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4 **PLANNING BOARD**

5 Minutes of December 17, 2014

6 **ATTENDEES:** Arnold Rosenblatt – Chairman, Sally Wilkins- Vice Chairman, Cliff Harris, John  
7 D’Angelo – Ex Officio, Richard Hart – Conservation Commission, Colleen Mailloux – Community  
8 Development Director, Michael Del Orfano (arrived at 8:45pm).

9 **ABSENT:** Gordon Leedy, Marilyn Peterman – Alternate, Allen Merriman – Alternate, Eric Hahn –  
10 Alternate

11 Arnie opened the public hearing at 7:35PM.

12 (Please see attached proposed full zoning amendments)

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15 **Amendment 1** – Sections 4.3.A and 4.3.B.3 Elderly Housing – The proposed amendment allows  
16 elderly housing as a permitted use subject to a Conditional Use Permit in zones where it is currently  
17 permitted and eliminates the special exception for elderly housing. Arnie stated that the subcommittee  
18 has reviewed this extensively and provided information to the Board on this amendment. Arnie asked  
19 if anyone in the audience had comments relative to Amendment 1.

20 John Walega stated that he has a question on Amendment 3. Sally stated that the board would address  
21 each amendment individually. Sally asked if the language addresses the concern of what happens if  
22 Amendment 6 passes but 1 does not pass and vice versa. Colleen stated that the proposed language  
23 will work.

24 Sally stated that Mike Del Orfano has requested that the board consider changing the allowed density  
25 from 1 unit per ½ acre to 1 unit per acre. Sally indicated that she had no strong feelings either way.  
26 Consensus of the Board was to change the allowed density to 1 per acre. Sally made a motion to  
27 amend the proposed language to a minimum of one acre per dwelling unit. Cliff seconded. Motion  
28 passed 4-1 (John D’Angelo against). Arnie noted that this is a substantive change to the language and  
29 stated that it will be reposted for a second public hearing to be held in January.

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31 **Amendment 2** - Sections 4.14.C.2, Section 4.17.C and Section 9.1, Net Tract Area Definition– The  
32 proposed amendment provides a consistent definition throughout the Zoning Ordinance of net tract  
33 area as the total area of the parcel less wetland, floodplain and steep slopes over 20 percent. Sally  
34 noted that the board had reviewed this and proposed this language in order to eliminate inconsistencies  
35 that currently exist throughout the ordinance. Peter de Bruyn Kops asked if this language is rendered  
36 moot if Amendment 6 passes. Sally said that it does not matter if 6 passes or not, this creates a  
37 consistent definition. Town Counsel Bill Drescher has reviewed the proposed Workforce Housing and  
38 Innovative Housing Ordinances. Peter stated that the proposed amendments are very complex and  
39 there is a chance of bugs but cannot point to an absolute flaw.

40 Sally made a motion to post Amendment 2 to the warrant as written. Seconded by Cliff. All were in  
41 favor with none opposed.

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43 **Amendment 3** - Section 6.3, Expiration of ZBA Approvals – The proposed amendment brings the  
44 Zoning Ordinance into compliance with a 2013 RSA change that requires Zoning Board approvals be  
45 valid for a period of two years. John Walega asked if an applicant can come back for a new approval  
46 after the expiration of a variance or special exception. Colleen stated that yes, you can come back for a  
47 new approval of a permit that has expired. The change is to come into compliance with state law  
48 which requires extending the time that a zoning approval is valid from 1 year to 2 years. This change  
49 was made in recognition of the fact that some permitting takes substantial time and this allows an

50 applicant to obtain zoning approval and then move forward with obtaining other permits necessary for  
51 a project.

52 Sally made a motion to post Amendment 3 to the warrant as written. Seconded by Cliff. All were in  
53 favor with none opposed.

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55 **Amendment 4** - Sections 9.1 of the Zoning Ordinance and 5.1 of the Building Ordinance, Structure  
56 Definition – The proposed amendment establishes a minimum structure size of 32 square feet and  
57 exempts structures smaller than 32 square feet or temporary structures from needing to obtain a  
58 building permit. Peter de Bruyn Kops stated that this amendment is appreciated as it eases the burden  
59 on small agricultural structures. John Walega stated that the minimum should be 100 square feet or a  
60 larger number. John D’ Angelo explained that the previous community development director proposed  
61 the policy change to the Board of Selectmen to set a threshold below which review is not required.  
62 There is no code to review for a structure of this size. Cliff stated that requiring a permit for structures  
63 preserves setbacks. Colleen stated that for sheds and other small improvements, permits are required  
64 and a final inspection and the setbacks are verified. There is no building code relative to sheds and  
65 small structures. The proposed amendment will still require a building permit for typical sheds, but  
66 exempts smaller structures like chicken coops or dog houses.

67 Sally made a motion to post Amendment 4 to the warrant as written. Seconded by Cliff. All were in  
68 favor with none opposed.

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70 **Amendment 5** – Section 4.14, Workforce Housing - The proposed amendment deletes the existing  
71 Section 4.14, Affordable Housing in its entirety and replaces it with a new Section 4.14, Workforce  
72 Housing, which is intended to bring the Ordinance into compliance with RSA 674:58-61. Arnie noted  
73 that the language should be revised as it currently reads it sounds as though the existing Affordable  
74 Housing ordinance is not in compliance with the RSA and that is not the case. Sally reviewed 5  
75 typographical errors that were noted by Mike Del Orfano and asked that they be revised. Sally gave a  
76 brief overview of the proposed ordinance. The Workforce Housing Ordinance is innovative and is  
77 going to allow the town to encourage creativity and variety in the ways that workforce housing  
78 developments are put together in exchange for flexibility in density, setbacks, etc. There is a  
79 determination of market value, and economic viability is the key factor for consideration in granting  
80 waivers to density and setbacks. Claudia Frades asked what is the goal of the ordinance, is it allowed  
81 in every zone in town? Sally stated that affordable housing is currently permitted in any zone in  
82 Amherst. Workforce housing is the term used by the state. Claudia asked what is the benefit to  
83 current citizens. Sally – the underlying benefit is that teachers, fire-fighters, etc can afford to live here.  
84 Arnie – there are two purposes 1) perspective that it is good for the town to have a mix of housing  
85 types and 2) the state mandates that the town must provide an opportunity for workforce housing. It is  
86 not a matter of if the Town wants it or not, we are required. This allows the planning board to have  
87 some control in the review of these developments as they are proposed.

88  
89 Arnie noted that affordable housing is already in place (Sally – since 1989), this allows the planning  
90 board with more flexibility while complying with statutory requirements. Cliff stated that if we had no  
91 standards, we would have no say. The standards allow us to make sure that a development fits in the  
92 Town of Amherst the way we want it to be and the design meets the needs of the Town. Cliff- wants  
93 to provide housing opportunities for younger people who currently cannot afford to live here due to  
94 housing prices. Claudia wants to be sure that we are not marching to the tune of someone else’s  
95 drummer, the Town should question the state and federal mandates and their impact on property  
96 values.

97  
98 Rich stated that the Town would like to work towards a more mixed use type of environment where a

99 development can include some lower income, some elderly housing and some “normal” housing  
100 development mixed together in one development. Arnie stated that Amendment 6 addresses the  
101 innovative housing ordinance, this amendment is workforce. Claudia has concerns that calling it  
102 workforce is deceptive and seems disingenuous, the Town put in good zoning in the 50s and 60s to  
103 preserve the character of Amherst and does not want to see the Town lose its character.  
104

105 Peter de Bruyn Kops identified a revision needed in Section 3, preliminary density. Sally noted that it  
106 is a punctuation error and needs to be corrected. Peter asked if he is correct in understanding that a  
107 development could provide 1 single unit of workforce housing. Sally stated that it is possible but is  
108 determined by economic viability. Peter expressed a concern regarding constitutional requirements for  
109 equal treatment. Sally stated that the language has been reviewed by Bill Drescher and revisions made  
110 as a result of his review. Arnie stated that the intent of the proposed amendments is not to take on a  
111 ZBA function but will provide the Planning Board with the flexibility to deal with projects that are  
112 submitted.  
113

114 Peter asked if a developer could put up 1 unit of work force housing and commercial recreation fields?  
115 Is there a loop hole in this ordinance? Sally stated that any time we write an ordinance, there is the  
116 potential for holes, but this has been reviewed by Town Counsel. Claudia expressed concerns with the  
117 potential for an anthill of activity to spring up on a dense site with people gathering to visit recreation  
118 fields.  
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120 Arnie stated that this is a change and suggested that perhaps this should be continued to another public  
121 hearing to take additional public testimony. Sally made a motion to repost Amendment 5 for a second  
122 public hearing in January. Seconded by Cliff. All in favor, none opposed.  
123

124 Colleen will identify dates for the 2<sup>nd</sup> public hearing based upon room availability and statutory  
125 deadlines.  
126

127 **Amendment 6** - Sections 3.18, 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.13, 4.15, 4.16 and 4.17, Integrated  
128 Innovative Housing Ordinance – The proposed amendment deletes the existing Section 4.16 Open  
129 Space Plan and replaces it with a new section 4.16, Integrated Innovative Housing Ordinance and  
130 allows for implementation of the Workforce Housing, Planned Residential Housing and Elderly  
131 Housing Ordinances by Conditional Use Permit and includes insertions and deletions throughout the  
132 ordinance for consistency. Rich asked how do we use the percentages presented in the table. Sally  
133 stated that Section C.1 defines the baseline density. The Board agreed that the table heading needs to  
134 be revised to read “add to baseline”.  
135

136 Peter de Bruyn Kops asked what if a developer wants to charge a fee for access to the public park or  
137 space? Sally, we can address this in the definitions. Cliff stated that the public use is designed as a  
138 non-fee use. Rich stated that we do not want to eliminate the ability of the recreation department to  
139 collect fees. Arnie does not want this ordinance to be used to create a for profit/commercial recreation  
140 use. Colleen suggested language in the definitions regarding public use space available at no fee  
141 except as may be assessed by the Town. Claudia Frades stated that her concern is the character of the  
142 neighborhood. From the standpoint of abutters, this is a bad idea. Brings more people and more traffic  
143 to neighborhoods.  
144

145 Sally made a motion to insert a definition that Open to the Public is available for public use at no cost  
146 except for fees as may be assessed or collected by the Town. Cliff Seconded. All in favor, none  
147 opposed.

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149 Sally made a motion to repost Amendment 6 for a second public hearing in January. Seconded by  
150 Cliff. All in favor, none opposed.

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152 **Other Business**

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154 **Petition Warrant Articles** - The Planning Board received one petition warrant article requesting that  
155 the *Amherst Zoning Ordinance be amended by changing the zoning of the property identified as Tax*  
156 *Map 2, Lot 12-2 from the Rural Residential Zoning District to the Industrial District.* Colleen stated  
157 that the parcel in question abuts the industrial district off Hertzka Drive. The Board will hold a public  
158 hearing on the petition warrant article on January 7, 2015 at 7:30PM.

159  
160 Colleen reviewed the applications submitted for the January 7 board meeting: A site plan amendment  
161 for American K9 on Route 101, a site plan amendment for a 5,400 square foot retail building at  
162 Amherst Plaza and a site plan and condominium subdivision for a 16-unit development at 131 Hollis  
163 Road. Sally made a motion that none of the items are of regional impact, seconded by Rich. All in  
164 favor, none opposed.

165  
166 Colleen stated that a right to know request had been received related to proposed 2015 zoning  
167 amendments. As several board members are not in attendance this evening she will email the board  
168 tomorrow with details on what information has been requested.

169  
170 Arnie asked if there was a motion to adjourn.  
171 Cliff made the motion; John seconded. All were in favor with none opposed.  
172 Meeting was adjourned at 9:15pm.

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