owned open space lands:

- (a) The common open space land may be used for water supply and/or septic waste disposal, either common or individual, provided that adequate control over the use of the land for these purposes is retained by the party or parties responsible for the maintenance of these facilities.
- (b) Public access of common open space lands may be required when it may facilitate a trail network, or where public benefit may be obtained by access to unique natural features, or for some related access.

10.13.6.2 Privately Owned Open Space: In order to create larger lots for agricultural or preservation purposes, PUDs may also be designed with designated open space retained in private ownership rather than as common land. Such privately owned open space shall provide that: *It is staff's belief that the proposed open space (protected area/common land) will be held in private ownership and the prepared "Declaration of Conditions, Easements, Obligation, Liens, Rights, and Restrictions of 45 Packard Road's Planned Unit Development" does cover this area.*

- (a) All development (if any) is restricted to a designated building envelope within which development may occur as permitted in Section 4.3: "Table of Uses". *Proposed lot #2 shows a building envelope that is restricted and the DRB may contemplate requiring a proposed building envelope for existing lot #1 to deal with possible future development.*
- (b) The remainder of each lot is designated open space and is restricted through permanent deed restriction or easement from all development except sewage disposal, water supply, agriculture, forestry, wildlife management and passive recreation. *The application complies.*
- (c) Privately owned open space may be used for water supply and/or septic waste disposal, provided that adequate control over the use of the land for these purposes is retained by the party or parties responsible for the maintenance of these facilities. *The application complies.*

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: *The application complies to section 10.13.7.*

10.13.7.1 The total number of potential lots in a conventional subdivision shall be calculated by dividing the total acreage of the parcel by the minimum lot area in a conventional subdivision, less twenty-five percent [25%] to account for topography, soils, dimensional and frontage requirements, rivers, streams and wetland areas, and other site restraints and overlays. A twenty-five percent [25%] reduction in the number of potential lots shall not be required in the Village Center Zoning District.

10.13.7.2 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;
- (b) Each potential lot shall contain an area of compact, contiguous, buildable land equal to or greater than 10,000 square feet.
- (c) no more than three [3] lots from the original parcel may 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.;
- (e) for the purposes of density calculations all other provisions of this and other regulations shall be considered.
- (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.

- (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.

*10.13.9 Development Standards and Dimensional Regulations: **The application complies with section 10.13.9 1-10***

- 10.13.9.1 All PUDs shall comply with the subdivision review standards in Section 10.12, any and all applicable Specific Use Standards in Section 4.4 and the General Provisions in Section 7.
- 10.13.9.2 The Dimensional Requirements within a PUD shall comply with Table 5.8.
- 10.13.9.3 Lot coverage within a PUD shall be calculated based on the total coverage of the PUD, including open space land. Individual lots or portions of the PUD may exceed the acceptable maximum lot coverage, provided there is an offset by a lesser lot coverage in (an)other portion(s) of the PUD.
- 10.13.9.4 A buffer zone between lot boundaries and the boundary of the PUD shall be maintained so as to provide screening sufficient to mitigate adverse impact on adjacent properties. The minimum required buffer zone for each district is specified in Table 5.8. The buffer zone shall be part of the common open space or removed from the building envelopes of individual lots. The Development Review Board may waive this requirement when it is found that there is no adverse effect on neighboring parcels to be mitigated.
- 10.13.9.5 Variable lot sizes are acceptable within a PUD, provided that they advance the goals of the Jericho Comprehensive Town Plan and Section 10.13.1 above, and are in keeping with the purpose of the district in Section 3.2.
- 10.13.9.6 In all districts a PUD may include, subject to conditional use review, an accessory office, common laundry, storage, kitchen/dining area, and/or indoor recreational facility for use by residents of the PUD and their invited guests.
- 10.13.9.7 PUDs shall provide for vehicular and pedestrian connectivity with neighboring developments wherever possible.
- 10.13.9.8 Subdivision boundaries, access roads, utilities, lot lines and layout, and building envelopes shall be located and configured to avoid fragmentation of, and adverse impacts on, the resources listed in Section 10.10.4.1 above.
- 10.13.9.9 The overall layout of the PUD should incorporate or protect cultural and historic sites and features, as well as other features stated in § 10.13.4.2.
- 10.13.9.10 Access roads, driveways, and utility corridors shall be shared to the furthest extent possible, shall follow site contours to minimize the need for grading, and shall follow existing linear features such as roads, tree lines, stone walls, or field edges to

minimize the fragmentation of open agricultural land and other resources.

GENERAL DEVELOPMENT STANDARDS (10.12.5, 11.1-11.14)

11.1 Roads/Access

11.1.2. Private Driveways: No more than three [3] lots may be served by a private driveway. The interest of the owner of each lot served by a common or shared driveway shall be protected by an easement recorded in the deed of each lot involved. At this time, a shared driveway is proposed. Existing road frontage is approximately 330 feet, and the minimum required is 120 ft. in the Village Zoning District.

11.2 Parking

11.2.3.3. Front Yard Parking: In order to enhance and maintain village character, parking to serve non-residential uses shall not be permitted between the front building line and the street in the Village and Village Center Districts. Front yard parking for residential uses is permitted.

11.4 Lot Layout

11.4.1. Each lot shall have the minimum area and frontage required by these regulations, unless modified through the Planned Unit Development provisions in Section 10.13 of these regulations. The application is being reviewed under PUD standards and is compliant.

11.4.2. Lots shall be of sufficient size to provide an adequate building site with suitable areas and adequate isolation distances for sewage disposal and water supply both on site and neighboring properties. The Development Review Board may require larger lots than required by these regulations where deemed necessary because of conditions affecting drainage, sanitary sewage disposal, or water supply. A building envelope for lot 2 is shown. Public water supply is available through the Champlain Valley Water District (no testimony available from water district). The applicant will need to receive a State wastewater permit for the proposed lot prior to any building permit being granted the DRB should offer this as a condition as well if approved.

11.4.5. Each lot shall be provided with satisfactory access to a road meeting the requirements of Section 11.1 of these regulations. The application complies

11.4.8. The Development Review Board shall encourage lot layout that will preserve open space areas and significant natural resources. The application complies

11.4.8.1. Building Envelopes: All lots shall have designated building envelopes that shall not include areas within the Wetlands Overlay District, the River Overlay District, the WHPA-1 of the Wellhead Protection Area Overlay District, and the Natural Resources Protection Overlay District (except as provided by Section 6.7.5.1). A small portion of this property is located within the River Overlay District. All building envelopes must be outside this district which as proposed it is and complies.



Source: CCRPC Jericho Mapviewer, 2013.

11.5. Grading/Slope/Ridgeline

11.5.1. All land development and subdivision shall be planned to retain, as much as possible, the natural contours and to conserve the natural cover and soil. The landscape shall be preserved in its natural state, as much as practical, by minimizing tree and soil removal and nonessential grading. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. Engineer has stated that lot has less than 10' gradient difference (flat)

11.7. Water Supply and Sewage Disposal

11.7.1. No zoning permit shall be issued for any structure requiring facilities for water supply or sewage disposal, including a mobile home, in any district, unless applicable approvals have been obtained from the Vermont Agency of Natural Resources and/or the appropriate Water District. No ANR Wastewater & Potable Water Supply permit has been submitted as of June 16, 2016. The permit should be submitted prior to final DRB review.

11.7.3. Water Supply:

11.7.3.1. If the development will be supplied by an existing public water system, a letter shall be submitted by the applicant from the governing body of the water district stating that the water district has adequate capacity to serve the development and approving the design and construction details prior to final approval by the Development Review Board. Staff has not yet received a letter from the CVWD. Applicant should provide the letter prior to final review or condition as approval that no zoning permit be issued for development on lot #2 until a letter of approval has been received by the Town of Jericho Zoning Office.

11.7.3.2. If the development is to be served by a public water supply system, the applicant shall install a complete public water system, including mains, valves, services to the property lines and all other appurtenances. Design and construction procedures, materials and location of improvements shall conform with all applicable standards required by the commissioners of the water district in which the development is located and shall be subject to the approval of the water district's engineer. Staff does not know if the parcel has access to a public water system but if it does then this can be a condition of any approval.

11.7.4. Sewage Disposal:

11.7.4.1. All wastewater disposal systems shall conform with the Environmental Protection Rules, Chapter 1, Waste Water and Potable Water Supply Rules published by the Agency of Natural Resources, as most recently amended. *See above 11.7.1*

11.8. Landscaping:

11.8.4. Street and Shade Trees: In addition to plantings that may be required above for screening and/or buffering, all uses abutting a public way shall provide plantings of street trees.

DRB may choose to waive landscaping requirements.

11.9. Site Layout and Design

The siting and architectural design of the project shall be compatible with existing and planned improvements and the character of the area in which it is to be located, as defined by the purpose of the zoning district, the Jericho Comprehensive Town Plan, and the standards listed below. The Development Review Board should encourage the use of a combination of common materials and architectural characteristics, landscaping, buffers, screens and visual interruptions to create attractive transitions between buildings of different architectural styles

11.9.2. Rural Residential, Village, and Agriculture and Forestry Districts: Site layout and design shall reinforce the rural landscapes of these districts. Development shall be sited to minimize, to the extent feasible, encroachments on natural resources and environmentally sensitive areas including steep slopes, open fields and prominent ridgelines and hillsides. Commercial uses shall be sited so as to blend with the predominately rural/residential character of these areas.

Development is within the character of the residential area of Packard Road.

11.10. Outdoor Storage None proposed at this time. Each lot does show a shed/barn on them.

11.11. Outdoor Lighting None proposed at this time.

11.12. Utilities

11.12.1. All existing and proposed utilities and utility Rights-Of-Way/easements, including but not limited to electric, telephone, gas, fiber optic and cable television, shall be shown on the final plat. *The applicant and their engineer will have to ensure this is incorporated prior to submitting any final plat.*

11.12.2. All new utilities shall be placed underground from the nearest available port, unless the Development Review Board determines that burial of utilities would result in an undue adverse impact to natural resources or would be prohibitively expensive. Prior to approving overhead utilities, the DRB shall require independent technical review in accordance with Section 10.8.6 to determine if the above conditions are met. *This could be a condition of any approval*

11.12.3. The applicant shall coordinate development design with utility companies to ensure that suitable areas are available for underground installation within and adjacent to the proposed development. Utility easements of sufficient width shall be provided to serve both the proposed development, and future service extensions to adjoining properties.

11.13. Storm Water

11.13.1.3. Applicants are encouraged to incorporate Low Impact Development techniques and practices into the stormwater management system. *This could be a condition of any approval.*

11.13.2. Erosion and Sediment Control During Construction:

11.13.2.1. At minimum, all construction shall comply with the erosion control practices detailed in the most recent version of the Vermont Agency of Natural Resources Low Risk Site Handbook for Erosion and Sediment Control. *This could be a condition of any approval.*

11.14. Performance Standards 11.14.1. No land or structure in any zoning district shall be used or occupied in any manner that creates dangerous, injurious, noxious or otherwise objectionable conditions which adversely affect the reasonable use of adjoining or nearby properties). In accordance with the ACT [§§4414(5)], the following performance standards, as measured at the property line, must be met and maintained in all districts for all uses, except for agriculture and forestry. *N/A*

10.12.9.4. Legal Documents.

The final plat application for a minor or major subdivision shall be accompanied by the following legal documents. Should the Development Review Board determine it necessary to employ an attorney to review any legal documents, the costs of such attorney shall be paid by the applicant. Issues that may be reviewed include but are not limited to: *The DRB should determine which if any of the following it should or would like to possibly review by the Town's attorney prior to any final approval.*

10.12.9.4.1. Information on all proposed publicly-owned land, Rights-Of-Way, or easements, including certificate of title, offer of irrevocable dedication, and warranty deed, free and clear of all encumbrances, to be recorded after final acceptance of all streets, easements, parks, or other open space by the Town. *There appears to be one proposed public ROW for a side walk and some clarity needs to be established as previously mentioned in the notes from the Town's attorney.*

10.12.9.4.2. Copies of agreements or other documents showing the manner in which common property and/or space is to be maintained, including any conservation easements. Any common property and/or open space shall be defined and consistent with the approved site plan. Open space restrictions and reservations shall be permanent. All lots/units shall receive perpetual right for use of common properties and facilities, unless exempt from this requirement by specific action of the Development Review Board. *This appears to be compliant*

10.12.9.4.3. Bylaws, Articles of Incorporation, or Covenants of any homeowners association, declaration of condominium, or other applicable legal agreements. Homeowners association responsibility, mandatory membership, and lienable assessment power shall be provided for by the homeowners association documents and individual lot deeds. The association shall have the duty to obtain liability, property, and casualty insurance, and responsibility for expenses relating to management and maintenance of association-owned structures. A provision shall be included for Town takeover in the event of failure of essential services, including the power of the Town to appoint a receiver to assess the property for funds to cure defects in facilities. *This appears to be compliant*

10.12.9.4.4. All restrictions and covenants to be included in individual deeds. Staff believes no deed has been drawn up for the proposed lot #2 but a condition of any approval could include this.

10.12.9.4.5. Any other data, such as contracts, certificates, affidavits, endorsements, receipts, or other materials or agreements which have been required by the Development Review Board or the Selectboard.

STAFF RECOMMENDATION:

Staff feels that the request is approvable and that there are some small areas that need to be addressed by the application and reviewed to ensure compliance prior to any final approval. If the applicant can address all areas within the staff report either prior to the hearing or at the hearing then the DRB can consider the appropriate next steps. If those areas are not able to be addressed then staff would recommend continuing the public hearing so the applicant has time to address and provide the needed information.