ESSEX PLANNING COMMISSION
July 23, 2015
December 8, 2016

STAFF REPORT
Prepared by Greg Duggan, Town Planner

PRELIMINARY PLAN – REAPPROVAL
RESIDENTIAL PLANNED UNIT DEVELOPMENT (PUD-R)
SITE PLAN
RESIDENTIAL DEVELOPMENT PHASING

I. Applicant

Dousevicz Inc.
c/o Brad Dousevicz
21 Carmichael St., Suite 201
Essex Junction, VT 05452

Philip & Louise Kolvoord
3 Main St.
Essex Junction, VT 05452

II. Proposal

The applicant is seeking Preliminary Plan approval for a 19-lot, 32-unit Residential Planned Unit Development (PUD-R) at 15 Upper Main Street, Tax Map 90, Tax Parcel 6. The 17.5-acre lot lies in a Medium Density Residential (R2) subzone of the Mixed Use Development - Planned Unit Development (MXD-PUD) zoning district.

Eighteen of the lots range in size from 0.3 acres to 1.14 acres, and would have single-family, four-bedroom dwellings. An existing, single-family home would remain on Lot 18. Lot 13 would be 5.66 acres and contain 14 three-bedroom carriage homes, as well as approximately 3 acres of open space.

Abutting properties to the north and east lie in a B1 subzone of the MXD-PUD district. Indian Brook, a stormwater impaired waterway, flows through a Floodplain (C2) district east of the property. Residential lots in the Village of Essex Junction abut the property to the south. West of VT Route 15/Upper Main Street, an Agricultural – Residential (AR) zoning district contains residential and religious uses.

The homes would be subject to the Town's Residential Phasing Policy.

III. Background

In May 1992 the Village of Essex Junction Board of Trustees voted to approve up to 8,400 gallons per day of water and sewer allocation for 14 acres owned by Phil and Louise Kolvoord in the Town of Essex. Minutes from Trustees meetings and accompanying letters from the Village and Town managers are attached to this Staff Report. The land that received the water and sewer capacity is outside of the Town's sewer core. The use of the sewer capacity was subject to any Town requirements in place at the time of development. In exchange for the water and sewer capacity, the Kolvoords gave the Village 19 acres for open space at Fairview Farm.

While the water and sewer allocation was for 14 acres owned by the Kolvoords, the applicant's current PUD proposal covers 17.5 acres. In an email dated June 20, 2014 and submitted for Sketch Plan review, the applicant's engineer wrote,

> *I will try to research this, my guess is that the parcel did not have an official survey done at the time of the agreement so the 14-acres was just based off of an attempt to scale off an old maps or by some basic calculations based on the length and width. At this stage we have not done a survey of the property, we are simply relying off of tax map information. As we move along in the process we'll do a fully boundary survey to determine the exact acreage. If there have not been any changes to the property line since the agreement it's obvious both the 14-acre and 17.5 acre are referring to the same property.*

In June 2014 the Planning Commission approved a sketch plan for 20 single-family, four-bedroom homes and 14 three-bedroom carriage homes at 15 and 21 Upper Main Street. The current application only involves property at 15 Upper Main St.

IV. Article II, Section 2.8 of the *Subdivision Regulations*: Preliminary Subdivision Approval

The applicant has applied for Preliminary Plan approval pursuant to the *Town of Essex Outside the Village of Essex Junction Official Subdivision Regulations* (Articles II, III, IV). Section 2.8 of the *Subdivision Regulations* requires Preliminary Plan approval for all major subdivisions. As noted in Section 2.8(A) of the *Subdivision Regulations*,

> *The purpose of Preliminary Subdivision Approval shall be to compare the plan for consistency with the requirements of these Regulations, to determine that the plan addresses the issues raised at Sketch Plan Review, to ensure that all survey information, septic system and well data, required public improvements, and other data are complete, to ensure that the proposed subdivision is in compliance with all appropriate Regulations and standards, and to complete the major portion of engineering review of improvements and land alterations.*

As a PUD, the subdivision must be classified as a major subdivision. Major subdivisions must obtain approvals for Sketch Plan, Preliminary Plan and Final Plan. When a subdivision is proposed as a PUD, Section 2.3 of the *Subdivision Regulations* requires applicants to submit all application materials for Site Plan Approval and Planned Unit Development Approval with an application for Preliminary Subdivision Review. PUD and site plan review appear below in Sections V and VI of this staff report, respectively.

(A) Plans:

The Applicant has submitted the following plan:

- Plan Sheet #1, "60-Scale Overall Plan, Brookside Village, Upper Main Street, Essex Jct., VT," prepared by O'Leary-Burke Civil Associates, PLC, dated 8/14/13, last revised 4/20/15.
- Plan Sheet #2, "30-Scale Site Plan 'A,' Brookside Village, Upper Main Street, Essex Jct., VT," prepared by O'Leary-Burke Civil Associates, PLC, dated 8/14/13, last revised 4/20/15.
- Plan Sheet #3, "30-Scale Site Plan 'B,' Brookside Village, Upper Main Street, Essex Jct., VT," prepared by O'Leary-Burke Civil Associates, PLC, dated 8/14/13, last revised 4/20/15.
- Plan Sheet #4, "60-Scale Landscape Plan, Brookside Village, Upper Main Street, Essex Jct., VT," prepared by O'Leary-Burke Civil Associates, PLC, dated 8/14/13, last revised 6/30/15.
- Plan Sheet #5, "Roadway and Utilities Profiles, State Street 10+00 to 21+00, Brookside Village, Upper Main Street, Essex Jct., VT," prepared by O'Leary-Burke Civil Associates, PLC, dated 8/14/13, last revised 4/20/15.
- Plan Sheet #6, "Roadway and Utilities Profiles, Yarmouth Road 10+00 to 19+50, Brookside Village, Upper Main Street, Essex Jct., VT," prepared by O'Leary-Burke Civil Associates, PLC, dated 8/14/13, last revised 4/20/15.
- Plan Sheet #7, "Roads & Sewer Details & Specifications, Brookside Village, Upper Main Street, Essex Jct., VT," prepared by O'Leary-Burke Civil Associates, PLC, dated 8/14/13, last revised 4/20/15.
- Plan Sheet #8, "Water & Stormwater Details & Specifications, Brookside Village, Upper Main Street, Essex Jct., VT," prepared by O'Leary-Burke Civil Associates, PLC, dated 8/14/13, last revised 4/20/15.
- Plan Sheet #9, "Lighting, Landscaping & Erosion Control Details & Specifications, Brookside Village, Upper Main Street, Essex Jct., VT," prepared by O'Leary-Burke Civil Associates, PLC, dated 8/14/13, last revised 4/20/15.
- Plan Sheet #S1, "Stormwater Management Plan, Brookside Village, Upper Main Street, Essex Jct., VT," prepared by O'Leary-Burke Civil Associates, PLC, dated 8/14/13, last revised 4/20/15.
- Plan Sheet #S2, "Stormwater Management Plan, Brookside Village, Upper Main Street, Essex Jct., VT," prepared by O'Leary-Burke Civil Associates, PLC, dated 8/14/13, last

revised 4/20/15.

- Plan Sheet #E1, "EPSC Pre-Construction Plan, Brookside Village, Upper Main Street, Essex Jct., VT," prepared by O'Leary-Burke Civil Associates, PLC, dated 8/14/13, last revised 4/20/15.
- Plan Sheet #E2, "EPSC Construction Plan 'Phase 1,' Brookside Village, Upper Main Street, Essex Jct., VT," prepared by O'Leary-Burke Civil Associates, PLC, dated 8/14/13, last revised 4/20/15.
- Plan Sheet #E3, "EPSC Construction Plan 'Phase 2,' Brookside Village, Upper Main Street, Essex Jct., VT," prepared by O'Leary-Burke Civil Associates, PLC, dated 8/14/13, last revised 4/20/15.
- Plan Sheet #E4, "EPSC Construction Plan 'Phase 3,' Brookside Village, Upper Main Street, Essex Jct., VT," prepared by O'Leary-Burke Civil Associates, PLC, dated 8/14/13, last revised 4/20/15.
- Plan Sheet #E5, "EPSC Stabilization Plan, Brookside Village, Upper Main Street, Essex Jct., VT," prepared by O'Leary-Burke Civil Associates, PLC, dated 8/14/13, last revised 4/20/15.
- Plan Sheet #E6, "EPSC Details & Specifications, Brookside Village, Upper Main Street, Essex Jct., VT," prepared by O'Leary-Burke Civil Associates, PLC, dated 8/14/13, last revised 4/20/15.
- Plan Sheet #PL, "Subdivision Plat, Brookside Village, Upper Main Street, Essex Jct., VT," prepared by O'Leary-Burke Civil Associates, PLC, dated 8/14/13, last revised 4/20/15.
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(B) Article IV: Subdivision Standards of the *Subdivision Regulations*

The Planning Commission must evaluate any proposed subdivision based on the standards of Article IV of the *Subdivision Regulations*. Standards include conformance to the *Town Plan* and *Town of Essex Outside the Village of Essex Junction Official Zoning Regulations*. Other applicable standards relate to public safety, natural features, streets, sidewalks, open space, availability of water and sewer, and stormwater management.

1. Section 4.1, Standards Applicable to All Subdivisions

a) Conformance with the *Town Plan*. Section 4.1(P) of the *Subdivision Regulations* requires all subdivisions to conform to the *Town Plan*. The project complies with the following goals and objectives of the *2011 Town Plan*:

> ***Goal 5.2:*** *Encourage a reasonable diversity of housing types and choices between rental and ownership in a variety of locations suitable for residential development and convenient to employment centers, shopping facilities, schools and public transportation.*

b) Conformance to the *Zoning Regulations*. Table 2.13, Mixed Use Development –

Planned Unit Development District (MXD-PUD). Section 4.1(G) of the *Subdivision Regulations* requires all subdivisions to conform to the *Zoning Regulations*. The proposed subdivision is located in the MXD-PUD district. Table 2.13(A) of the *Zoning Regulations* describes the purpose of the MXD-PUD district:

> *This district has a combination of residential, commercial and mixed use development on a large tract of land where a comprehensive planning effort has been undertaken. Because of its proximity to major roadways and the availability of municipal water and sewer, this district is uniquely qualified to provide a combination of residential, commercial and industrial development as approved by the Planning Commission or as specified in the Essex Town Plan.*

i) Permitted Uses. Residential development in the MXD-PUD district must comply with the use and dimensional requirements of a Medium Density Residential (R2) district, as described in Table 2.5. PUD-Rs are permitted in R2 districts provided they adhere to Section 6.8 of the *Zoning Regulations*, which specifies PUD-R requirements.

ii) PUD Dimensional Requirements.

Dimensional Requirement	PUD-R Standard	Proposed
Average Lot Area per Dwelling Unit	10,000 sf	20,351 sf
Minimum Lot Frontage	75 ft.	79 ft.
Minimum Front Setback	20 ft.	20 ft.
Minimum Side Setback / Single Family	10 ft.	10 ft.
Minimum Rear Setback	15 ft.	15 ft.
Minimum Setback, Vermont Route 15	75 ft.	75 ft.
Minimum Buffer/ Surface Waters	Varies	50 ft.
Maximum Height	40 ft.	< 40 ft.

The proposed average lot area is based on a buildable area of 14.95 acres.

Buffers for surface waters range from 50 feet to 100 feet. Because Indian Brook is a stormwater impaired waterway, and due to steep slopes along the bank, staff believes a 100-foot buffer may be appropriate. If the Planning Commission approves the Preliminary Plan, staff suggests including a condition requiring a 100-foot buffer, unless the Vermont Watershed Management Division recommends a lesser distance.

c) Conformance to the *Zoning Regulations*. Table 2.16, Business-Design Control Overlay District (B-DC). The properties lie in the Business-Design Control Overlay District, although B-DC standards to not apply to single-unit dwellings.

2. Section 4.3, Preservation of Natural Features

a) Natural Features. The *Subdivision Regulations* specify,

> *Outstanding natural features of the site, including groves of trees, watercourses and falls, historic sites, exceptional views, and similar irreplaceable assets, shall be preserved. The Planning Commission may require building envelopes to be specified for some or all buildings where it is necessary to carefully define building locations and heights in order to protect the natural features listed in this section or identified on the Significant Features Reference Map.*

Much of the property is already cleared as grassy open space. Trees line much of the property boundary, creating buffers between Indian Brook to the north and east, houses to the south, and VT Route 15 to the west. The southwest corner of the property contains a large stand of trees that would be preserved as open space. As the applicant's engineer described in a memorandum dated June 30, 2015,

> *This area is not suitable for development as its currently wooded, has pockets of steep slopes, and an intermittent water course which drains south toward the Village of Essex Junction.*

Another stand of trees screens the property from VT Route 15. The applicant's engineer, in a project narrative dated March 2, 2015, said most of the trees would remain in place. Exceptions include some clearing to create a four-way intersection with Turnberry Ridge, and some "selective cutting to improve intersection sight distances." Where the property abuts existing homes on Juniper Ridge Road, the applicant has shifted the location of the carriage homes north (compared to the sketch plan), allowing an existing tree line to remain intact.

A stand of trees in the middle of the property would be cleared for development.

The Significant Features map in the *Town Plan* does not show any features on the property,-nor does the Vermont Agency of Natural Resources' Natural Resource Atlas indicate any special resources on the property.

The property does not contain any water bodies, although Indian Brook flows to the east of the property. The State of Vermont lists Indian Brook as a stormwater impaired waterway. The applicant has designated a 50-foot riparian buffer from the top of the slope leading to the brook and, per a condition of sketch plan approval, revised building envelopes to remain outside the buffer. The Planning Commission can require buffers up to 100 feet in areas with stream bank slopes exceeding 15 percent, with highly erodible soils, or without enough vegetation to limit stormwater runoff and filtration of pollutants. Portions of the bank have slopes greater than 20 percent. As a result, staff recommends a 100-foot buffer, unless the Vermont Watershed Management Division authorizes a smaller distance.

The 50-foot riparian buffer would be set aside as approximately 2 acres of open space running across individual lots, and would be marked by a split rail fence. A 6-foot-wide walking trail would run through much of the buffer. Open space will be covered in more detail below in Section V of this staff report.

In addition to the walking trail, the draft Declaration of Covenants, Easements, Restrictions and Liens allows some clearing in the open space. Section 8.3 of the draft declaration says,

> *The Association, its successors and assigns, shall have the right to maintain the open space in an orderly and presentable manner, including the right to plant shrubbery from time to time and to keep the grass trimmed and take any other normal maintenance action in maintaining the pleasant appearance of the open space.*

Particularly due to Indian Brook's status as an impaired waterway, staff has concerns about mowing in the open space. Per Section 3.11(D), buffers shall be left in an undisturbed, vegetated condition, seeded with a naturalized mix of grasses, and shall not be mowed. Should the Planning Commission approve the Preliminary Plan, staff recommends including a condition that the Declaration of Covenants, Easements, Restrictions and Liens be revised to prohibit mowing in the buffer area. The applicant should also obtain comments from the Vermont Watershed Management about the presence of the trail in the buffer. The Zoning Board will need to give conditional use approval for the trail, per Section 3.11(F)(2)(d) of the *Zoning Regulations*.

The applicant has plans to grade portions of the buffer and create a stormwater detention/treatment area just outside the riparian buffer. A stormwater discharge pipe encroaches on the buffer, runs through a wetland, and discharges next to Indian Brook. Stormwater will be covered in more detail in Section IV(B)9 of this staff report, but the applicant would need to obtain a state stormwater permit prior to Final Plan submission. If the Planning Commission approves the Preliminary Plan, staff recommends including a condition requiring the applicant to have a state wetlands coordinator approve the encroachment on the wetland. The applicant shall also obtain a Conditional Use Determination for the encroachment prior to Final Plan review, if the state requires a CUD.

If plans for grading and the stormwater system in the buffer do not change, the applicant will need to obtain conditional use approval for the following, per Section 3.11(F)(2) of the *Zoning Regulations*:

- The removal of vegetation, the placement of fill, or the excavation of top soil or earth materials
- The unpaved footpath
- Stormwater treatment facilities

Any encroachment approved by the Zoning Board must meet the requirements of Section 3.11(F)(3) of the *Zoning Regulations*.

If the Planning Commission approves the Preliminary Plan, then prior to Final Plan review, the applicant shall consult with the Vermont Agency of Natural Resources on stormwater management, slope, and streambank stabilization measures, as permitted by Section 3.11(G)(5) of the *Zoning Regulations*. Written comments from ANR shall be submitted with the Final Plan application. The applicant shall also submit a buffer management plan with the Final Plan application, prepared by a qualified professional, per Section 3.11(G)(6) of the *Zoning Regulations*. If necessary, the buffer management plan should be included in the covenants.

If the PUD receives Final approval, the buffer areas shall be clearly marked on the ground prior to the start of site work and construction, and stakes shall not be removed until all construction and landscaping activities are completed. Land within the buffers shall be left in an undisturbed, vegetated state – with the exception of a trail, if approved by the Zoning Board of Adjustment – and lawn and parking areas shall not be allowed. Any areas in the buffer that are disturbed during construction shall be seeded with a naturalized mix of grasses, and shall not be mowed. Structural or "hard" bank stabilization techniques shall not be used without prior approval from the Town Engineer.

i. Natural contours. Section 4.3(A)(1) of the *Subdivision Regulations* specifies that subdivisions shall retain the natural contours of a site and conserve natural cover and soil as much as possible.

From a high point within the stand of trees in the south-central portion of the property, land slopes away toward Indian Brook and Vermont 15. The steepest slopes are in the southwest corner and near Indian Brook.

The applicant plans to clear the stand of trees and conduct blasting to level the high point of the property. The applicant submitted a blasting plan as part of the Preliminary Plan application. Pre-blasting surveys would be offered to property owners within 500 feet of the blasting site. Blasting would be limited to 5,000 pounds of explosives. Blasting would occur between 8 a.m. and 5 p.m., Monday through Friday, with exceptions for inclement weather, electrical storms, or safety purposes. The project engineer would notify abutters and the Town of Essex at least three days before any blasting. Explosives would not be stored on site overnight. Blasting mats would be used as necessary to cover blasts. All blasting contractors would be licensed in the State of Vermont. Additional details about the proposed blasting are included in the Blasting Plan for Brookside Village.

Public Works has not yet reviewed the blasting plan. Nearby residents have also requested a third party review of the blasting plan. If the Planning Commission approves the Preliminary Plan, staff recommends including a condition requiring

a third party review of the blasting plan, with the review to take into consideration concerns laid out in the letter "Comments on Preliminary Plan, Brookside Village, Upper Main Street, Essex Junction, VT 05452," dated June 7, 2014. If the blasting plan and project are approved, all signatories of the letter shall also receive notice at least three days prior to any blasting.

ii. Erosion and Stormwater Control. Section 4.3(A)(2) of the *Subdivision Regulations* requires erosion and stormwater control plans when subdivision improvements on slopes or areas with fragile soil conditions. As noted above, staff has concerns about the presence of stormwater management systems in the riparian buffer. Section IV(B)9 of this Staff Report covers stormwater management and erosion control in more depth.

iii. Topsoil Removal. Per Section 4.3(A)(3) of the *Subdivision Regulations*, "topsoil removed in the process of grading the subdivision site shall be replaced to an average depth of four (4) inches (10 cm) with a minimum depth of two (2) inches (5 cm) and the site seeded in accordance with Soil Conservation Service recommendations and the Town's Public Works Specifications."

iv. Wetlands. A small portion of a 50-foot wetland buffer crosses onto the property near Indian Brook. The applicant plans to install a portion of a stormwater management system in the buffer. If the Planning Commission approves the Preliminary Plan, the applicant shall consult a State of Vermont wetlands coordinator prior to Final Plan review to determine if a 50-foot buffer is adequate for the wetland, which abuts an impaired waterway, and if a Conditional Use Determination permit is required from the state for the stormwater encroachment. If a CUD is required, the applicant shall obtain one prior to Final Plan review.

Additionally, the southwest corner of the property is seasonally wet. The area has not been confirmed as a wetland, but the applicant does not plan to build on the area.

v. Lot sizes. The *Subdivision Regulations* encourage the smallest possible lot sizes that can include the primary use, accessory buildings, and driveways. Small lot sizes are intended to maximize the amount of open space.

In a district that requires a 10,000-square-foot average lot size for PUD-Rs, all but one of the proposed lot sizes range from 10,794 square feet (0.25 acres) to 54,363 square feet (1.25 acres). Lot 13, which would have 14 carriage homes and open space, is proposed as 246,510 square feet (5.66 acres).

Most of the lots – Lots 1 – 13 – contain some open space. The riparian buffer runs behind Lots 1 – 12 and covers approximately 2 acres. Lot 13 contains approximately 3 acres of open space.

vi. Forested areas. When a subdivision is proposed in a forested or partially forested area, the *Subdivision Regulations* require the developer to submit recommendations from a professional forester regarding the location of subdivision improvements and the removal of trees.

The property contains isolated wooded sections. As required by the Sketch Plan approval, the applicant met with the Town Tree Warden to determine if professional forester should be consulted on the project. The Tree Warden did not feel that input from a professional forester was warranted. The Tree Warden did make landscaping suggestions for the project. Landscaping will be covered in more detail in Section VI(C) of this staff report.

b) New Trees. The *Subdivision Regulations* require new street trees in areas where none exist, or where existing trees would suffer life-shortening damage during construction.

The trees along VT Route 15 would largely remain in place, retaining a visual buffer for the property. Tree clearing that would take place along VT Route 15 would allow for a new street to be installed across from Turnberry Lane, and would improve sight lines from the new intersection.

The Landscape Plan shows street trees approximately every 50 feet on the roads that would be built within the subdivision. More details about landscaping will appear in Section VI(C) of this staff report.

3. Section 4.4, Blocks and Lots – Planning and Design Standards

As an area bounded by streets, six of the carriage homes on Lot 15 could constitute a block. The block provides adequate building area for the homes, and has sidewalks and two access points.

All proposed lots meet the minimum requirements of the *Zoning Regulations* and have access to a public street. Lots must also be laid out to allow stormwater to drain away from the buildings. As required by the *Subdivision Regulations*, lots would be graded to allow stormwater to drain away from the homes. The project will require a state stormwater permit.

The average depth to average width ratio for each lot does not exceed 5 to 1, the maximum ratio allowed by the *Subdivision Regulations*.

4. Section 4.5, Streets

Streets must have sufficient width and a location suitable to accommodate prospective traffic, emergency vehicles, snow removal, road maintenance equipment and school buses. Streets must be arranged within the existing road network to allow convenient

access to employment and shopping areas, schools, and recreational areas. Minor streets must discourage through traffic.

Since sketch plan, the proposed streets have been widened, and a private road has been redesigned as a public road. The latest plans no longer show the road network connecting to Juniper Ridge Road in the Village of Essex Junction.

Under the Preliminary Plan, a public road – tentatively named State Street on the plans, but referred to as Sycamore Lane in the project narrative – would enter from VT Route 15 directly across from Turnberry Ridge. After approximately 200 feet, the road would turn right and run approximately north-south through the property. The total length of the road would be approximately 1,100 feet. Another road – tentatively named Yarmouth Road – would create a loop of approximately 600 feet at the southern end of the property.

State Street would provide access to the single-family homes and one of the carriage homes. Yarmouth Road would provide access to the remaining carriage homes. Both streets would be 30 feet wide, with 60-foot rights-of-way.

Final street names would need to be approved by the Selectboard.

The applicant plans to prohibit parking on the side of State Street that has fire hydrants, as requested by the fire chief during sketch plan review. The Selectboard would need to approve the restriction of on-street parking.

The *Subdivision Regulations* require developments with 50 or more residential units to have two entrances. As a project with 32 units, Brookside would not be subject to that requirement. Even so, the property has a 60-foot-wide right-of-way linking State Street to Juniper Ridge Road. Staff recommends that an emergency access be established over the right-of-way if the project receives Final Plan approval.

As required by Sketch Plan approval, the applicant submitted a traffic evaluation, dated September 2014 and revised April 2015. In addition to traffic expected to be generated by the project, the traffic evaluation considered existing traffic in the area and another six-unit residential development that has been approved, but not completed, off Turnberry Ridge.

According to the traffic evaluation, the applicant's project is expected to generate 32 A.M. peak hour vehicle trips and 39 P.M. peak hour trips.

Estimated Vehicular Trip Generation

	Enter	Exit	**Total**
A.M. Peak	8	24	**32**
P.M. Peak	25	15	**39**

The traffic evaluation looked at the capacity analysis at the intersection of Turnberry Ridge and VT Route 15. Levels of service at intersections range from A, meaning little or no delay, to F, a failing intersection with extreme congestion. The traffic evaluation for the project found,

> *The capacity analysis results indicate acceptable levels of service at the projects intersection with VT RT 15. The major approach of VT RT 15 has level of service 'A' for all scenarios evaluated and the minor approach has a level of service 'C' but in no case is the queue expected to exceed 1 vehicle.*

In a safety analysis of the roads around the project, the traffic evaluation concluded that additional turning lanes on VT Route 15 were not needed, and that the nearby section of VT Route 15 is not a high accident location.

The evaluation concluded,

> *Overall, the proposed project will not have a significant impact on current traffic conditions in the area.*

The applicant has notified the Vermont Agency of Transportation of the intent to create a new street with access to a state highway.

Public Works has not yet reviewed the latest traffic evaluation and road design. In the "Comments on Preliminary Plan" letter, neighbors questioned the methods of the traffic evaluation. If the Planning Commission approves the Preliminary Plan, staff recommends including a condition requiring a third-party review of the traffic evaluation.

a) Police Department. In an email dated May 11, 2015, the Police Chief wrote,

> *I chatted with (the Town Engineer) last week about this and he thought that the lower speed limit should be extended further east some distance beyond the entrance. I think this does make sense, but maybe a transition zone from 30 to 35mph would be what the State would determine if there is a decision to make any adjustment. We all know this portion of Route 15 is State highway, so it is not our decision. …*
>
> *Otherwise, I have no issues with the plans.*

5. Section 4.6, Sidewalks – Planning and Construction Standards

The *Subdivision Regulations* require sidewalks, paved paths, or both on each side of roads within a subdivision, although streets with low anticipated traffic volumes can have sidewalks on a single side. Applicants also need to install sidewalks along the adjacent side of an existing street when a street is located in a medium density

residential zone.

The applicant plans to build sidewalks along the south side of State Street and the east side of Yarmouth Road. The State Street sidewalk would be 8 feet wide; the Yarmouth Road sidewalk 5 feet wide. The State Street sidewalk would continue past the end of the road, connecting to Juniper Ridge in the Village through a public right-of-way. The Village Community Development Director commented on the connection in a May 6, 2015 email to the applicant:

> *Any multiuse path should be planned with the future emergency access in mind.*
>
> *As you own the ROW and have the right to access Juniper Ridge Road from the subject property at any time I see no need for a Village approval of your planned multiuse path. The new path should connect to the existing Village pedestrian and cyclist facilities at the terminus of your ROW. Please be aware that there are standards for the construction of multiuse or bicycle paths constructed in the Village. The Village LDC Section 909 Pedestrian and Bikeway Standards, 3. states that:-*
>
> *3. (a) Bicycle paths shall be ten (10) feet wide. (b) Bicycle paths shall be surfaced with bituminous paving which meets the specifications for such material in Appendix A.*
>
> *Village Staff should be notified when the path is being built so they can inspect and approve the construction. The path shall be maintained to Village Staff satisfaction by the owners of the current site, and/or the home owners of the development parcel if development moves forward. Planting some indigenous trees along the path that will not impede emergency vehicles would be preferred.*

The applicant has also proposed a 10-foot-wide bicycle/pedestrian easement along VT Route 15. Town Plan Map 10, Proposed Bicycle Network, shows VT Route 15 as a First Priority Bike Path. A 2014 *Bicycle and Pedestrian Plan* that has been adopted by the Town of Essex and Village of Essex Junction also calls for a multi-use path along the east side of VT Route 15, between Fairview Drive in the Village and VT Route 289. The *Bicycle and Pedestrian Plan* identifies such a path as a high priority for Essex.

If the Planning Commission approves the Preliminary Plan, the easement shall be increased to 15-feet wide, per Section 4.8(4) of the *Subdivision Regulations*. The same section of the *Subdivision Regulations* also allows the Planning Commission to require the construction of a concrete or paved path within the easement. The Trails Committee, Public Works staff, and Community Development staff strongly feel the applicant should be required to construct the 10-foot multi-use path as part of the project. In its April 8, 2015 memorandum, Public Works wrote,

> *Public Works strongly recommends the developer be required to construct a 10*

> *foot wide multi-purpose path along the length of the property on VT15.*

The applicant's engineer responded in a letter dated April 23, 2015, writing,

> *Our concern is that VT 15 is under jurisdiction Vermont Agency of Transportation and construction of a 10 foot wide multipurpose path would ultimately need their review and approval. No sections of 10 foot wide multi-purpose path currently exist along this section of VT RT 15 so building a section along this project would not connect the project to any other existing infrastructure. Our opinion is that the design of a pedestrian path along VT RT 15 should be done as part of a larger plan involving all of the properties along VT RT 15 and not piecemeal.*
>
> *As an alternative we have offered a 10-wide easement to allow for the future planning and construction of a pedestrian path and have proposed an internal 8-foot wide pedestrian path throughout the project which connects to an existing 8-foot wide pedestrian path along Juniper Ridge Road.*

An existing multi-use path in the Village runs up to Fairview Drive, where it connects to a sidewalk that links to another multi-use path. That path runs to within approximately 260 feet of the property line of the proposed project. The Trails Committee, at its meeting on July 14, 2015, voiced concerns that pedestrians and – to a lesser extent – bicyclists traveling on VT Route 15 would continue on the state highway rather than using the 8-foot path along State Street.

If the Planning Commission opts not to require the construction of the path as a condition of approval, the applicant should instead be required to contribute funding toward a future path.

6. Section 4.7, Land for Public Open Space and Recreational Use

Trails and conservation greenways identified in the Town Plan must be accommodated within open space and recreation areas.

The property contains portions of proposed trail networks identified in the Town Plan. In addition to the First Priority Bike Path along Vermont 15 – mentioned above in Section IV(B)5 of this Staff Report – the Proposed Bicycle Network shows a Second Priority Bike Path crossing the southeast corner of the property. The path overlaps a footpath shown on *Town Plan* Map 9, Proposed Footpath Network. The Overall Plan shows the proposed paths running through Lots 11 and 12.

The applicant has proposed a 15-foot-wide bicycle/pedestrian easement to the Town of Essex along the southern property boundary. The easement does not overlap the proposed second priority bike path shown on the Town Plan, but it does run over the proposed 6-foot-wide trail in the buffer. The proposed trail intersects with the Town Plan location of the bike path/footpath.

The applicant has indicated on the Overall Plan that 3 acres of Lot 13 would be preserved as open space. The riparian buffer would also be designated as open space, and is designed to contain a 6-foot-wide trail. The Lot 13 open space would be unimproved. Neither open space area has its own lot.

The Conservation and Trails committees, at their meetings on July 14, 2015, advocated for a playground area to supplement the property's recreational offerings for children. If the Planning Commission approves the Preliminary Plan, staff recommends that a small playground be included on the Final Plan.

If the subdivision receives Final Plan approval, the homes will be subject to recreation impact fees. The *Subdivision Regulations* allow the Town to accept land reserved for public open space and recreation, subject to approval from the Selectboard.

7. Section 4.8, Utility and Access Easements and Improvements

a) Easements for Utilities, Drainage and Access. When utilities or drainage facilities cannot be installed in street rights-of-way, applicants must provide the Town with perpetual, unobstructed easements. The easements shall be centered on rear or side lot lines and have satisfactory access to the street.

The property would contain stormwater easements for a retention pond on lots 6-9. The applicant has also proposed a stormwater easement on an abutting property to the east for a component of the project's stormwater management system.

Brookside Village Homeowners Association would hold a 20-foot-wide sewerline easement beneath State Street. The applicant has also proposed a 20-foot-wide waterline easement to the Town of Essex; the easement runs within the State Street right-of-way, beneath the sidewalk and portions of the road.

Section 4.8(A)(3) of the *Subdivision Regulations* allows the Planning Commission to require perpetual, unobstructed easements for non-motorized, multi-use access to schools, public open space, streets, or adjacent properties. The Commission can also require the construction of a concrete or paved walk/path within an easement. Staff recommends that the applicant provide the Town with a 15-foot-wide easement along VT Route 15, and construct a 10-foot-wide multi-use path within the easement.

The applicant plans to provide a 15-foot-wide bicycle/pedestrian easement to the Town along the southeastern boundary of the property.

b) Utility Improvements. Public utility improvements shall be installed in accordance with Public Works Specifications, and shall be installed underground unless doing so is infeasible.

8. Section 4.9, Water Supply and Waste Water Systems

The property lies outside the Town's sewer core area, and no Town-owned water lines are near the property. Instead, Town Plan Map Number 3, Water and Sewer, identifies the property as "Lands approved for Village of Essex Junction Sewer capacity prior to the adoption of the Town Sewer Allocation Ordinance." As noted in Section III of this Staff Report, the Village of Essex Junction Trustees in 1992 granted the landowner 8,400 gallons per day of water and sewer capacity.

The applicant plans to install water and sewer infrastructure that would connect to the Village's municipal systems at the Village border. The sewer system would be privately maintained by the Brookside Village Homeowners Association, whereas the water system would fall under town ownership. The applicant would need to install a Champlain Water District meter at the Village boundary, where the system would cross municipal lines and become the responsibility of the Village.

As the applicant's engineer wrote in the March 2, 2015 project narrative,

> *All utilities will be still be built to public works standards to all for future acceptance should the Town and Village ever merge public works departments. Water and sewer allocation will be provided by the Village of Essex Junction as outlined in the attached letter from Village Manager Charles Safford to Philip Kolvoord dated May 5, 2003.*

a) Water Supply. When a public water supply is reasonably accessible, applicants are required by the *Subdivision Regulations* to connect to the public system.

Public Works commented on the water supply system in a memorandum dated April 8, 2015, writing,

> *There is no direct connection between the Town of Essex existing water system and this project. Any municipal waterline extension directly from the Village of Essex Junction system would require, at the minimum, the following:*
>
> *1) Approval from the Village to support the specific flow and capacity for the project from the Village system.*
> *2) Approval from the Village to utilize the existing waterline from Juniper Ridge.*
> *3) Approval from the Village for all new municipal water infrastructure located within the Village to make the connection*
> *4) A new meter vault between the Village system and the proposed system within the Town to meter all water crossing from the Village to the Town. The meter vault is required between CWD communities to accurately reflect the water use between the two communities. It shall*

> *be designed and constructed to meet Champlain Water District standards …. There are no exceptions to this requirement and it applies whether or not the water system is private or public.*

For the water system to be private, it is our opinion that it will require a certified water operator per State requiremetns. In addition there is the issue of usage measurement and billing for water use.

In the opinion of Public Works staff, the water system must be municipally owned and operated to protect the public health and guarantee that usage measurements will be taken, that there is always a certified operator and there will be funds and staff to provide the services needed to proect the public health. Public Works staff is of the opinion that the water system needs to be a component of the Town municipal system and any project approval should require this as a condition of approval.

All hydrants must be located on the same side as the water main. There is no need to design an extra 110 LF of 6-Inch hydrant service lines that the Town may need to take over and maintain.

The Town understands that the project area as a substantial amount of silt and clay. These types of soils lend themselves to increased corrosion. The applicants engineer has selected ductile iron pipe as the proposed material for the water main. If the Town is to take over this water infrastructure, all mains shall be C900 PVC. Extra caution should be taken with the installation of any metal fittings, glands, and service saddles. Stainless steel shall be required.

The applicant shall provide two valves on the two 8-Inch tees that connect the main water loop on Yarmouth Road, (Sta. 16+75 and 20+80). One off of the branch and one on the southern side of the Tee. No Exception.

The applicant's engineer revised the project plans in response to the comments from Public Works. The Preliminary Plan includes a meter vault designed to Champlain Water District standards. The meter will measure usage between the Town and Village. The applicant would also provide the Town with a 30-foot-by-40-foot easement over the water meter to allow for access and maintenance.

All water mains on the project would be owned by the Town, and the applicant has located the mains within the proposed rights-of-way. The only exception is on Lot 12, which the line needs to cross to connect to the Village system; the applicant would provide a 20-foot-wide easement over Lot 12.

Hydrants would be located on the south side of State Street, the same side as the water line. The applicant's engineer also revised plans to accommodate the water line design requested by Public Works.

b) **Waste Water Systems.** Public Works addressed wastewater in an April 8, 2015 memorandum:

> *The sewer appears to be designed as a municipal system connecting to the Village of Essex Junction by gravity infrastructure. … Public Works is aware that the applicant has an agreement with the Village of Essex Junction regarding sewer capacity. This Village's position regarding the allocation, was provided via a letter dated April 19, 2014, a copy of which is attached. However the letter is silent as to Village ownership, operation and maintenance of the sewer lines and to a specific allocation of flow relative to the applicant's request.*
>
> *The submitted project narrative indicates that the sewer system will be privately owned and maintained by the homeowner's association. While this may be possible, the sewer usage will have to be accurately measured and provided to the Village, since the cost for providing transmission through the Village lines and the cost for treatment of the flow at the Village wastewater plant will be based on the flow measurement. It is not only the cost to clean and maintain lines within the project boundary that may be internal to an association but external costs that must be based on measured usage.*
>
> *The Town's position is that it cannot be responsible for the ownership, operation or maintenance of new municipal sewer lines that are outside the Town sewer core. Public Works is of the opinion that the Village of Essex Junction has the review authority of sanitary sewer infrastructure designed for this project.*

The applicant's engineer, in a response to Public Works dated April 23, 2015, confirmed,

> *All wastewater allocation will be from the Village of Essex Junction. As part of our state permit we will be required to submit a letter from the Village stating their ability to serve the project. All new sewerlines and services, within the Town, will be owned and maintained by the Brookside Village homeowners association.*

If the project receives Final Plan approval, the applicant shall obtain Village approval for the wastewater infrastructure design and capacity prior to the issuance of a zoning permit.

9. Section 4.10, Stormwater Management and Erosion Control

The *Subdivision Regulations* require all proposed subdivisions to include a stormwater management and erosion control plan that adheres to the Town's Stormwater

Management Ordinance. The plan must address stormwater management and erosion control during and after construction.

The stormwater management system is broken into five drainage areas: A, B, C, D, and E.

Area A would use a series of catch basins to drain the roads, the carriage homes, and lots 14- 19.

Area B drains Lots 5-10. A wet extended detention pond on lots 6, 7, and 8 would capture stormwater. The detention pond is designed with an outlet structure that drains near Indian Brook. Area C drains lots 1-5, and Area D drains lots 10-12. Both areas would use dry detention basins. Areas B, C, and D would require some grading in the riparian buffer. The grading will require conditional use approval from the Zoning Board.

Area E drains the open space area on Lot 13, and portions of lots 18 and 19. The area is primarily open space.

As noted previously in this staff report, Indian Brook is included on the State's list of stormwater impaired waterways. Fully developed, the site would have 3.64 acres of impervious surface, and amount that will require the applicant to obtain a state stormwater permit.

Public Works commented on the impaired status of Indian Brook in a memorandum dated July 20, 2015:

> *Indian Brook is an impaired waterway. All stormwater must be treated and detained in accordance with the 2002 Vermont Stormwater Management Manual. The applicant will also be subjected to additional offset fees which will be determined by the State.*

If the Planning Commission approves the Preliminary Plan, staff recommends including a condition that the applicant obtain the state permit prior to Final Plan review.

The applicant's engineer spoke to the stormwater management system in the project narrative, dated March 2, 2015:

> *We have designed the site to collect, treat and detain all stormwater runoff from the site (in) a detention pond located on Lots 6, 7 & 8 which discharges to Indian Brook. The neighbor on the southwest corner of the site can therefore expect to see less runoff than they currently receive because a significant portion of the site has been graded to drain north, instead of south, to the proposed detention pond.*

In a subsequent email dated July 17, 2015, the applicant's engineer said the applicant

expects to have the state stormwater permit prior to Final Plan review. The applicant's engineer provided an additional description of the stormwater management system:

> *We designed the pond so that it was large enough to treat, detain and release runoff from the site so that the post peak flow would be less than the pre peak flow. The reason we have run the outlet pipe down to the bottom of the bank, instead of outleting it on the top, is to reduce the potential for bank erosion.*
>
> *We will need to obtain a CUD permit for the wetland impacts associated with the pipe at the bottom of the bank but we feel it's a better design then just letting the discharged water flow down the bank unchecked.*
>
> *As far as Indian Brook being impaired, all stormwater runoff will be treated and detained in accordance with the 2002 Vermont Stormwater Management Manual as well as be subject to an additional fee of $6,000/ac (??) to be used by the state for other offset projects in the same watershed.*

10. Section 4.11, Monuments and Lot Markers

If the project obtains Final Plan approval, the applicant shall install concrete monuments and lot markers to the standards specified in Section 4.11 of the *Subdivision Regulations*.

V. Article VI of the *Zoning Regulations*: Planned Unit Development

Planned Unit Developments are allowed in various zoning districts as authorized in Article II of the *Zoning Regulations*. PUDs must also meet the requirements of Article VI of the *Zoning Regulations*. Section 6.0(B) describes the purpose of PUDs:

> *PUDs shall be allowed in order to fulfill the purpose of these Regulations as set forth in Article I, and to meet the purposes, goals and objectives set forth in the Essex Town Plan – specifically those goals and objectives relating to land use, clustering of development, affordable housing, and protection of agricultural soils and natural features.*

Planned Unit Developments – Residential (PUD-Rs) are allowed in the MXD-PUD zoning district with Planning Commission approval. Section 6.3(A) of the *Zoning Regulations* lays out the review procedures for PUDs. When PUDs involve the subdivision of land, the Planning Commission must review the PUD as a major subdivision. The subdivision review appears above in Section IV of this Staff Report.

(A) Section 6.4, General Standards (Applicable to All Planned Unit Developments)

1. Conformance

PUDs must conform to the *Town Plan* and meet all other applicable provisions of the *Zoning Regulations*. Section IV(B)(1) of this Staff Report describes how the proposed PUD conforms the *Town Plan* and dimensional requirements of the *Zoning Regulations*.

2. Uses

Uses within a PUD cannot differ substantially from the allowed uses of the underlying zoning district. Single-family dwellings are permitted in the R2 subzone of the MXD-PUD district.

3. Purposes

A PUD must be consistent with the purposes of the district in which it is located and with Section 6.0 of the *Zoning Regulations*. Section IV(B)(1)(b) and Section V of this staff report detail the proposed PUD's consistency with the zoning district and Section 6.0 of the *Zoning Regulations*, respectively.

4. Multiple Buildings

The Planning Commission can approve multiple buildings on a single lot if doing so achieves the purposes of a PUD. Lot 13 would contain 14 carriage homes. The other 18 homes, including the existing residence, would have individual lots.

5. Density Calculations

To calculate density on a PUD, public and private roads, floodplains, floodways, wetlands, and lands with slopes greater than 20 percent must be subtracted from the total acreage of the lot. The Overall Plan shows 1.37 acres of steep slopes and 1.18 acres of roads. Subtracting those 2.55 acres brings the buildable land to 14.95 acres.

6. Density

The Planning Commission can allow greater density within developable portions of a PUD if the shift is necessary to enable innovation in design and layout for a more efficient use of land. The applicant has not proposed a density that exceeds the Town's standards. The average proposed lot area of 20,351 square feet exceeds the 10,000-square-foot minimum. With 14.95 acres of buildable land the applicant could build up to 65 homes on the property, but has proposed 31 new homes to accompany the one existing house.

7. Roads

The applicant has proposed a road network that comes off VR Route 15, as described in Section IV(B)4 of this Staff Report.

8. Open Space

Open spaces within a PUD shall include lands identified on the Significant Features Reference Map, land determined to be undevelopable, and land intended for recreational uses. Open spaces not included on the individual residential lots must be retained and maintained by the applicant or another organization established for that purpose.

As noted in Sections IV(B)2 and IV(B)6 of this Staff Report, the applicant has set aside approximately 3 acres of open space on Lot 13, which also contains the carriage homes. The applicant has no plans to create any recreational offerings on the 3 acres of open space.

Another 2 acres of open space, required by the riparian buffer for Indian Brook, would run behind Lots 1-12. The applicant plans to install split rail fences on the lots to indicate the presence of the undevelopable buffer. A 6-foot-wide, 0.5-mile-long trail would also run through the buffer. The trail would be open to residents of the PUD. The fence would come quite close to some of the homes, particularly on Lot 3 and Lot 10. The fence would come within 10 feet of the Lot 3 house, and would practically touch the house on Lot 10, leaving little to no room for a back yard.

The Conservation Committee and Trails Committee, at their joint monthly meeting on July 14, 2015, requested that the applicant install a playground as an open space recreational area for children in the PUD. If the Planning Commission approves the Preliminary Plan, staff recommends including a condition requiring the applicant to include a playground in the Final Plan.

9. Covenants

The developer must supply protective covenants to insure orderly and controlled development of the PUD. As required by Sketch approval, the applicant provided a draft *Brookside Village Declaration of Covenants, Easements, Restrictions and Liens*.

The Town Attorney reviewed the draft covenants for Preliminary Review, offering several minor edits, correcting references to an Essex Development Review Board, and removing a phrase in Section 5.1 that says each lot will use the Town wastewater system.

If the Planning Commission approves the Preliminary Plan, the applicant shall revise the covenants for Final Review to incorporate the Town Attorney's edits. Section 8.2 of the covenants shall also be revised to prohibit mowing in the buffer area, and to specify that any plantings in the buffer be native species.

10. Impact Fees

PUDs are subject to impact fees enacted by the Town in accordance with state law. If the applicant is required to provide land or construct facilities explicitly included in the calculation of impact fees, the applicant can apply for a credit against the impact fees.

If the PUD receives Preliminary Plan approval, impact fees will be determined at a later stage in the review process.

11. Residential Density Bonuses

The applicant has not requested any density bonuses.

(B) Section 6.8, Planned Unit Development – Residential (PUD-R)

A PUD-R can be allowed in the MXD-PUD zoning district if it meets the requirements and intent of Article VI of the *Zoning Regulations*, which covers Planned Unit Developments. Section 6.8(A) describes the purpose of a PUD-R:

> *The purposes of the PUD-R provision are to promote the creative and efficient use of land which respects the topography and other natural features, to encourage the preservation of open space, to provide for the efficient development of the site and use of public services and facilities, to minimize the visual impact of development, to encourage creative design, appropriate variety and aesthetic development, and to provide greater housing opportunities.*

1. Section 6.8(C), Minimum acreage and dwelling units

PUD-Rs must have a minimum of 10 acres and six dwelling units, requirements met by the applicant.

2. Section 6.8(D), Types of dwelling units

The applicant plans to build single-family dwellings, which are allowed in PUD-Rs in the R2 subzone of the MXD-PUD district.

3. Section 6.8(E)(2), Maximum Dwelling Units

The applicant has proposed a PUD with 32 homes; the property has enough acreage for 65 dwelling units.

4. Section 6.8(F), Minimum Lot Size and Lot Area per Dwelling

The Planning Commission can authorize a reduction in minimum lot size and minimum lot area per dwelling unit if it determines that a reduction would enable a creative, efficient use of the site. R2 districts typically require minimum lot sizes of 20,000 square feet for sites with off-site water and sewer, but PUD-Rs are allowed an average

lot area of 10,000 square feet per dwelling unit.

Eleven of the 18 single-family home lots would have less than 20,000 square feet, and the 14 carriage homes would be on footprint lots within a 246,510-square-foot lot. The average lot size over the entire PUD would result in 20,351 square feet per dwelling unit.

Buildable area / Dwelling units = 651,222 sf / 32 = 20,351 sf

5. Section 6.8(G), Front, Side, Rear Yard and Frontage Minimums

The building envelopes adhere to the minimum setbacks and frontage requirements.

6. Section 6.8(H), Buffers

Buffers are required when multiple-family dwellings are proposed in an area adjacent to existing family dwellings. The applicant has not proposed multi-family dwellings.

7. Section 6.8(I), Mobile Home Parks

Mobile home parks are not allowed in the MXD-PUD. The applicant has not proposed a mobile home park.

8. Section 6.8(J), Open Space

Open space in PUD-Rs must meet several general requirements and management requirements. For general requirements, open space must be at least 1 acre; must have a flowing pattern that keeps the open space connected; can be excluded from density considerations if it cannot be adaptable for recreational purposes; must be accessible to all dwelling units in the PUD; must be an integral part of the PUD's design; and must be designed to protect any agricultural soils or features identified on the Significant Natural Features Reference Map. Any plans for development of recreational areas on the open space must be presented along with all other plans.

For the management of open space, the applicant must submit protective covenants specifying the restrictions and uses of the land, the ownership of the land, and how the land will be maintained and controlled. If the Planning Commission approves the PUD, the board shall determine when development of the open space will be completed. If open space development is not complete prior to the conveyance of lots, the applicant shall post a cash escrow or performance bond with the Town.

As noted in Sections IV(B)2, IV(B)6, and V(A)8 of this Staff Report, the applicant has proposed 3 acres of open space as part of Lot 13, and another 2 acres of open space in the riparian buffer. The Lot 13 open space would not contain any recreational offerings; the riparian buffer open space would contain a 6-foot-wide, unpaved trail that would be

accessible to residents of the PUD.

Staff and the Conservation and Trails committees also recommends the inclusion of a playground on the PUD.

9. Section 6.8(K), Justification

A developer must demonstrate that a PUD-R will be coordinated with proposed development of surrounding land and have land uses compatible with the surrounding area. The developer must also provide a statement indicating the planned rate of development and an assessment of the impact on schools, traffic, water, and more.

In a project narrative dated March 27, 2014 and submitted with the Sketch Plan application, the applicant's engineer wrote,

> *The proposed Planned Residential Development … provides higher density cluster development while preserving the town's more rural areas and character. The proposed project site adjacent to other existing neighborhood centers such as Countryside, Fairview Farms and Town Center ….*

The rate of development would be guided by the Town's Residential Phasing Policy. The proposed PUD would be outside the Town's sewer core, but is expected to receive sewer allocation from the Village. For that reason, the Planning Commission seemed to feel during Sketch Review that the development could proceed at a rate allowed for projects within the sewer core. More details are provided below in Section VII of this Staff Report.

10. Section 6.8(L), Flexibility

When permitting a PUD-R the Planning Commission can establish additional requirements or conditions to ensure that development occurs in harmony with the surrounding area and the Town as a whole. Conditions can include the following: preservation of light, air and view; elimination of undue congestion; designated sites for recreational facilities; designation of school sites; provision of adequate internal traffic circulation; provision of suitable landscaping or screening.

VI. Article V, Section 5.6 of the *Zoning Regulations*: Site Plan Review

In addition to Preliminary Plan Review, the applicant has applied for Site Plan Review pursuant to Section 5.6 of the *Zoning Regulations*. Per Section 5.6 of the *Zoning Regulations*, "The purpose of site plan review is to ensure that the layout and design of development on pre-existing or approved lots conform to the Town Plan of record, these Regulations and applicable conditions of previous subdivision and conditional use approvals. Standards specifically relate to the internal layout of the site, its physical design, and the functional integration of the site with

adjoining properties, uses and infrastructure."

If the Planning Commission approves the Preliminary Plan, site plan review would occur at the same time as Final Plan review. Because the applicant has provided information about the site plan, staff included an initial review in case any significant issues become apparent.

Site Plan review covers issues related to conformance to the *Town Plan*, dimensional requirements of the *Zoning Regulations*, aesthetics, outstanding violations, natural features, access, site circulation, parking, landscaping, lighting, utilities and services, and fire protection. Most of those issues are covered in Section IV of this staff report under preliminary subdivision plan review. The remaining issues are covered below.

(A) Section 5.6(A), General Requirements

1. Outstanding violations

The property does not have any outstanding violations.

(B) Section 5.6(E), Parking

Parking must be provided in accordance with Section 3.9 of the *Zoning Regulations*, and no more than 50 percent of a front-yard setback can be devoted to parking. The Commission can require joint parking facilities.

Parking will be associated with each of the homes. The applicant plans to allow street parking only on the side of the road without hydrants, although the Selectboard will need to give final approval to street parking restrictions.

(C) Section 5.6(F), Landscaping and Screening

The Planning Commission can require landscaping to achieve the objectives of the *Zoning Regulations* and the *Town Plan*. Landscaping objectives for single-family lots in residential districts involve street trees; landscaping objectives for multi-family lots involve street trees, parking areas, and lawn and building enhancements.

On the single family lots (Lots 1-12 and 14-19), the applicant plans to plant one or two trees per lot. The trees will also serve as street trees. The species include Katsura trees, Greenspire Lindens, Red Maples, and Honey Locusts. On Lot 13, along Yarmouth Road, the applicant intends to plan Sugar Tyme Crabapple trees. Staff would prefer to see a greater variety of species, and recommends that the applicant consultant with the Town Tree Warden prior to Final Plan review, if the Planning Commission approves the Preliminary Plan.

The proposed PUD does not have any joint parking areas that would require landscaping.

Each home would have a landscaped area around a corner of its foundation. The proposed building enhancements include a variety of shrubs and trees.

(D) Section 5.6(G), Lighting

The *Zoning Regulations* call for an exterior lighting plan that provides "site lighting and lighting levels that are appropriate for the anticipated activities on the site and the property's surrounding context, and that maximize the efficiency of site lighting and energy demand, while minimizing up-light glare, and unnecessary spillover light or light diffusion onto adjacent properties." Lighting levels on the site cannot exceed 7 foot-candles, and must have an average to minimum uniformity ratio of 5 to 1. Light trespass from the site must not increase by more than 0.2 foot-candles 5 feet beyond the property line. Lighting levels must be appropriate for the site and surrounding area, and must maximize efficiency of lighting and energy.

The applicant plans to install three LED street lights mounted at 20 feet. The lights would be located at the intersection of State Street and VT Route 15 and both intersections of State Street and Yarmouth Road. The lights would have a maximum level of 1.27 foot-candles.

The applicant's engineer only used the lighting levels in the streets to calculate the uniformity ratio. Using those values, the uniformity ratio would be 9.9.

VII. Article III of the *Subdivision Regulations*: Residential Phasing

The property is located outside the Town's sewer core area, but the Town Plan Water and Sewer map has a note indicating that the property is on "lands approved for Village of Essex Junction Sewer capacity prior to the adoption of the Town Sewer Allocation Ordinance." The Planning Commission felt, during Sketch review, that the project could therefore abide by a phasing schedule usually reserved for developments within the sewer core.

The goal of Residential Development Phasing is to maintain an annual population growth between 184 and 226, a rate set forth in the 2011 Town Plan. The town aims for an annual population increase of 205, the midpoint of the targeted range. Population figures are estimated based on a conversion of dwelling units to EPEs. Each bedroom in a dwelling unit translates to one person, so that 1 bedroom equals 1 person, 2 bedrooms equals 2 persons, 3 bedrooms equals 3 persons, and so forth. Section 3.2(D) of the *Subdivision Regulations* directs the Planning Commission to consider the number and type of dwelling units proposed in a development, as well as the number of bedrooms in the units.

Any single project is allowed to add 20 dwelling units per calendar year if the development is within the sewer core, and five units if the development is outside the sewer core. EPEs outside the sewer core cannot exceed 41, or 20 percent of the targeted total of 205, in any calendar year. The Planning Commission can allow exceptions to achieve Town Plan objectives related to affordable housing, or if the project contains three or fewer dwelling units. The Planning

Commission must act on a preliminary phasing request when a proposed development obtains sketch plan approval. Final allotment is granted if the development secures Final Plan approval.

Staff recommends the following preliminary phasing schedule:

	Proposed Dwelling units	Proposed EPEs
2015	10 carriage homes 10 traditional homes	70
2016	4 carriage homes 7 traditional homes	40
TOTAL	*14 carriage homes* *17 traditional homes*	*110*

The proposed phasing schedule would result in 219 EPEs with preliminary or final approval for 2015 and 48 for 2016.

A summary of the running phasing tabulation is attached.

VIII. Planning Commission Determinations

While reviewing the project on July 23, 2015, the Planning Commission determined …

IX. Proposed Conditions

Staff recommends continuation of the public hearing to allow Public Works time to review the blasting plan, the most recent traffic evaluation, and the latest road layout. If, however, Planning Commission decides to approve the Preliminary Plan without additional comments from Public Works, staff recommends the following conditions of approval:

1. All conditions from previous approvals shall remain in effect except as modified herein.

2. All construction shall be in conformance with the plans listed in Finding No. IV(A) above and as may be amended subject to other conditions and approvals. The plans shall be revised to show the correct square footage and developable area of the lot.

3. The applicant shall be approved for a preliminary Residential Phasing allocation of 20 dwelling units and 70 EPEs in 2015, and 11 dwelling units and 40 EPEs in 2016. A final allotment shall be granted if the development secures Final Plan approval.

4. The Final Plan shall show a 100-foot riparian buffer, unless the Vermont Watershed Management Division recommends a smaller buffer. The applicant shall also obtain comments from the Watershed Management Division about the presence of the unpaved trail in the buffer.

5. Prior to Final Plan review, the applicant shall consult a State of Vermont wetlands coordinator to determine if a Conditional Use Determination permit is required for the stormwater management system to encroach on the buffer. If a CUD is required, the applicant shall obtain one prior to Final Plan review.

6. Prior to Final Plan review, the applicant shall obtain a state stormwater permit.

7. Prior to Final Plan review, the applicant shall obtain conditional use approval for the following in the buffer: the trail through the buffer area; any stormwater treatment facilities; and the removal of vegetation, the placement of fill, or the excavation of top soil or earth materials.

8. Prior to Final Plan review, the applicant shall consult with the Town Tree Warden on species diversity within the landscaping plan.

9. As part of the Final Plan, the applicant shall submit revised covenants that prohibit mowing in the buffer area and specify that any plantings in the buffer be native species. Edits suggested by the Town Attorney shall also be incorporated into the revised covenants.

10. The Final Plan application shall include a third-party review of the traffic evaluation.

11. The Final Plan shall include a 15-foot-wide multi-use easement along VT Route 15, and the applicant shall construct a 10-foot-wide, multi-use, non-motorized path within the easement prior to the issuance of any certificates of occupancy.

12. The Final Plan shall include a playground.

13. As part of the Final Plan application, the “Blast Reports” section of the Blasting Plan shall be revised to indicate that a copy of the report shall be provided to the Town of Essex, and that all signatories of “Comments on Preliminary Plan, Brookside Village, Upper Main Street, Essex Junction, VT 05452” shall receive notification at least three days prior to any blasting. The Blasting Plan shall be reviewed by a third party.

14. The Final Plan application shall include a description of noise and dust control measures that will be used during any rock crushing operations.

15. The Final Plan application shall include a third-party review of the traffic evaluation.

16. The Final Plan shall show an emergency access connecting State Street to Juniper Ridge Road.

17. As part of a Final Plan application, the applicant shall submit a surveyed subdivision plat.

18. **The Final Plan application shall include all relevant inter-municipal agreements.**

19. Topsoil removed in the process of grading the subdivision site shall be replaced to an average depth of four (4) inches (10 cm) with a minimum depth of two (2) inches (5 cm) and the site shall be seeded in accordance with Soil Conservation Service recommendations and the Town's Public Works Specifications.

20. Prior to the issuance of a zoning permit, the buffer areas shall be clearly marked on the ground prior to the start of site work and construction, and stakes shall not be removed until all construction and landscaping activities are completed. Land within the buffers shall be left in an undisturbed, vegetated state, and lawn and parking areas shall not be allowed. Any areas in the buffer that are disturbed during construction shall be seeded with a naturalized mix of grasses, and shall not be mowed. Structural or "hard" bank stabilization techniques shall not be used without prior approval from the Town Engineer.

21. Prior to the issuance of a zoning permit the applicant shall provide an irrevocable offer of dedication and a highway agreement.

22. Prior to the issuance of a zoning permit, the applicant shall pay traffic and recreation fees in place at the time of submittal.

23. Prior to the issuance of a zoning permit, the Selectboard shall approve street names in accordance with E-911 requirements.

24. Prior to the issuance of a zoning permit the applicant shall obtain Selectboard approval to restrict parking to the side of the road that does not have fire hydrants.

25. Prior to the issuance of a zoning permit, the applicant shall submit any and all covenants, deeds, and legal documents resulting from this approval for review by the Town Attorney. The applicant shall pay any legal fees associated with the review.

26. Prior to the issuance of a zoning permit, the applicant shall install concrete monuments and lot markers to the standards specified in Section 4.11 of the *Subdivision Regulations*.

27. Prior to the issuance of a zoning permit, the applicant shall obtain approval from the Village of Essex Junction for the wastewater infrastructure design and wastewater capacity.

28. All construction materials and traffic shall enter the site from VT Route 15.

29. No construction or clearing shall occur outside of the building envelopes.

30. Prior to the issuance of a zoning permit, the applicant shall obtain any and all applicable State approvals and permits, that were not required for Final Plan review.

31. By acceptance of the conditions of this approval without appeal, the applicant confirms and agrees for himself and all assigns and successors in interest that the conditions of this

approval shall run with the land and the land uses herein permitted, and would be binding upon and enforceable against the applicant and all assigns and successors in interest.

X. Attachments

- Letter, "Brookside Village – 15 Upper Main Street," from Brian J. Bertsch, P.E., O'Leary-Burke Civil Associates, PLC, dated 3/2/15.
- Email, "RE: access to 15 & 21 Upper Main St," from Paul O'Leary, O'Leary-Burke Civil Associates, PLC, dated 4/7/15.
- Letter, "Brookside Village – 15 Upper Main Street," from Brian J. Bertsch, P.E., O'Leary-Burke Civil Associates, PLC, dated 4/23/15.
- Email, "FW: Multi-use Path Kolvoord Parcel," from Robin Pierce, Village of Essex Junction Community Development Director, dated 5/6/15.
- Memorandum, "15 Upper Main Street," from Brian J. Bertsch, P.E., O'Leary-Burke Civil Associates, PLC, dated 6/30/15.
- Email, "RE: Stormwater on Upper Main St.," from Brian J. Bertsch, P.E., O'Leary-Burke Civil Associates, PLC, dated 7/17/15.
- Email, "RE: DRAFT letter for inter-local issues at 15 & 21 Upper Main," from Robin Pierce, Village of Essex Junction Community Development Director, dated 3/26/15.
- Memorandum, "Brookfield Village, 15 Upper Main Street, Preliminary Plan Review," from Aaron K. Martin, P.E., Utilities Director/Town Engineer; and Dennis Lutz, P.E., Public Works Director, dated 4/8/15.
- Letter, "Kolvoord Property, 15&21 Upper Main Street, Essex Junction, VT," from David A. Barra, Attorney, Law Offices of David A. Barra, PLC, dated 4/19/14.
- Letter, from Patrick C. Scheidel, Town Manager, to Mr. William Dugan, Village Manager, Village of Essex Junction, dated 7/2/91.
- Email, "RE: Staff review – 15 Upper Main Street – REVISED PLANS," from Chief Bradley J. LaRose, Essex Police Department, dated 5/11/15.
- Memorandum, "Brookfield Village, 15 Upper Main Street, Preliminary Plan," from Annie Costandi, E.I., Stormwater Coordinator/Staff Engineer, dated 7/20/15.
- Letter, "Comments on Preliminary Plan, Brookside Village, Upper Main Street, Essex Junction, VT 05452," from Gerald Edwards, P.G., dated 6/7/14.
- Residential Phasing Report, from Town of Essex Community Development Department, dated 7/18/15.

cc: Philip & Louise Kolvoord
Steven & Robert Kolvoord
Paul O'Leary, O'Leary-Burke Civil Associates, PLC
Brian J. Bertsch, O'Leary-Burke Civil Associates, PLC

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