

TOWN OF AMHERST  
Planning Board

June 3, 2020

**APPROVED-Amended**

1 In attendance: Arnie Rosenblatt - Chair, Michael Dell Orfano, Dwight Brew-Selectman Ex-  
2 Officio, Marilyn Peterman, Bill Stoughton, Brian Coogan, Cynthia Dokmo, Tracie Adams  
3 (Alternate), Chris Yates (Alternate).

4 Staff present: Nic Strong, Community Development Director, and Kristan Patenaude, Minute  
5 Taker.

6  
7 Arnie Rosenblatt called the meeting to order at 7:03 p.m., with the following statement. As  
8 Chair of the Amherst Planning Board, I find that due to the State of Emergency declared by  
9 the Governor as a result of the COVID-19 pandemic and in accordance with the Governor's  
10 Emergency Order #12 pursuant to Executive Order 2020-04, this public body is authorized to  
11 meet electronically.

12 Please note that there is no physical location to observe and listen contemporaneously to this  
13 meeting, which was authorized pursuant to the Governor's Emergency Order.

14 However, in accordance with the Emergency Order, I am confirming that we are:

15 Providing public access to the meeting by telephone, with additional access possibilities by  
16 video or other electronic means:

17 We are utilizing Zoom for this electronic meeting.

18  
19 All members of the Board have the ability to communicate contemporaneously during this  
20 meeting through this platform, and the public has access to contemporaneously listen and, if  
21 necessary, participate in this meeting through dialing the following phone #312-626-6799  
22 and password 892 7811 1254, or by clicking on the following website address:  
23 <https://zoom.us/j/89278111254> that was included in the public notice of this meeting.

24  
25 Providing public notice of the necessary information for accessing the meeting:

26 We previously gave notice to the public of the necessary information for accessing the  
27 meeting, including how to access the meeting using Zoom or telephonically. Instructions  
28 have also been provided on the website of the Planning Board at: [www.amherstnh.gov](http://www.amherstnh.gov).

29  
30 Providing a mechanism for the public to alert the public body during the meeting if there are  
31 problems with access: If anybody has a problem, please call 603-440-8248.

32  
33 Adjourning the meeting if the public is unable to access the meeting:

34 In the event the public is unable to access the meeting, the meeting will be adjourned and  
35 rescheduled.

36  
37 Please note that all votes that are taken during this meeting shall be done by roll call vote.

38  
39 Let's start the meeting by taking a roll call attendance. When each member states their  
40 presence, please also state whether there is anyone in the room with you during this meeting,  
41 which is required under the Right-to- Know law.

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43 **Roll call attendance: Bill Stoughton; Chris Yates; Dwight Brew; Tracie Adams;**  
44 **Mike Dell Orfano; Cynthia Dokmo; Marilyn Peterman; Brian Coogan; Arnie**  
45 **Rosenblatt; all alone and present.**  
46

47 Arnie Rosenblatt noted that there will be opportunity for public comment after the Board has  
48 completed its discussion. He encouraged the public present to be engaged in the discussion with  
49 the Board.  
50

51 **PUBLIC HEARINGS:**

52 **1. CASE #: PZ12172-121819 – Arboleda Realty LLC (Owner & Applicant) – The**  
53 **Farmhouse Marketplace, 340 Route 101, PIN #: 008-052-000 – Public Hearing/Non-**  
54 **Residential Site Plan. Proposed multi-use commercial building. Zoned Northern**  
55 **Transitional.**  
56

57 *Arnie Rosenblatt recused himself. Cynthia Dokmo sat as Chair.*  
58 *Chris Yates sat for Arnie Rosenblatt.*  
59

60 Cynthia Dokmo read the public hearing notice. She explained that this case was previously  
61 before the Board on January 15, 2020, at which time the Board voted that there was no regional  
62 impact. The application was accepted as complete on January 22, 2020. The Board hearing of the  
63 case was then continued and postponed until now. She stated that the case will be heard until  
64 9:30 p.m. at the latest, at which time she will ask the Board if it is ready to hear questions from  
65 the public, if the Board's questioning is not yet complete. If, after that, the Board is not yet ready  
66 to vote on the application, she will ask the applicant to agree to continue the hearing to July 1,  
67 2020, and ask the Board if they want a site walk.  
68

69 Ken Clinton, Meridian Land Services, stated that he represents Arboleda Realty in this case. The  
70 two cases on the agenda tonight are separate but related, and so he asked if the Board would  
71 consider hearing them concurrently. He intends to provide a review and update of the continued  
72 site plan review, and then ask the Board for a continuance.  
73

74 In response to a question from Dwight Brew, regarding announcing the opening of the public  
75 hearing during the meeting and the right for the public to speak during a public hearing, Cynthia  
76 Dokmo stated that the public hearing on this case has been opened, and that it is clear on the  
77 agenda that this is a public hearing.  
78

79 Ken Clinton stated that the site plan for this project was accepted by the Board on January 22,  
80 2020. Waivers were also granted at that time, and then the application was postponed in order to  
81 receive a third-party review. The next step for this project is for the plans to be reviewed by an  
82 outside engineer, who will provide comments to the Board and applicant. Revisions will then be  
83 made, and the application will come back to the Board.  
84

85 Ken Clinton explained that the project has been seeking to reduce the number of retaining walls  
86 needed on the site. He has met with NH DOT regarding the proposed location for a secondary

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87 site entrance. There may need to be slight adjustments made to this in terms of signage and  
88 control.

89  
90 Ken Clinton explained that the third-party review is needed to move this project forward. He will  
91 be submitting a check to escrow to the Community Development Department. He requested that  
92 the Board continue this hearing until July to hear the final presentation.

93  
94 In response to a question from Cynthia Dokmo, Ken Clinton stated that he offered the Board a  
95 site walk in January, but that was declined. It was noted that the minutes suggested the Board  
96 had postponed a site walk until spring.

97  
98 The Board agreed that they would like a site walk of the property within 30 days.

99  
100 **Mike Dell Orfano moved to have a site walk on a date certain between now and July**  
101 **1, 2020. Marilyn Peterman seconded.**

102 **Roll call: Dwight Brew - aye; Brian Coogan – aye; Mike Dell Orfano – aye; Marilyn**  
103 **Peterman – aye; Bill Stoughton – aye; Chris Yates; aye. Motion carried**  
104 **unanimously.**

105  
106 In response to a question from Mike Dell Orfano, Ken Clinton confirmed that the site plan, aside  
107 from the secondary egress point, should remain substantially unchanged.

108  
109 In response to a question from Bill Stoughton, Ken Clinton agreed that the staff report comments  
110 and any comments from the third-party review will be addressed by the July 1, 2020, meeting.

111  
112 Cynthia Dokmo set a site walk of the property for June 13, 2020, at 9:00 a.m.

113  
114 Nic Strong noted that a member of the public had his/her hand up. She explained that, if the  
115 Governor's orders are not changed by the 13<sup>th</sup>, that the Board may need to break up into smaller  
116 groups during the site walk.

117  
118 **Mike Dell Orfano moved that there be a secondary date of June 20, 2020, to hold a**  
119 **site walk, if meeting in large groups is not permissible based on the Governor's**  
120 **Orders on June 13, 2020. Marilyn Peterman seconded.**

121  
122 **Discussion:**  
123 **Dwight Brew suggested that, if necessary, the Board break into smaller groups and**  
124 **hold multiple site walks back-to-back on the 13<sup>th</sup>, instead of splitting it into multiple**  
125 **days.**

126  
127 **Mike Dell Orfano amended his motion, to read that there be a site walk on June 13,**  
128 **2020, and, that if more than nine people are present, there be multiple presentations**  
129 **to the various groups made on the 13<sup>th</sup> one after another, if required under the**  
130 **Governor's Emergency Orders. Marilyn Peterman seconded.**

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131 **Discussion:**  
132 **In response to a question from Brian Coogan, Ken Clinton noted that Board**  
133 **members were welcome to walk the site themselves, if unable to attend the site walk.**  
134

135 **Roll call: Dwight Brew – aye; Brian Coogan – aye; Mike Dell Orfano – aye; Marilyn**  
136 **Peterman – aye; Bill Stoughton – aye; Chris Yates – aye. Motion carried**  
137 **unanimously.**  
138

139 **Mike Dell Orfano moved to continue this hearing to July 1, 2020. Marilyn Peterman**  
140 **seconded.**  
141

142 **Discussion:**  
143 **In response to a question from Dwight Brew, Nic Strong noted that there will be no**  
144 **additional re-notice of the continued date, other than the posted agenda, if the**  
145 **motion passes.**  
146

147 **In response to a question from Mike Dell Orfano, Ken Clinton stated that the**  
148 **applicant agrees to continue this hearing to extend the Planning Board's deadline**  
149 **for action until July 1, 2020, and will follow-up with a written statement to the**  
150 **Community Development Office.**  
151

152 **Roll call: Dwight Brew – aye; Brian Coogan – aye; Mike Dell Orfano – aye; Marilyn**  
153 **Peterman – aye; Bill Stoughton – aye; Chris Yates – aye. Motion carried**  
154 **unanimously.**  
155

156 **2. CASE #: PZ12395-030320 – Arboleda Realty LLC (Owner & Applicant) – The**  
157 **Farmhouse Marketplace, 340 Route 101, PIN #: 008-052-000 – Public**  
158 **Hearing/Conditional Use Permit/Wetland & Watershed Conservation District –**  
159 **Proposed multi-use commercial building. *Zoned Northern Transitional.***  
160

161 Cynthia Dokmo read the public hearing notice. She explained that Bill Stoughton is a member of  
162 the Amherst Conservation Commission (ACC) and that the ACC has previously reviewed these  
163 plans. She explained that Bill Stoughton believes he can participate in the discussion on this item  
164 in a fair and impartial manner. There was no disagreement from the Planning Board.

165 Ken Clinton, Meridian Land Services, explained that this Conditional Use Permit (CUP) is  
166 specifically for wetlands and wetland buffer impacts. He has presented this overall project to the  
167 ACC three times, but only once for this CUP to seek their endorsement. He explained that the  
168 project has a 25 acre conservation easement as part of a requirement of the zoning variance  
169 received. This easement serves a dual purpose, as it is also part of a mitigation effort required by  
170 the state to help offset protecting the upland area of the site. The language for this easement  
171 needs to be reviewed by town counsel.  
172

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173 Ken Clinton explained that buffer impact area 1 was partly dictated by DOT, as the entrance  
174 needed to be located directly across from the winery entrance across the street. This impact  
175 involves a borrow pit created when Route 101 was built. This borrow pit is manmade and the  
176 town has no buffer requirements for this. Impact area 2 involves a small depression that acts as a  
177 detention area. This wetland was previously culverted and outflows across Route 101. Impact  
178 area 3 is a more central wetland to the site with a 50' buffer. This was partially used as a pasture  
179 in the past. There is a stone wall in this area, which is where the easement line was roughly  
180 placed. This is a higher functioning wetland. Impact areas 4 and 5 are towards the back of the  
181 property. They are remote, untouched, and unaffected by development on the site. Impact area 6  
182 was not originally identified as pertinent, but, as the drainage needs onsite have changed, so has  
183 its involvement. It is similar to impact area 2, in that it is a detention/stormwater area. The old  
184 road bed used to be in this location.

185  
186 Ken Clinton explained that impact areas 1-5 were discussed and supported by the ACC and DES.  
187 Impact area 6 handles stormwater runoff from the site and is the most down gradient area on site.  
188 Total buffer impact square footage for area 1 is about 1,460ft<sup>2</sup>. Buffer impact area 2 is more  
189 substantial at 5,420ft<sup>2</sup> of impact area. Impact areas 1 and 2 are of the lowest quality and function  
190 on site, even lower than the borrow pit areas. Impact area 3 does not involve a direct impact, but  
191 instead a buffer impact from grading and the retaining wall. The total buffer impact square  
192 footage in this area is 24,240ft<sup>2</sup>

193  
194 Ken Clinton explained that the ACC recommended the three following conditions, if the Board  
195 approves the application:  
196 1. That the applicant provide means to direct runoff from parking lots and facilities  
197 away from the wetland located to the rear of the property (as the applicant has  
198 proposed).  
199 2. That the applicant, the town, and the state reach mutual agreement on the terms of the  
200 proposed conservation easement.  
201 3. That the applicant allows public access to the proposed conservation easement area,  
202 at a minimum from the adjacent town-owned Bragdon Farm conservation land.

203  
204 **Mike Dell Orfano moved to accept the application as complete and to accept it for**  
205 **review. Marilyn Peterman seconded.**

206  
207 **Discussion:**  
208 **In response to a question from Dwight Brew, Nic Strong explained that accepting**  
209 **the application as complete does not indicate that the Board has approved it.**

210  
211 **Roll call: Dwight Brew – aye; Brian Coogan – aye; Mike Dell Orfano – aye; Marilyn**  
212 **Peterman – aye; Bill Stoughton – aye; Chris Yates – aye. Motion carried**  
213 **unanimously.**

214  
215 Cynthia Dokmo noted that Nic Strong has eight items listed in the staff report regarding the  
216 purpose of the Wetland and Watershed Conservation District. She asked the applicant to confirm

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217 that the submittal of the application had been made under the section regarding roads, driveways,  
218 footpaths, bridges, etc., and to explain how the application meets the criteria.

219

220 Ken Clinton agreed that the CUP was proposed under Section 4.11, H. 2., regarding roads, and  
221 other access ways, including driveways. He explained that the incomplete items were  
222 commented on as part of the Non-Residential Site Plan approval process. He noted that all of the  
223 documents submitted with the greater site plan, all of the background and specifics, and a  
224 narrative of the wetland buffers by a wetlands scientist, were to be considered to supplement the  
225 CUP application.

226

227 In response to a question from Mike Dell Orfano, Bill Stoughton stated that the ACC reviewed  
228 the list of criteria from the wetlands ordinance before voting to endorse the application, except  
229 for impact area 6.

230

231 Ken Clinton explained that impact area 6 was introduced in their meetings with the ACC,  
232 although not included in the list of impacted areas. He reviewed the state score sheet for wetland  
233 area functions and values criteria: ecological integrity, dependent wildlife habitat, and fish and  
234 aquatic life habitat. Impact area 6 is similar to impact area 2, in terms of functions and values.

235

236 In response to a question from Bill Stoughton, Ken Clinton stated that impact area 6 has a 25'  
237 buffer, due to its low value.

238

239 In response to a question from Marilyn Peterman, Ken Clinton stated that he believes impact area  
240 2 may have been manmade to some degree. This area was regraded and made a more driveable  
241 surface for the new roadway. This was a natural low point to collect runoff as well. Impact area 6  
242 is questionable as to if it was manmade or not.

243

244 In response to a question from Mike Dell Orfano, Ken Clinton explained that a maintenance plan  
245 for the buffers is usually discussed after the third-party review of the associated site plan. At this  
246 time the maintenance plan for the site will be included as part of the larger package.

247

248 In response to a question from Bill Stoughton, Ken Clinton stated that the possible need for a  
249 Shoreland Permit was recognized about two months ago, due to the location of Beaver Brook to  
250 the property. There is a possibility that the shoreland zone could be within about 10 feet of  
251 wetland #6 on the property, and thus trigger the need for this permit. If this is necessary, it will  
252 be a submission of the permit by notification, with no real review.

253

254 In response to a question from Dwight Brew, Ken Clinton explained that the water usage on site  
255 is not addressed in the CUP because this permit deals with surface to stormwater, versus aquifer  
256 use on site.

257

258 Ken Clinton reviewed the CUP requirements, Section 3.18 a-f.

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259 a) That the property in question is in conformance with the dimensional requirements of the  
260 zone, or meets Planning Board standards for the reduction in dimensional requirements,  
261 and that the proposed use is consistent with the Amherst Master Plan. (3-10-15)

262  
263 Ken Clinton noted that the lot is oversized with plenty of frontage and meets this  
264 requirement.

265  
266 b) That the proposal meets the purposes of the ordinance under which the application is  
267 proposed.

268  
269 Ken Clinton explained that the site plan application will utilize the zoning variances, and  
270 that this CUP process addresses the buffer impacts.

271  
272 c) That there will be no significant adverse impacts resulting from the proposed use upon  
273 the public health, safety, and general welfare of the neighborhood and the Town of  
274 Amherst.

275  
276 Ken Clinton stated that, at the state level, with regards to the Alteration of Terrain permit  
277 and DOT, this project will meet or exceed the requirements on site.

278  
279 d) That the proposed use will not be more objectionable to nearby properties by reason of  
280 noise, fumes, vibration, or inappropriate lighting than any use of the property permitted  
281 under the existing zoning district ordinances.

282  
283 Ken Clinton stated that there will be no noise, fumes, vibrations, etc. within the buffer  
284 areas.

285  
286 e) That the proposed use will not adversely affect the ground water resources of Amherst, in  
287 particular the Aquifer Conservation District as defined in Section 4-13 of the Amherst  
288 Zoning Ordinance.

289  
290 Ken Clinton explained that these buffer impacts deal with surface waters and wetlands,  
291 but not aquifer resources.

292  
293 f) The applicant shall file a Non-Residential Site Plan Review application in accordance  
294 with the “Non-Residential Site Plan Review Regulations” with the Amherst Planning  
295 Board.

296  
297 Ken Clinton stated that a Non-Residential Site Plan review has been filed.

298  
299 Ken Clinton stated that, to the degree possible for each item, the applicant has met items a-f.

300

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301 Dwight Brew stated that there seem to be loose ends, such as the wording of the easement  
302 agreement, who will manage the easement, etc. He is confused as to why the CUP would be  
303 approved without first addressing those items.

304  
305 Bill Stoughton explained that the ACC agreed to manage and maintain the easement. There was  
306 some concern over the items mentioned by Dwight Brew, which is why the conditions were  
307 placed on the approval.

308  
309 Ken Clinton stated that he is happy to have included as a condition the exact language as written  
310 in the ACC letter.

311  
312 In response to a question from Mike Dell Orfano, Nic Strong stated that the general criteria for a  
313 CUP (Section 3.18) were not included in the Staff Report, because Section 4.11 (Wetland and  
314 Watershed Conservation District) criteria were used. The details for these criteria are listed on  
315 pages 3-6 of the staff report.

316  
317 In response to a question from Dwight Brew, Mike Dell Orfano explained that information about  
318 chemicals to be used on the site is generally noted on the site plan.

319  
320 In response to a question from Dwight Brew, Ken Clinton explained that he would prefer if the  
321 CUP for wetland and wetland buffers is approved first, before the site plan, as a way to know  
322 that it's reasonable to move forward with the plan. Typically, the site plan application is  
323 submitted first, with the CUP being submitted at the same time or slightly after.

324  
325 Public Comment:

326 Tom Quinn, 30 Christian Hill Road, questioned the procedure, regarding this CUP application  
327 coming in under Section 3.18 and ignoring many of the other sections of the ordinance. He  
328 believes this could set a bad precedent, especially as this proposal is an extension of a non-  
329 conforming use in a residential area.

330  
331 In response to a question from Bill Stoughton, Nic Strong explained that the Board has yet to  
332 discuss the criteria of Section 4.11, that - *The Planning Board shall, in addition to referencing*  
333 *the findings referenced in the preceding section, consider all relevant facts and information prior*  
334 *to making a decision on any application for a Conditional Use Permit; find that the proposed*  
335 *project is consistent with the state Purpose of this ordinance; and find, that to the extent*  
336 *possible, the project avoids and minimizes impacts to land situated within the District...*” The  
337 Board also has yet to look at the stormwater discharge volumes, letter from the Heritage  
338 Inventory, use of lawn chemicals, etc.

339  
340 Marilyn Peterman asked if all those things wouldn't be taken care of during the Site Plan Review.  
341 Nic Strong stated that it doesn't matter if some of these items will also be covered in the Non-  
342 Residential Site Plan Review, because they are required to be part of the separate CUP  
343 application.

344

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345 Cynthia Dokmo read the list of criteria:

346 *The Planning Board shall, in addition to referencing the findings referenced in the preceding*  
347 *section, consider all relevant facts and information prior to making a decision on any*  
348 *application for a Conditional Use Permit; find that the proposed project is consistent with the*  
349 *state Purpose of this ordinance; and find, that to the extent possible, the project avoids and*  
350 *minimizes impacts to land situated within the District, including but not limited to the following:*

351 *a. The proposed activity minimizes degradation of land situated within the District and*  
352 *offsets potential adverse impacts to functions and values of wetlands, surface waters, and*  
353 *vernal pools including but not limited to their capacity to:*

- 354 *i. Support fish and wildlife;*
- 355 *ii. Attenuate flooding;*
- 356 *iii. Supply and protect surface and ground water resources;*
- 357 *iv. Remove sediments;*
- 358 *v. Remove pollutants;*
- 359 *vi. Support wetland vegetation;*
- 360 *vii. Promote public health and safety; and*
- 361 *viii. Moderate fluctuations in surface water levels*

362

363 *b. The proposed activity will have no significant negative environmental impact to abutting*  
364 *or downstream properties and/or hydrologically connect water and/or wetland resources,*  
365 *including:*

- 366 *i. Increased potential for erosion, siltation, and turbidity of surface waters;*
- 367 *ii. Loss of fish and wildlife habitat;*
- 368 *iii. Loss of unique habitat having demonstrable natural, scientific, or*  
369 *educational value;*
- 370 *iv. Loss or decrease of beneficial aquatic organisms and wetland plants and*  
371 *their habitat;*
- 372 *v. Increased danger of flooding and/or transport of pollutants; and*
- 373 *vi. Destruction of the economic, aesthetic, recreational, and other public and*  
374 *private uses and values of the wetland to the community*

375

376 *c. The proposed activity or use cannot practicably be located otherwise on the site to*  
377 *eliminate or reduce impact to the Wetland and Watershed Conservation District.*

378 *d. The proposed activity incorporates the use of those Best Management Practices*  
379 *recommended by the New Hampshire Department of Environmental Services and/or*  
380 *other State agencies having jurisdiction.*

381 *e. All applicable Federal and/or State permit(s) have been received for the proposed*  
382 *activity in accordance with New Hampshire Code of Administrative Rules-Part Env-Wt*  
383 *100-800 and Section 404 of the Federal Clean Water Act, as amended.-A Shoreland*  
384 *permit may be required and can be a condition of approval.*

385 *f. Where applicable, proof of application to all required State and/or Federal Permits.*

386 *g. Prior to making a decision in regard to the possible approval of any Conditional Use*  
387 *Permit application, the Planning Board shall afford the Conservation Commission an*  
388 *opportunity to provide written comment. In the case of applications involving land*

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389 *situation within the watershed of the Pennichuck Brook, the Planning Board shall also*  
390 *afford Pennichuck Water Works (PWW) an opportunity to review and comment on the*  
391 *application. Both the Conservation Commission and PWW, after consideration and*  
392 *review of an application for a Conditional Use Permit, may recommend the Planning*  
393 *Board impose conditions of approval, if deemed necessary, to mitigate the potential for*  
394 *adverse effects caused by the proposed activity or use.*

395  
396 **Bill Stoughton moved to find that the proposed application is consistent with the stated**  
397 **purpose of the Wetland and Watershed Conservation District and avoids and**  
398 **minimizes impacts as described in the ordinance. Mike Dell Orfano seconded.**  
399 **Roll call: Bill Stoughton – aye; Chris Yates – aye; Mike Dell Orfano – aye; Dwight**  
400 **Brew – aye; Brian Coogan – aye; Marilyn Peterman – aye. Motion carried**  
401 **unanimously.**

402  
403 Nic Strong noted that there are also a list of requirements on pages 5 and 6 to be reviewed.  
404 Cynthia Dokmo stated that these should be listed on the plans and that Ken Clinton said the site  
405 plans will include these.

406  
407 Ken Clinton agreed that these will be incorporated into the entirety of the site plan application.

408  
409 Nic Strong stated that, this should be okay as long as it is agreed that Section 4.11 J. will be  
410 addressed either separate to this application or as part of the site plan.

411  
412 The Board discussed that some of the members hadn't seen some of the application documents  
413 because they were listed under the site plan application folder in Dropbox. Discussion took place  
414 regarding the confusion with documents being part of the site plan versus the CUP instead of  
415 everything for the CUP being in one place, and also the difficulty for the Planning Board getting  
416 a Dropbox link on a Friday to get ready for the meeting the following Wednesday. It was  
417 pointed out that if the CUP was the only application under consideration and the property didn't  
418 need a site plan as well, all of the listed items for the CUP would have to be submitted separately  
419 just for the CUP application.

420 **Bill Stoughton moved to approve CASE #: PZ12395-030320 for Arboleda Realty,**  
421 **LLC, for a Conditional Use Permit for impact in the wetland buffer in the Wetland**  
422 **and Watershed Conservation District, at 340 Route 101, Map 8 Lot 52, with the**  
423 **following conditions:**

424  
425 **The following conditions must be satisfied prior to the Planning Board Chair**  
426 **signing the Conditional Use Permit.**

427  
428 **CONDITIONS PRECEDENT:**

429  
430 **1. Payment of any outstanding fees for the Conditional Use Permit application,**  
431 **including any fees for recording at the HCRD.**

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- 432           **2. Submission of a Shoreland Permit from NHDES, if required.**  
433           **3. Submission of all documentation required by section 4.11.J of the Wetland and**  
434           **Watershed Conservation District Ordinance.**  
435           **4. That the applicant must provide means to direct runoff from parking lots and**  
436           **facilities away from the wetland located to the rear of the property (as the**  
437           **applicant has proposed)**  
438           **5. That the applicant, the town, and the state must reach mutual agreement on the**  
439           **terms of the proposed conservation easement.**  
440           **6. That the applicant must allow public access to the proposed conservation**  
441           **easement area, at a minimum from the adjacent town-owned Bragdon Farm**  
442           **conservation land.**

443  
444           **CONDITIONS SUBSEQUENT:**

445  
446           **The following conditions subsequent shall be met during construction and on an**  
447           **ongoing basis.**

448  
449           **1. The applicant shall comply with all of the Town of Amherst's Zoning Ordinance,**  
450           **Subdivision Regulations, Non-Residential Site Plan Review Regulations and**  
451           **Stormwater Ordinance.**

452  
453           **2. This approval is based upon the plans, specifications and testimony submitted to**  
454           **the Planning Board. Any alterations, additions or changes to the plans are not**  
455           **authorized and may require additional Planning Board approval.**  
456           **Mike Dell Orfano seconded.**

457  
458           **Discussion:**

459           **Dwight Brew explained that the Board has three options at this point: to approve**  
460           **the application, to approve it with conditions, or to deny it. The first part of the**  
461           **proposed motion seems to say that the application won't be official until all of the**  
462           **conditions are followed up on; this seems different than approving the application**  
463           **with conditions.**

464  
465           **Cynthia Dokmo explained that, if voted on, the conditions will have to be met before**  
466           **the application is signed off on.**

467  
468           **Roll call: Bill Stoughton – aye; Chris Yates – aye; Mike Dell Orfano – aye; Dwight**  
469           **Brew – aye; Brian Coogan – aye; Marilyn Peterman – aye. Motion carried**  
470           **unanimously.**

471  
472           **Mike Dell Orfano requested that Nic Strong send out calendar reminders for the upcoming**  
473           **Planning Board events.**  
474

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475 Cynthia Dokmo stated that she hoped Arnie Rosenblatt was still in attendance and ready to come  
476 back to Chair the meeting. Chris Yates noted that two hands were up in the attendees. Nic  
477 Strong stated that Arnie Rosenblatt was still present and she would bring him back as a  
478 panelist. She also noted that there were two hands up.

479  
480 *Arnie Rosenblatt rejoined the meeting and resumed his place as Chair.*

481  
482 Cynthia Dokmo noted that there were two hands up and she didn't know if it was in relation to  
483 the application. Arnie Rosenblatt stated that the application was completed so the Board should  
484 move on to the next scheduled item.

485  
486 **NEW BUSINESS:**

487  
488 **3. Discussion, re: scheduling future public hearings on pending applications**

489 Nic Strong explained that, aside from hearing the continued Arboleda Realty case in July, the  
490 Board still has pending applications from Carlson Manor, the second Jacobson application, and a  
491 request from Eversource regarding scenic road tree cutting.

492  
493 Arnie Rosenblatt stated that the threshold issue for the Jacobson case is whether, after their first  
494 application was denied, this second application is sufficiently different. Town Counsel has  
495 recommended that the Board first determine that threshold issue before moving forward after the  
496 initial denial.

497  
498 In response to a question from Arnie Rosenblatt, Nic Strong stated that the Carlson Manor  
499 application came in first, then the second Jacobson application.

500  
501 The Board discussed how to schedule the next hearings.

502  
503 Brian Coogan stated that he would like to get through the applications as fast as possible.

504  
505 Dwight Brew suggested that the Board possibly meet more often in order to not hear more than  
506 one application in an evening.

507  
508 Arnie Rosenblatt pointed out that the Board has work sessions to deal with as well.

509  
510 Tracie Adams agreed that the Board might need to meet more often. She will need to recuse  
511 herself for the Jacobson case.

512  
513 Cynthia Dokmo agreed that the Board should meet more often. She believes the threshold  
514 question for the Jacobson case could take an entire meeting itself.

515  
516 Marilyn Peterman agreed that the Board could meet more often.

517

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518 Mike Dell Orfano agreed and asked if the applicant would be providing testimony during the  
519 Carlson case. Arnie Rosenblatt stated that the applicant is entitled and obliged to provide  
520 information to the Board.

521  
522 In response to a question from Mike Dell Orfano, Nic Strong stated that the Carlson Manor  
523 application has not yet been accepted as complete.

524  
525 Mike Dell Orfano suggested that the Eversource tree item be discussed at the next work session.

526  
527 Chris Yates agreed that the applications should be stacked about a week apart.

528  
529 Bill Stoughton agreed, and stated that he also believes it important to keep moving forward with  
530 discussions on the Master Plan and impact fees.

531  
532 Arnie Rosenblatt stated that the Board will keep its scheduled monthly work session, this month  
533 to discuss the Master Plan process and impact fees. The Board will also schedule an extra  
534 meeting each month to keep up with applications. He explained that the Board of Selectmen will  
535 hold a public hearing on June 15<sup>th</sup> regarding impact fees. The Planning Board will then have a  
536 work session on the 17<sup>th</sup> to discuss the outcome of the public hearing. He suggested that the  
537 Board hear the Carlson application in June and begin discussing the Jacobson application in July.

538  
539 Arnie Rosenblatt asked if there were any public members with their hands up.

540  
541 Public Comment:  
542 Tom Quinn, 30 Christian Hill Road, stated that his hand was raised during the last application  
543 discussion. He stated that, if the Board chooses to hear these larger applications via Zoom, it will  
544 be critical to give the public the chance to speak. He explained that he has sat in on many of the  
545 town's board Zoom meetings, and has had a hard time being called on to speak. He believes that,  
546 in a public hearing venue, everyone should have the right to speak, and that Zoom isn't great in  
547 this respect.

548  
549 Cynthia Dokmo explained that, while she was acting as Chair, she asked Arnie Rosenblatt to re-  
550 enter the meeting before realizing that there were hands up. The motion on the application had  
551 already been voted on. She was unaware that the public with their hands up wanted to comment  
552 on the vote.

553  
554 Arnie Rosenblatt stated that Tom Quinn made a similar comment during the last Board meeting.  
555 He explained that, while members of the public may not have been called on, it is not that the  
556 raised hands weren't noticed. During the last application, the vote had already been taken, and  
557 thus there was nothing more for the public to comment on in regard to that application. He  
558 explained that he believes the Board has been doing a good job at noticing when hands are up,  
559 and that it is not an issue with Zoom if the Board doesn't always choose to call on members of  
560 the public to speak.

561

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562 Tom Quinn stated that he agrees that the Board has been doing a good job. He explained that, in  
563 order to make these meetings occur through the most legitimate process, members of the public  
564 should be allowed to speak multiple times if they so choose. He asked, procedurally, if the last  
565 application was subject to Section 3.18, why it was not necessary for the other criteria to be  
566 proven within the application presentation.

567  
568 *Arnie Rosenblatt recused himself at this time but remained as a panelist with the understanding*  
569 *that this would be a fairly brief interlude. Cynthia Dokmo took his place as Chair.*

570  
571 Cynthia Dokmo stated that the criteria were pointed out by Nic Strong, and that the Board  
572 addressed these items.

573  
574 In response to a question from Tom Quinn, regarding if that application came in as a CUP under  
575 Section 3.18, Cynthia Dokmo stated that the Board took its guidance during the hearing from Nic  
576 Strong.

577  
578 Nic Strong explained that the criteria in Section 3.18 are very general. Section 4.11 has its own  
579 specific and clear criteria that needed to be addressed.

580  
581 Tom Quinn noted that Section 3.18 and 4.11 are both listed in the Staff Report. Nic Strong stated  
582 that this may be due to a cut-and-paste issue on her end.

583  
584 In response to a question from Tom Quinn, Nic Strong stated that a CUP application can come in  
585 under other Sections, such as 4.11, than just 3.18.

586  
587 *Arnie Rosenblatt rejoined the meeting and took his seat as Chair.*

588  
589 Kelly Mullin, 48 Christian Hill Road, stated that she had her hand raised twice during the last  
590 application discussions. Once, during the site review, Nic Strong noted that a hand was raised,  
591 but this was ignored by the Board and moved on from. She has concerns with the public being  
592 heard properly during the larger upcoming applications. She took her hand down after the site  
593 review, but raised it during the CUP portion of the application. She believes this issue needs to  
594 be fixed before hearing the larger applications. It is not fair to citizens who have valid questions  
595 and comments. She wants the best for everyone in town and to work cooperatively with the  
596 Board. She doesn't believe this is anyone's fault, and that everyone is trying to figure these  
597 issues out together.

598  
599 Arnie Rosenblatt stated that people with their hands up will have the chance to speak during  
600 these meetings.

601  
602 Mike Dell Orfano requested that Nic Strong send out calendar reminders to the Board members  
603 for their upcoming meetings.

604

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605 In response to a question from Mike Dell Orfano, Nic Strong stated that the Eversource request  
606 covers two streets in town. Marilyn Peterman noted that this discussion should take about an  
607 hour.

608  
609 Arnie Rosenblatt reviewed that the Board will have a work session on June 17<sup>th</sup>, will hear the  
610 Carlson Manor case on June 23<sup>rd</sup>, will hear the continued Arboleda case on July 1<sup>st</sup>, and will  
611 have a work session on July 15<sup>th</sup>, which will also include the Scenic Road Hearing for  
612 Eversource.

613  
614 Nic Strong stated that the Jacobson application can be heard on July 7<sup>th</sup> or 23<sup>rd</sup>. The Board  
615 determined to hold the hearing on July 7<sup>th</sup>.

616  
617 **4. Update on Regional Impact determinations on pending applications**

618 Nic Strong noted that she was going to report back to the Board regarding the regional impact on  
619 the pending applications at the previous Planning Board meeting but internet and other issues  
620 meant that she had left the meeting early. She noted that she had followed up with the Board via  
621 email with the answer to which applications, if any, had a regional impact determination, but  
622 wanted to update the public on this issue also. Nic Strong stated that the Board previously  
623 determined that the Arboleda Realty case has no regional impact. The Carlson Manor case does  
624 have regional impact, and thus the towns of Hollis and Mont Vernon, and NRPC will be notified  
625 about the upcoming hearing. The Board also previously voted no regional impact on the  
626 Jacobson case.

627  
628 **NEW BUSINESS:**

629 **5. Minutes: May 20, 2020, public and non-public**

630  
631 **Marilyn Peterman moved to approve the meeting minutes, non-public and public, of**  
632 **May 20, 2020, as presented. Bill Stoughton seconded.**

633 **Roll call: Bill Stoughton – aye; Cynthia Dokmo – aye; Marilyn Peterman – aye;**  
634 **Mike Dell Orfano – aye; Dwight Brew – aye; Brian Coogan – aye. Motion carried**  
635 **unanimously.**

636  
637 **6. Any other business that may come before the Board**

638 Cynthia Dokmo thanked the Board for their patience while she was Chair. Arnie Rosenblatt  
639 thanked Cynthia Dokmo for her help.

640  
641 **Marilyn Peterman moved to adjourn the meeting at 9:40pm. Mike Dell Orfano**  
642 **seconded.**

643 **Roll call vote: Bill Stoughton – aye; Mike Dell Orfano – aye; Dwight Brew – aye;**  
644 **Cynthia Dokmo – aye; Brian Coogan – aye; Marilyn Peterman – aye Motion carried**  
645 **unanimously.**

646  
647  
648

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**APPROVED-Amended**

649 Respectfully submitted,  
650 Kristan Patenaude  
651  
652 Minutes approved as amended: June 17, 2020