

TOWN OF AMHERST
Planning Board

June 23, 2020

APPROVED

In attendance: Arnie Rosenblatt - Chair, Michael Dell Orfano, Dwight Brew-Selectman Ex-Officio, Marilyn Peterman, Bill Stoughton, Cynthia Dokmo, Chris Yates (Alternate).
Staff present: Nic Strong, Community Development Director, and Kristan Patenaude, Minute Taker.

Arnie Rosenblatt called the meeting to order at 7:03 p.m., with the following statement. As Chair of the Amherst Planning Board, I find that due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic and in accordance with the Governor's Emergency Order #12 pursuant to Executive Order 2020-04, as extended by Executive Orders 2020-05, 2020-08, 2020-09, and 2020-10, this public body is authorized to meet electronically.

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

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

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

We are utilizing Zoom for this electronic meeting.

All members of the Board have the ability to communicate contemporaneously during this meeting through this platform, and the public has access to contemporaneously listen and, if necessary, participate in this meeting through dialing the following phone #312-626-6799 and password 898 8501 9650, or by clicking on the following website address: <https://zoom.us/j/89885019650> that was included in the public notice of this meeting.

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

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

Providing a mechanism for the public to alert the public body during the meeting if there are problems with access: If anybody has a problem, please call 603-341-5290.

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

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

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

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

Roll call attendance: Bill Stoughton; Chris Yates; Dwight Brew; Mike Dell Orfano; Cynthia Dokmo; Marilyn Peterman; Arnie Rosenblatt; all alone and present.

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Chris Yates sat for Brian Coogan in his absence.

Tracie Adams entered.

Christy Houpis entered.

**COMPLETENESS REVIEW OF APPLICATION AND PUBLIC HEARING IF
APPLICATION IS ACCEPTED AS COMPLETE:**

1. **CASE #: PZ12164-121619 – MIGRELA and GAM Realty Trust (Owners) & MIGRELA Realty Trust (Applicant) – Carlson Manor, 153-159 Hollis Road, PIN #s: Tax Map 1, Lots 8 & 8-2, Tax Map 2, Lots 7, 7A, 7B, 3-1 & 3-2 – Submission of Application/Public Hearing/Subdivision & Non-Residential Site Plan. Proposed 54-unit condominium style development. Zoned Residential/Rural.**

Arnie Rosenblatt read the case and reviewed its history. He explained that the application was submitted under the Innovative Integrated Housing Ordinance (IIHO). At a hearing on January 15, 2019, a Conditional Use Permit (CUP), providing for up to 54 units, was approved. There are now other steps that need to take place. The Board also contains several new members, in place of ones who were on the Board during that vote. Arnie Rosenblatt stated that he, personally, wouldn't have supported an up to number of 54 units. The threshold issue at hand is the number of waivers being requested by the applicant. He suggested that the Board hear the requested waivers and, if accepted, move forward with hearing the application.

Arnie Rosenblatt explained that the process will be for the Board to hear the waivers and discuss the issues; there will then be an opportunity for public comment, and the discussion will come back to the Board for further discussion and a possible motion to vote. He explained that he doesn't plan to set a time limit for public comment, but does ask any commenters to be succinct, both on and off the Board.

Mike Dell Orfano asked if the applicant was available to join the Board. Arnie Rosenblatt explained that he would first like to hear the requested waiver information from Nic Strong, Community Development Director.

Nic Strong explained that the applicant has requested waivers for: environmental impact and hydrogeological studies, traffic study, water supply study, a waiver from the site plan regulation regarding trees, and a subdivision regulation waiver regarding classification of streets.

Brian Coogan entered.

Arnie Rosenblatt explained that the Board sometimes hears applications and waiver requests simultaneously, and then decides on them together. Due to the breadth of waiver requests for this application, he would like to ask the applicant to explain the need for all of the waivers, hear public comment, and then the Board can decide whether or not to grant the waivers. If the Board decides to grant them, the application can move forward. If the waivers are denied, the Board can determine what needs to be done before further addressing the application.

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The Board members agreed to hear from the applicant regarding the requested waivers first.

Chad Branon, P.E., Fieldstone Land Consultants, PLLC, and Gerry Prunier, the client's attorney joined the Board.

Chad Branon, P.E., explained that this application is for a 54 unit condominium style residential development. This application already went through the CUP process. The process now is to work through the conceptual plans and layout as part of the design phase, while communicating with state agencies about the proposal. He stated that the State has acknowledged the location of this proposed development and its possible sensitive nature. This development will be highly reviewed by the State, as the area is considered a class A receiving watershed, due to Pennichuck Brook. This will lead to the State implementing its highest design regulations regarding stormwater management and that there would be redundancy in requiring all of the town studies. He explained that the level of review from the State should lead to a reduction in some of the necessary town regulations.

Chad Branon, P.E., reviewed the requested waivers:

- 1) Environmental Impact and Hydrogeological Studies: there is typical sandy soil at the test pit area. Chad Branon, P.E., noted that the Planning Board was probably used to seeing subdivisions using the soil properties on site to do straight infiltration of stormwater, where the flow is collected, captured and conveyed directly into the soils. The State does not consider the soil properties to be quite good enough though, so the stormwater will be pre-treated on site. There are four proposed detailed and significant stormwater management facilities on site. All of these will drain into a gravel wetland area and then into an infiltration basin due to this being a class A area. The plan is to make sure that all of the stormwater will be pretreated before it's infiltrated. There will be a lot of review and oversight at the State level. The site will be designed to meet and exceed State regulations, which are more stringent than Town regulations. The revised landscaping plan has reclaimed some of the wetland buffers, with additional plantings to reestablish some of the buffers and to provide shade to keep the nearby water temperatures cool, as this is of concern to NH Fish & Game. He stated that the environmental impact and hydrogeological studies are thoroughly covered by the State permitting process, thus, the request for the waiver from the Town. Chad Branon, P.E., noted that the septic systems for the property would meet all depth to seasonal water table and infiltration requirements. He was unaware of any other environmental impacts from the development, noting that those types of study were more typically done on commercial sites where hazardous materials would be on site. The applicant is willing to submit all of the stormwater information from the State to the Town in a very transparent process as the permitting process continues.
- 2) Traffic Study: the proposed development lies along a State road. It is known that an up to 54 unit development will increase the traffic in this area. The proposed curb cuts are the same as those proposed during the CUP process. As this is a State jurisdiction road, the State will evaluate any needs for offsite improvements, which there don't appear to be from the preliminary discussions with the State. It isn't believed that a traffic study is

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necessary right now, as the results of the traffic due to this proposal will be up to the DOT. There is no connection from the site to Rocky Hill Road. The applicant is happy to share any traffic information with the Town as part of the review process, but the Town will have no way to make changes to any recommendations, as it is a State road.

- 3) Water Supply Study: the site will tie directly into Pennichuck Water and that will supply water to the whole site. There has been email communication between the applicant and Pennichuck Water but there is not yet a confirmation letter regarding their support. There are no wells proposed on site, and any wells currently on the property will be decommissioned. Due to this direct service by Pennichuck Water, a waiver is being requested for this item.

- 4) Section 3.2.B.18 – *All site plans show the location, type, and size of all trees over five (5) inches in diameter and located from the edge of the existing traveled way to a point fifty (50) feet back from the Town or State ROW line; and from five (5) feet outside the sideline property lines to thirty (30) feet inside the property lines for a distance of one-hundred (100) feet back from the ROW line.* Chad Branon, P.E., stated that he is unclear if this waiver is still applicable. The application was initially filed under the site plan regulations, but this application is technically coming in as a subdivision application. The applicant looks to preserve the open space all around the perimeter of the property. As this is an approximately 33 acre property, the survey work necessary to identify all of the trees over 5” in diameter would be significant. There is proposed about 20 acres of open space on the property, which is about 61% of the total property. He is happy to host a site walk of the property again. There is not a lot of vegetation at the front of the property, but the applicant is proposing to preserve all of the trees along the ROW, except for at the curb cuts and entry ways. With a 22,050 linear foot frontage area, this waiver is being requested due to the significant effort it would require.

- 5) Section 301.1 – *Classification of Streets and Section 3-1 – Residential 2 – A residential street which accommodates an average daily traffic (ADT) of 401-1,000 Vehicles/Day (VPD) and the geometric requirements associated with this classification in Table 3-1. Specifically, the minimum centerline radius (300') and the minimum road width (26').* Chad Branon, P.E., explained that the roadway design standards in Section 301.1 outline the traffic flows and the recommended design standards based on the numbers. He stated that the table includes a minimum centerline radius of 300 feet and a minimum roadway width of 26 feet. He further noted that the dimensions being proposed are between the criteria - Residential 1 = 22 feet wide and Residential 2 = 26 feet wide. He explained that 24' is the width of a standard roadway and considered a safe design. The proposed road width on the property will be 24', thus meeting the suggested minimum design standards per DOT and standard engineering practices. He stated that there is a letter from Keach-Nordstrom Associates, Inc., which seems to support the waiver request. The requested specifications will minimize the impervious cover and footprint of the roadway but will still be safe and allow emergency response vehicles to use the site efficiently.

Marilyn Peterman explained that she believes the water supply waiver should be granted if the applicant is going to be tied into Pennichuck Water and can gather a letter that states that. She also believes that the hydrogeological study should be granted, due to the permits being required

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by the State, and that any information from these permits will be passed along to the town. She doesn't believe that getting duplicate studies is productive.

In response to a question from Marilyn Peterman, Chad Branon P.E., explained that he will be submitting the design plans to DOT for them to determine if a traffic assessment is needed for this project. Chad Branon, P.E., stated that he believes the project is on the cusp of requiring a trip generation analysis by the State. He explained that the three proposed curb cuts along the large property frontage will break up the traffic a bit coming into the property. Due to the diverse housing stock, he believes the people coming and going from the property will not be hitting the traffic flow at its peak times. Chad Branon, P.E., stated that he was not anticipating the State requiring this type of study.

Marilyn Peterman stated that 54 units is a significant number and she believes it would be a good idea, for the Planning Board and the Town, to have trip generation data. She stated that she believes other subdivisions in Town also employ the 24' road width being proposed here.

Chad Branon, P.E., agreed that both the Summerfield and Peacock Brook developments have road widths at 24'. The proposal is consistent with other similar developments. He explained that the highway on which the project fronts is only 22' in width with four foot gravel shoulders. The proposal seems reasonable as it meets the standards for design and safety.

Marilyn Peterman stated that she doesn't remember a survey of tree diameter being something the Board has required of a subdivision application in the past. She stated that she believes The Fells development had a lot of trees from the property preserved; it appears this site will as well.

Tracie Adams stated that she is concerned regarding the traffic, especially with the other developments already situated along Route 122. She would also like to attend a site walk of the property, as she was not on the Board when the original site walk was done. She believes that the proposed width of the roadway sounds appropriate.

Brian Coogan stated that, between the developments along Route 122 in both Amherst and Hollis, he would like to have a better understanding regarding the traffic and how much this proposed development would contribute. It is critical to have this information for that section of town. He stated that, as to the water supply waiver, it has been mentioned before that certain endangered fish species spawn in this area. There may also be significant impacts to the abutters regarding the water supply. He doesn't have an issue with the proposed road width. He questioned why, if the applicant mentioned that the lot is going to be left very open, it would be a burden to count the diameter of some of the trees on the property.

Christy Houpis stated that he believes more data for the Board and the town is better and more conducive to the process than granting many waivers.

Mike Dell Orfano stated that he has some concerns with the requested waivers. Under the IIHO, if there are significant impacts due to the development that cannot be mitigated, the Board can

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roll back the up-to number of units until the impact is mitigated. He stated that having the studies is the only mechanism the Board has to roll back the density if adverse impacts can be proved.

Cynthia Dokmo stated that she has no issues with the water supply waiver, as long as a letter from Pennichuck Water can be obtained. She stated that she does not believe the waivers for the environmental study, hydrogeological study, or traffic study should be granted. She doesn't feel strongly about the waivers for the tree survey or the road width, and is okay with granting them.

Dwight Brew explained that the applicant mentioned a number of times that the State has more stringent requirements for some of these waiver areas than the Town does. Dwight Brew stated that he believes that this should allow for the applicant to provide the town with its requirements without having to do the fieldwork twice. He believes waivers should not be granted for the environmental, hydrogeological, and traffic studies. He stated that the applicant made reference to the proposed housing types as a reason for there to be off-cycle traffic patterns from the development; however, Dwight Brew explained that the housing types are not yet known because the plan states that the applicant can alter these in the future. Dwight Brew explained that, without documenting the trees around the perimeter, it is difficult to identify those to be removed. He also stated that he is okay with granting the water supply waiver, if a statement from Pennichuck Water is received and there are to be no wells on site.

Chris Yates stated that he agrees with Cynthia Dokmo regarding the environmental, hydrogeological, and traffic studies. He has some concerns with the three new entrances proposed into the development and he would like to see what the State is requiring.

In response to a question from Chris Yates, Chad Branon, P.E., stated that the driveways to the units will be a minimum of 22' in length. The property supports the road width as requested to be waived.

Bill Stoughton requested that the Board not waive the environmental impact study. He explained that the proposed development is located in a sensitive area, with respect to a local watershed. He explained that there are cold water trout located in the last cold water brook in this part of the state, on site. Development in the area could raise the temperature in this brook due to the stormwater runoff. The temperature differential is very small, in that a temperature of 79° is lethal to these fish. He stated that this was a concern to the Amherst Conservation Commission even back in 2003, when the Summerfield development was built. He would like to understand the temperature of the brook today and then get a scientific impact projection of the brook temperature if the land is developed. He hopes these studies do not impose a tremendous burden on the applicant, because they will need to be completed for State regulations anyway.

Bill Stoughton stated that he believes the Board has an obligation to the Town and its residents to look at each of these items. He explained that the traffic study is needed, due to concerns voiced by the residents. He agreed that the water supply waiver can be granted, if an agreement is received from Pennichuck Water. He also doesn't have an issue with granting the waiver regarding the road widths, pending the satisfaction of Matt Conley, Fire Chief, and Eric Hahn,

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DPW Director. He stated that he has a concern regarding the tree survey waiver because of the screening along Route 122 that this may/may not provide for. He is not particularly concerned with identifying the trees throughout the rest of the development. He also noted that he would like to discuss the wetland CUP that will need to be reviewed by the ACC prior to reviewing the full application.

Chad Branon, P.E., explained that the wetland CUP will be submitted as soon as possible. The plan will be to improve the buffer areas on site. The layout of the development has not changed since the initial CUP application. He believes the wetland CUP will be filed within 30 days.

Chad Branon, P.E., explained that there will be no formal environmental impact study report submitted to the State, but that the stormwater management report and Alteration of Terrain (AoT) package that will be submitted to the State will contain much of the same information that would go into an environmental impact study report. He stated that DES has a number of professionals on its staff who will deal with any of the concerns that come from the AoT permit, including fish species and the cold water brook. The applicant will work with these professionals to get the best design for the site given the concerns and circumstances. The applicant will also be working with Fish & Game regarding improving the wetland buffers and providing shade to the jurisdictional wetland on site. He explained that no direct discharge of stormwater is allowed to jurisdictional wetland areas, thus the gravel wetland system and infiltration systems proposed.

Chad Branon, P.E., stated that he does not want the process to be confused, when the applicant will need to work on the site design with State professionals and has agreed to share any of this information with the town. He explained that the development will tie in to Pennichuck Water, as there aren't any other options for the site. The applicant will be in direct communication with Pennichuck Water and will send along the letter to Nic Strong once it is received. He would like for this application to move forward in a structured manner.

Arnie Rosenblatt explained that he has heard the argument that this area is acutely sensitive for environmental and hydrogeological reasons. He believes this is all the more reason that the Board should request these studies. He doesn't believe the traffic waiver should be granted. He is not in favor of granting the tree study waiver because the site doesn't appear to be heavily wooded and he would like to see the trees identified. He has no strong view regarding the road width waiver. He would also like to see the information nailing down the water supply from Pennichuck Water.

Arnie Rosenblatt explained that he would now hear public comments regarding the waivers only.

Public Comment:

Debra Keough, 16 Summerfield Way, explained that she moved to her location just over a year ago because she cares about the environment of the area. She doesn't believe the Board should waive the environmental impact study. She doesn't believe the Board should waive the water supply study because she wonders how tying this proposed development to Pennichuck Water will impact the other surrounding neighborhoods. She questioned how the area will be irrigated,

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and if there will be hydrants located on site. She has concerns regarding the proposed development and the location of the cold water brook. She would like the brook to be left undisturbed. She doesn't believe the Board should waive the hydrogeological study due to the proposed development's location on the aquifer. She mentioned that there are a number of other developments that were recently built along Route 122 and she wouldn't like another eyesore to be built as well.

Jim Hendrix, 44 Christian Hill Road, stated that he moved to town 62 years ago. He believes it is an insult to the town and preposterous for the applicant to request these waivers. He stated that proper benchmarking and predictions from this data are essential in order for the Board to understand the bonuses it might award. He is 100% behind the Board pushing for these studies to be completed. He also has concerns about Pennichuck Water's supply, if the proposed development ties into it. He requested that the Board not grant any of these waivers to the applicant.

Linda Sutherland, 32 Peacock Brook Lane, stated that she has lived in her location for 7 years and is speaking on behalf of her residential community. She quoted the town's subdivision regulations:

Section 201.1 - Purpose: The Subdivision Regulations are intended to facilitate housing and other construction that can be developed in such a manner to promote the most appropriate use of the land, encourage environmentally sound planning to conserve open space, retain and protect important natural and cultural features; and provide for efficient use of land and community services to advance the goals stated in the Master Plan and in accordance with RSA 674.21, Innovative Land Use Controls.

Section 201.2 – Objectives:

A. To maintain rural character, preserving farmland, forests, grasslands, wetlands, and maintaining rural viewscapes.

B. To preserve those areas of the site that have the highest ecological value, including, for example, wildlife habitats, (areas of highest conservation value as identified by the NH Fish and Game's Wildlife Action Plan), and water resources (Drinking water supply areas and watersheds, wetlands, streams, and rivers.)

C. To locate buildings and structures on those portions of the site that are the most appropriate for development, and avoiding development in areas ill-suited for development, including, for example, , areas with poor soil conditions, a high water table, that are subject to frequent flooding, or that have excessively steep slopes.

D. To preserve historic, archeological, and cultural features on the site.

E. To create a contiguous network of open spaces or "greenways" by linking the common open spaces within the subdivision to open spaces on adjoining lands wherever possible.

F. To reduce the impacts on water resources by minimizing land disturbance and the creation of impervious surfaces and stormwater runoff.

G. To reduce the amount of roads, sidewalks, and stormwater management structures that must be built and maintained.

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351 *H. To minimize the impact of residential development on the municipality, neighboring*
352 *properties, and the natural environment.*
353

354 Linda Sutherland explained that this area is the prettiest section along Route 122 and it breaks
355 her heart to think that it will be changed. She also read National Geographic's definition of
356 "rural." She explained that this area holds a distinct wildlife corridor for species such as black
357 bear, deer, fox, fisher cats, turkey, etc.
358

359 Linda Sutherland stated that she believes that the increased traffic will grotesquely impact the
360 neighboring residents. She stated that there are currently 207 condominium units in a two mile
361 stretch along Route 122. Adding 54 units to this number, would bring the total to 261 units in a
362 two mile stretch. She explained that the Peacock Brook development is 21.2 acres and contains
363 19 homes. There are 54 units being proposed for the Carlson Manor development on about 32
364 acres, while it is only zoned for 14. She stated that a traffic study is likely needed.
365

366 Linda Sutherland read Section 4.17 of the zoning ordinance: Planned Residential Development,
367 *A. Purpose: Planned Residential Development allows an alternative pattern of land development*
368 *to the pattern permitted in the Residential/Rural, Northern Rural, Northern Transitional, and*
369 *Commercial Zones. It is intended to encourage the preservation of open space and, at the same*
370 *time, provide for a greater variety of housing types and affordability in the Town of Amherst at*
371 *somewhat greater densities than permitted elsewhere in the Zoning Ordinance, without causing*
372 *a significant increase in the town-wide population density. It is envisioned that in a PRD,*
373 *dwelling units will be constructed in clusters which are harmonious with neighborhood*
374 *developments and housing, and with natural surroundings. These clusters shall detract neither*
375 *from the ecological and visual qualities of the environment, nor from the value of the*
376 *neighborhood, environment, or the Town. The PRD should contain a variety of housing types to*
377 *accommodate the Master Plan purposes of encouraging a diversity of people, a variety of age*
378 *groups of different interests, backgrounds, and economic levels. The overall site design and*
379 *amenities should enhance the quality of living for the residents of the development and, in*
380 *general, the neighborhood and the Town. The Board shall determine whether the proposed PRD,*
381 *namely the site plan or layout, and number, type, and design of the proposed housing is suitable*
382 *to the neighborhood within which it is to be located and is consistent with the Master Plan and*
383 *its reasonable growth objectives. (3-14-89).*
384

385 Linda Sutherland pointed out that this section mentions preserving open space while providing
386 for "somewhat greater densities" of housing types. She would like the Board to consider the
387 number of proposed units in this development. She explained that the section also states that the
388 site design should "enhance the quality of living for the...neighborhood and the Town." She
389 stated that she believes this proposal does not do that.
390

391 Linda Sutherland noted that the application, on page three, states that the housing types will be
392 meant to attract empty nesters and new homebuyers. She explained that the applicant stated that
393 these types of units will produce less traffic; however, she noted that the people in these units
394 will still need to go to work, run errands, and, in general, enter/exit the property causing more

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traffic to the area. She beseeched the Board to look at the design for what she believes to be cramped houses, in terms of maintain the town's rural character.

David Sutherland, 32 Peacock Brook Lane, stated that he has concerns regarding the traffic study waiver. He also has concerns with the tree study waiver, in terms of taking out trees along the roadway and along the brook.

In response to a question from Mike Dell Orfano, Chad Branon, P.E. stated that the proposed development will have a 12" water line in the front of the property. This will supply ample water to the site in terms of pressure, etc. Chad Branon, P.E., stated that Pennichuck Water would not provide a letter regarding service to the site without knowing that there is ample water with the proper pressure to do so. He explained that he doesn't believe there could be an issue with pressure to the site, if there is enough pressure to supply a hydrant in the area.

In response to a question from Mike Dell Orfano, Chad Branon, P.E., explained that there will be an internal hydrant to the site, as was requested per the town's DPW Director, because Pennichuck Water charges rent on hydrants along the highway in perpetuity. The internal hydrant fees will be paid for by the HOA.

Bill Stoughton moved to deny the requested environmental study and hydrogeological study waivers. Dwight Brew seconded.

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

Marilyn Peterman moved to deny the requested traffic study waiver. Bill Stoughton seconded.

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

Marilyn Peterman moved to approve the requested waiver for the 24' roadway width. Cynthia Dokmo seconded.

Discussion:

In response to a question from Arnie Rosenblatt, Chad Branon, P.E., explained that the proposed paved road width is 24'.

In response to a question from Marilyn Peterman, Chad Branon, P.E., explained that this will be a private road, maintained by the HOA. He believes that the road width will be consistent with the footprint of the property and impervious land cover.

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Marilyn Peterman amended her motion to include that the waiver approval is conditional on a letter of assent from the Town Fire Chief and Road Agent and any other comments they may make. Cynthia Dokmo seconded.

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

Marilyn Peterman moved to approve the water supply waiver request, conditional upon a letter submitted by Pennichuck Water stating that water will be supplied to the site. Brian Coogan seconded.

Discussion:

Bill Stoughton suggested that the Board require that Pennichuck Water also advise that there will be no degradation to the other locals that are supplied in this area.

Marilyn Peterman noted that George Bower is the town representative on the Merrimack Valley Water District for Pennichuck Water. She doesn't believe George Bower would support this proposal if any degradation would occur.

Marilyn Peterman amended her motion to include that the letter from Pennichuck Water include information about not degrading other locals' water supplies. Brian Coogan seconded.

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

Chad Branon, P.E., questioned the staff memo regarding the site plan regulations and the tree study, and if those still apply to this application. He explained that, if they do, these regulations should only apply to the areas on site that are open to the public – such as the community garden and parking areas.

Nic Strong stated that the site plan regulations apply to the pieces of this project that invite the public to the site. These areas, such as the parking areas, community gardens, etc., need to be defined.

In response to a question from Mike Dell Orfano, Chad Branon, P.E., stated that he doesn't believe the canopy of trees that currently shades the brook is pertinent to this waiver. Chad Branon, P.E. explained that there will be one wetland crossing on site with some localized cutting, but this is also not considered part of this waiver.

In response to a question from Dwight Brew, Nic Strong stated that the general characteristics of the land along Route 122 and how they it is preserved as an existing feature is part of the subdivision regulations. The trees along this way do not need to be specifically inventoried for size, but the types may be shown in the subdivision plan.

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In response to a question from Mike Dell Orfano, Nic Strong explained that the waiver request is to not have to inventory the trees under the site plan regulations within a certain size in certain areas on site. However, this waiver only applies to areas that the public is invited into and not to the general subdivision residential areas of the site.

In response to a question from Mike Dell Orfano, Chad Branon, P.E., stated that he doesn't know the exact number of trees that would need to be inventoried. The areas in which the public are allowed on the site include the parking area, community garden, and walking trail along the perimeter. Chad Branon, P.E., explained that he doesn't believe the interior walking trail on site would be included, as it is not open to public access.

In response to a question from Arnie Rosenblatt, Nic Strong explained that the regulations do not specify why the tree survey is needed, but because this is a site plan review regulation usually it is to make sure the community is shielded from new commercial development. The Planning Board may consider that the walking trail is not something on the site to hide away, as part of the general plan for the site plan regulations.

In response to a question from Chris Yates, Chad Branon, P.E., stated that the proposed walking trails on the property are located in the open space areas. These areas will be preserved in their natural state. Chad Branon, P.E., stated that he doesn't believe there is any connection to the tree inventory and the trails because these items could be proposed under the subdivision regulations and not trigger the tree study.

Chad Branon, P.E., stated that the applicant would withdraw the tree study waiver request, if the Board agreed with his interpretation that the walking trail would not be included in the study, as part of the regulations.

Bill Stoughton moved to deny the waiver request to identify certain trees through the tree study. Mike Dell Orfano seconded.

Roll call: Bill Stoughton – aye; Cynthia Dokmo – aye; Marilyn Peterman – nay; Mike Dell Orfano – aye; Dwight Brew – aye; Brian Coogan – aye. 5-1-0; motion carried.

Nic Strong stated that there are no other requested waivers, but questioned if the fiscal impact study was to remain silent or would also be requested to be waived. Chad Branon, P.E, stated that the applicant will provide the study.

Bill Stoughton stated that, as part of the two waivers granted, the findings by the majority vote to grant the waivers should pick a basis for the acceptance.

Arnie Rosenblatt stated that he believes the record will accurately reflect the bases used to grant the waivers.

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Bill Stoughton moved that, with respect to the water study waiver granted, the Board found specific circumstances relative to the subdivision indicate that the waiver will properly carry out the spirit and intent of the regulations. Dwight Brew seconded.

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

Bill Stoughton moved that, with respect to the road waiver granted, the Board found specific circumstances relative to the subdivision indicate that the waiver will properly carry out the spirit and intent of the regulations. Dwight Brew seconded. Roll call: Bill Stoughton – aye; Cynthia Dokmo – aye; Marilyn Peterman – aye; Mike Dell Orfano – aye; Dwight Brew – aye; Brian Coogan – aye. Motion carried unanimously.

Arnie Rosenblatt stated that the Board could now wait until the requested studies are received and take the application from there.

In response to a question from Mike Dell Orfano, regarding Note 7 on page 9 of the application, Arnie Rosenblatt stated that no questions outside of the waivers are being addressed currently. Arnie Rosenblatt questioned if the Board would like to address more of the application now or wait until the necessary studies have been received.

Cynthia Dokmo moved that the application is incomplete, according to the regulations, because the Board needs more studies in regard to the waivers. Mike Dell Orfano seconded.

Discussion:

Marilyn Peterman stated that she can't remember a time when the Board has not allowed the applicant to present the application either prior to approving waivers or after hearing them.

Mike Dell Orfano stated that the Board should table the application to a date certain.

Chad Branon, P.E., stated that it will take a little while for the applicant to receive all of the information from the studies as requested. He would like to request that the Board set a date for the site walk and to continue the hearing until July or August.

In response to a question from Mike Dell Orfano, Nic Strong stated that the Board's clock to approve the application hasn't yet started because the application hasn't been accepted as complete. She explained that the applicant usually would come back and reapply if their application was found to be incomplete by the Board. She

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569 **stated that the applicant would then have to pay the fees again to re-notice the**
570 **application.**

571
572 **Cynthia Dokmo withdrew her previous motion.**

573
574 Nic Strong explained that if the Board denies the completeness of the application, the 65 day
575 clock will not be triggered. The Board has gone past the 30 day window to determine
576 completeness of the application, due to the pandemic, etc.

577
578 **Cynthia Dokmo moved to table this application to a date certain, so that the**
579 **applicant may produce the requested studies. Mike Dell Orfano seconded.**

580
581 **Discussion:**

582 **In response to a question from Arnie Rosenblatt, Nic Strong stated that the Board**
583 **should ask the applicant to acknowledge that the application hasn't yet been**
584 **accepted as complete within the 30 day window, nothing that, the 65 day clock**
585 **doesn't start until the application is accepted as complete.**

586
587 **Gerry Prunier, the applicant's attorney, stated that the applicant understands that**
588 **the 65 day clock will not start until the application is accepted as complete. He**
589 **would like the Board to table the application to a date certain.**

590
591 **Dwight Brew stated that he would like a chance to comment on the motions as**
592 **they're being made. He explained that he doesn't like the Board to set a precedent**
593 **that applicants can come in with incomplete applications in the hope of getting them**
594 **approved, but if not, at least getting them tabled. He agreed with the first motion**
595 **made by Cynthia, and would like to see incomplete applications denied by the**
596 **Board. He otherwise believes the Board will waste a lot of its time.**

597
598 **Marilyn Peterman stated that this Board is not a precedent setting Board. She**
599 **explained that Cynthia Dokmo withdrew her previous motion and the applicant**
600 **agreed to extend the timeframe. She stated that, if the applicant's waivers had all**
601 **been approved, the application might have been accepted as complete. However, it**
602 **seems counter-productive to ask the applicant to start the process all over again**
603 **when the applicant couldn't know if the waivers were going to be approved or not.**

604
605 **Arnie Rosenblatt noted that a hand was up in the public waiting room. He stated**
606 **that, as he noted earlier, there will be no further public discussion at this time.**

607
608 **Bill Stoughton stated that he is sympathetic to Dwight Brew's concerns about the**
609 **Board's use of its time. He stated that he hopes the applicant will be ready to resolve**
610 **any comments from the staff report and engineering report by the next time the**
611 **application is before the Board.**
612

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Mike Dell Orfano agreed that this is not a precedent setting Board. He stated that the applicant should have answers to the engineer's comments and staff comments when returning.

Chad Branon, P.E., stated that the applicant only received the letter from Keach-Nordstrom Associates, Inc. on Friday. The staff and engineer comments will be addressed.

Cynthia Dokmo amended her previous motion to include a date certain of August 5, 2020, 7pm, via Zoom. Mike Dell Orfano seconded.

Discussion:

Arnie Rosenblatt stated that he disagrees with the motion because he doesn't believe the August 5th date will give the applicant enough time to complete all of the requested studies. He understands the concerns with respect to Cynthia's first motion, which was withdrawn, but he does believe this application was submitted without any of the necessary studies.

Roll call: Bill Stoughton – nay; Cynthia Dokmo – aye; Marilyn Peterman – aye; Mike Dell Orfano – aye; Dwight Brew – nay; Brian Coogan – nay; Arnie Rosenblatt – nay. 3-4-0; motion denied.

The Board members who voted no, noted that they did so based on the incompleteness of the application and/or the suggested date of August 5, 2020.

Nic Strong explained that, aside from completeness of the application, the checklist of items will need to be redone, if the application is determined to be incomplete.

Marilyn Peterman suggested that the Board look at another date in September or late August.

In response to a question from Arnie Rosenblatt, Nic Strong explained that, if the applicant must submit a new application, the Community Development Office will have to send out new abutter letters, redo the notice, and complete the rest of the items for a hearing.

Cynthia Dokmo questioned if this application is asked to come back anew, will it be able to come in under the IIHO again.

Chad Branon, P.E., stated that he believes the application is vested under the IIHO because the CUP came in under the old regulation and the Board is required to act on that. He believes the CUP must be in within a year's time period, in order for the application to stay vested.

Chad Branon, P.E., stated that, in his 25 years as a civil engineer, typically if an application is submitted at the same time as the waivers, it is considered at the same time as the waivers. He cannot think of any other applications where the Board has voted on the waivers before the

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application, because if the waivers were to be denied, the next motion is to deny the application itself. He explained that a huge amount of time has been lost on this application, never mind the issues surrounding the pandemic. This application was originally submitted in January and revised in March. He believes that it would be unreasonable for the Board to consider this application as incomplete because the Board has given no feedback on the application itself. He believes the application should be tabled to a later date.

Dwight Brew explained that it never occurred to him that rejecting the completeness of the application could create issues with it falling under the IIHO. He believes that would be the incorrect outcome for this application. He would like for the Board to work to come up with ways to get developers to submit complete applications. He will support looking at dates in September to table this application to.

Marilyn Peterman moved to table the application to the Board's September 2, 2020, meeting. Mike Dell Orfano seconded.

Roll call: Bill Stoughton – aye; Cynthia Dokmo – aye; Marilyn Peterman – aye; Mike Dell Orfano – aye; Dwight Brew – aye; Brian Coogan – nay. 5-1-0; motion carried.

Mike Dell Orfano questioned if the Board wanted to require that the DPW Director establish the scope of the traffic studies to be completed. He explained that this would allow the local officials to determine the local issues that may need to be addressed in the study.

Cynthia Dokmo stated that, if the applicant is requesting waivers, the waivers should be accepted if reasonable in order to consider the application to be complete.

Dwight Brew explained that he would like for the Board to consider measures to make sure that applications come through as complete as they can be.

Marilyn Peterman explained that the Board usually hears the application, determines its completeness, and then hears the requested waivers. The process used tonight was a departure from the Board's normal procedure. If this is how the Board is going to proceed from now on with applications, she believes the applicants need to know the expectations ahead of time.

Mike Dell Orfano agreed that the Board typically makes a motion to accept the application for review, hears the application, discusses any waiver requests, votes on the waivers, and then makes a motion to accept the application or table it. He believes the application tonight appears incomplete because the process undertaken was different than the applicant is used to.

Arnie Rosenblatt stated that he is the one who urged the Board to follow this process. He doesn't believe that the application contained any of the necessary studies, and so it seemed a good use of the Board's time to only discuss the waivers at first, instead of hearing the application again and again. He believes the process will be addressed on a case-by-case basis, as this is not a precedent setting Board.

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In response to a comment from Mike Dell Orfano regarding the traffic study scope from the DPW Director, Chad Branon, P.E., stated that he will reach out to the DPW Director to setup a scoping meeting.

Arnie Rosenblatt thanked Chad Branon, P.E., for his presentation. Chad Branon, P.E., and Gerry Prunier were moved from panelists to attendees in the Zoom meeting.

Bill Stoughton stated that he believes the wetland CUP application should be resolved with the ACC before the site plan is reviewed by the Board. Certain requests based on the wetland CUP application could cause the site plan to be changed, and possibly a reduction in the proposed density. He suggested that the site plan hearing would be deferred, if the ACC doesn't hear the wetland CUP first.

Mike Dell Orfano requested that Nic Strong get clarification from the application regarding the distribution of the units, per Note 7 on page 9 of the plan. He would like to know the housing being proposed and would like for the note that the applicant can change the housing types at will be removed.

Nic Strong suggested that Chad Branon, P.E., be brought back into the meeting, as the Board is continuing to discuss the application that was just tabled. Arnie Rosenblatt explained that he believes Chad Branon, P.E., heard all of the previous comments.

In response to a question from Arnie Rosenblatt, Nic Strong stated that the Board usually waits to have a site walk until it is determined that the application is complete.

In response to a question from Mike Dell Orfano, Bill Stoughton stated that the ACC would like to have benchmark temperatures for the brook starting now.

Chad Branon, P.E., was made a panelist again.

In response to a question from Mike Dell Orfano, Chad Branon, P.E., stated that the applicant will look into verifying temperature readings of the brook as part of the preparation of studies to establish baselines in the area and that he would reach out to the DPW Director to discuss the scope of the traffic study.

OTHER BUSINESS:

3. Any other business that may come before the Board

Mike Dell Orfano moved to adjourn the meeting at 9:56pm. Marilyn Peterman seconded.

Discussion:

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744 **Nic Strong explained that the Board will meet on July 1, 2020, regarding the**
745 **Arboleda Realty application. The Board will meet on July 7, 2020, regarding the**
746 **threshold question for the Jacobson property.**

747
748 **Roll call vote: Bill Stoughton – aye; Mike Dell Orfano – aye; Dwight Brew – aye;**
749 **Cynthia Dokmo – aye; Brian Coogan – aye; Marilyn Peterman – aye Motion carried**
750 **unanimously.**

751

752

753

754 Respectfully submitted,
755 Kristan Patenaude

756

757 Minutes approved: July 15, 2020