

TOWN OF AMHERST
Planning Board

October 7, 2020

APPROVED

In attendance: Arnie Rosenblatt - Chair, Dwight Brew-Selectman Ex-Officio, Bill Stoughton, Marilyn Peterman, Tracie Adams (Alternate) and Chris Yates (Alternate). Cynthia Dokmo arrived late.

Staff present: Nic Strong, Community Development Director; Natasha Kypfer, Town Planner; 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 various Executive Orders, 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 815 5771 8844, or by clicking on the following website address: <https://zoom.us/j/81557718844> 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: Dwight Brew; Bill Stoughton; Chris Yates; Tracie Adams; Marilyn Peterman; and Arnie Rosenblatt; all alone and present.

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Tracie Adams sat for Cynthia Dokmo, who Arnie Rosenblatt stated would be arriving late.
Chris Yates sat for Brian Coogan, who Arnie Rosenblatt stated would be arriving late.

PUBLIC HEARING:

1. **CASE #: PZ12164-121619 –MIGRELA and GAM Realty Trust (Owners) & MIGRELA Realty Trust (Applicant), Carlson Manor, 153-159 Hollis Road, PIN #: 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. Continued from September 2, 2020**

Marilyn Peterman moved to continue this application for MIGRELA and GAM Realty Trust, at the request of the applicant, to November 4, 2020, at 7pm via Zoom. Dwight Brew seconded.

Roll call: Bill Stoughton - aye; Dwight Brew - aye; Marilyn Peterman - aye; Chris Yates – aye; and Tracie Adams - aye. Motion carried unanimously.

Arnie Rosenblatt stated that he would address Item #6 on the agenda at this time because a request for a continuance had been made and he didn't want people in the audience to be waiting for this item when it was going to be continued.

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

6. **CASE #: PZ13107-090920 –JEP Realty Trust & Robert H. Prew Revocable Trust (Owners) & Clearview Development Group (Applicant) –38 New Boston Road, PIN #: 007-072-000& 005-159-001–Submission of Application/Public Hearing/Conditional Use Permit –To depict a 49-unit Planned Residential Development on the two lots per the Integrated Innovative Housing Ordinance of 2019. Zoned Residential Rural.**

Ken Clinton, LLS, Meridian Land Services, Inc., was present to confirm that the applicants would like to continue the hearing to the next available agenda.

Arnie Rosenblatt noted that the previous application had been continued to November 4, 2020, and that was a complex application. He suggested that this application would be just as complicated, and it might make sense to split the two items up. Marilyn Peterman pointed out that they had both been scheduled for this evening, to which Arnie Rosenblatt stated he thought it unlikely that they would have both been heard within the time constraints of the Board's meeting.

Marilyn Peterman moved to continue the Clearview application, CASE #: PZ13107-090920 –JEP Realty Trust & Robert H. Prew Revocable Trust & Clearview Development Group, to November 18, 2020, at 7pm via Zoom. Dwight Brew seconded.

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Roll call: Bill Stoughton - aye; Dwight Brew - aye; Marilyn Peterman - aye; Chris Yates – aye; and Tracie Adams - aye. Motion carried unanimously.

2. CASE #: PZ12996-081320–S&E Amherst, LLC & Donzi Realty LLC (Owners) & S&E Realty LLC c/o Sheree Kaplan-Allen (Applicant) –96 & 98 Amherst Street (NH Route 101A), PIN #s: 002-049-000 & 002-053-000–Submission of Application/Public Hearing/Non-Residential Site Plan-To show the improvements necessary to construct an automobile dealership with ancillary auto repair and storage. Zoned Commercial. Continued from September 2, 2020.

3. CASE #: PZ12997-08130 –S&E Amherst, LLC & Donzi Realty LLC (Owners) & S&E Amherst Realty LLC (Applicant)–96 & 98 Amherst Street (NH Route 101A), PIN #s: 002-049-000 & 002-053-000–Submission of Application/Public Hearing/Conditional Use Permit –To show the improvements necessary to construct an automobile dealership with ancillary auto repair and storage. Zoned Commercial. Continued from September 2, 2020

In response to a question from Arnie Rosenblatt, Nic Strong stated that these are two applications, and the Staff Reports for each note that all of the items necessary for completeness have been received.

Bill Stoughton moved to approve the Conditional Use Permit Application as complete. Marilyn Peterman seconded.

Roll call: Bill Stoughton - aye; Dwight Brew - aye; Marilyn Peterman - aye; Chris Yates – aye; and Tracie Adams - aye. Motion carried unanimously.

Bill Stoughton moved to approve the Site Plan Application as complete. Marilyn Peterman seconded.

Roll call: Bill Stoughton - aye; Dwight Brew - aye; Marilyn Peterman - aye; Chris Yates – aye; and Tracie Adams - aye. Motion carried unanimously.

Arnie Rosenblatt explained the process; the Board will listen to the presentation, the Board will have questions and comments, the audience will be allowed to have questions and comments, the Board will further discuss the item, and any motions will be addressed.

Doug Brodeur, of Meridian Land Services, stated that there will be two curb cuts on the project. DOT seems okay with the curb cuts as proposed so far. The proposal is a slightly larger than 30,000 sq.ft. automobile dealership, including parts' sales, retail and service. The Amherst Conservation Commission was met with regarding the wetlands behind the building. The applicant has a Wetlands Permit in hand for this item. He explained that the stormwater management system is designed to capture and infiltrate 100% of all impervious surfaces on site and infiltrate them up to the 100-year storm event.

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Doug Brodeur stated that this project will meet all current Alteration of Terrain (AoT) and surface water quality standards. Other necessary permits will be septic, DOT driveway, and AoT. There is a permit pending for an aboveground storage tank, for waste oil. This will be located in a dedicated storage room internal to the building. This will meet all requirements and have interstitial monitoring.

Doug Brodeur stated that there were some previous concerns from the Planning Board regarding the Aquifer Protection District and the preservation of that. The monitoring wells have been addressed on the plans, regarding testing and locations. There will also be a 20-mil liner entirely around the holding tank for the drains on site to protect it. He further noted that the tank was designed to HS20-44 loading which would hold a fully loaded tractor trailer with a 13,000 lb. wheel weight. Salt management notes have also been added to the plans.

Doug Brodeur explained that the lighting plan has also been redone, with a maximum illumination of 7 footcandles. He pointed out that the Illuminating Engineering Society recommends 15 footcandles for car lots. Doug Brodeur stated that the design will be bright enough for the safety purposes of the site. These will be dual intensity, can be dimmed at times, and can be activated via motion or heat sensors. Doug Brodeur also noted that he had addressed nearly all of the staff and KNA comments on the plans.

Bill Stoughton stated that he has reviewed and is satisfied with the changes made to address the previous concerns.

Doug Brodeur stated that there are three waivers that have been filed: landscape architect; location of light poles outside of islands; drainage pipes interior to the site do not meet the minimum pipe velocities of 2'/sec, as specified in the regulations.

Dwight Brew stated that he is a little concerned about the lights being visible to abutting neighbors. Nic Strong explained that the light spillover at the property line can only be 0 footcandles, i.e. no spillover, and the Lighting Plan shows that. Dwight Brew stated that this doesn't mean that the neighbors won't be able to see the lights but will not necessarily be disturbed by them.

In response to a question from Dwight Brew, Doug Brodeur stated that there will be no outdoor paging on the site. Doug Brodeur also stated that there are tall, mature trees at the property line and there will be a six-foot-high stockade fence that should help minimize the lighting.

In response to a question from Bill Stoughton, Doug Brodeur explained that he had looked into using clay under the large tank and the issue is that clay is soft and has a low-bearing capacity. Over time this could lead to "creeping," with differential settling and the possibility of separating pipes from the tank.

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In response to a question from Tracie Adams regarding the differences in the number of parking spaces listed on different plan sheets, Doug Brodeur noted that the correct number of parking spaces is listed in the Site Plan and will be updated in the Landscaping Plan.

In response to a question from Marilyn Peterman, Doug Brodeur stated that the lights will be dual intensity and can be dimmed to 3.5 footcandles at a certain hour. The lights cannot be turned off entirely due to insurance purposes with so much outside inventory onsite.

In response to a question from Marilyn Peterman, Doug Brodeur stated that Cynthia Boisvert completed the landscaping plans for the project. She is not a landscape architect but has completed several plans approved by the Planning Board in the past.

In response to a question from Marilyn Peterman, Doug Brodeur stated that the membrane lining the holding tank will be made of a material resistant to chemicals, but he will leave it up to a specialist to determine the exact material. He stated that it would most likely be a landfill liner and was specified on the plans to have no deterioration.

In response to a question from Chris Yates regarding the fact that the property is currently two separate lots, Doug Brodeur stated that there is a voluntary agreement between S&E Amherst, the end owner of the property, for a land swap deal with the John Deere owner and the timing of the transaction was complicated. He noted that he had added notes that the voluntary lot merger will happen before the CO and the compliance hearing.

In response to a question from Arnie Rosenblatt, Nic Strong stated that Keach Nordstrom Associates has reviewed the plan and is satisfied with the bulk of the application. Doug Brodeur confirmed that the applicant is okay with staff recommendations and recommendations from Keach Nordstrom.

There were no public comments.

Bill Stoughton moved to grant the waiver requested to Section 1.4 (C) 2 (i) of the Stormwater Regulations regarding minimum water velocity in closed drainage structures as the Board has determined that specific circumstances relative to the site plan, namely the limited slope of the site, the design of the stormwater infiltration structures requiring limited sediment entry into those structures, and the applicant's proposal of periodic sedimentation removal requirements, indicate the waiver will properly carry out the spirit and intent of the regulations. Chris Yates seconded.

Roll call: Bill Stoughton - aye; Dwight Brew - aye; Marilyn Peterman - aye; Chris Yates - aye; and Tracie Adams - aye. Motion carried unanimously.

Bill Stoughton moved to grant the waiver requested to Section 5.1 of the Non-Residential Site Plan Review Regulations concerning licensure of landscaping design personnel as the Board has determined that strict conformity with the requirement

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would pose an unnecessary hardship to the applicant because the experience of the applicant's chosen landscape designer is sufficient and the waiver will not be contrary to the spirit and intent of the regulations. Chris Yates seconded the motion.

Roll call: Bill Stoughton - aye; Dwight Brew - aye; Marilyn Peterman - aye; Chris Yates – aye; and Tracie Adams - aye. Motion carried unanimously.

Bill Stoughton moved to grant the waiver requested to Section 7.1.A.10 of the Non-Residential Site Plan Review Regulations concerning location of light poles within islands as the Board has determined that strict conformity with the requirement would pose an unnecessary hardship to the applicant because realizing the benefits of shorter light poles and lower light intensity otherwise could not be realized and the waiver will not be contrary to the spirit and intent of the regulations. Marilyn Peterman seconded the motion.

Roll call: Bill Stoughton - aye; Dwight Brew - aye; Marilyn Peterman - aye; Chris Yates – aye; and Tracie Adams - aye. Motion carried unanimously.

Bill Stoughton discussed impact fees. He explained that the applicant has suggested that impact fees be assessed at the Institutional and Other rate, and that there be a partial waiver with respect to road impact fees.

Bill Stoughton moved that impact fees shall be assessed in accordance with the Amherst Impact Fee Schedule approved on June 22, 2020, as follows, with the exact amount of the fees to be calculated by the Community Development Office based on final square footage determinations, and with said impact fees to be collected in accordance with the impact fee ordinance.

a. For the automotive repair bays, including the car wash area, at the Institutional and Other rate.

b. For all other areas, including but not limited to the showroom, sales and finance areas, waiting areas, car drop-off/service writing area, and parts sales and storage areas, at the retail rate.

Marilyn Peterman seconded.

Discussion:

Bill Stoughton explained that the Staff Report contains discussions with the Town Administrator and the impact fee study writer. These show that the proposed road impact fee amount accounts for the fact that retail establishments generate different types of traffic on Town roads. Therefore, he doesn't believe this application should be subject to a partial waiver from road impact fees.

Bill Stoughton explained that, with regard to the types of impact fees assessed, his motion carves out those areas of the site that are non-customer

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facing at the Institutional and Other rate. He is suggesting that all other areas of the site that do involve customers be assessed at the Retail rate.

Marilyn Peterman agreed with Bill Stoughton.

Tracie Adams agreed that the impact fees for roads should not be waived, as Town roads are used to get to the site.

Bill Stoughton modified his motion to include that the motion is conditioned upon approval of the application in a subsequent motion. Marilyn Peterman seconded.

Roll call: Bill Stoughton - aye; Dwight Brew - aye; Marilyn Peterman - aye; Chris Yates – aye; and Tracie Adams - aye. Motion carried unanimously.

Bill Stoughton moved, with respect to Case # PZ12997-081320 for S&E Realty, LLC, and Donzi Realty, LLC, for a Conditional Use Permit pursuant to Section 4.13 G. 1. c. for an automobile dealership with ancillary auto repair and storage in the Aquifer Conservation and Wellhead Protection District, at 96 & 98 N.H. Route 101A, Map 2 Lots 49 & 53, that the Board find the proposal satisfies the requirements of section 4.13.H.3 of the Town's zoning ordinance, and further, to approve the application with the conditions set forth in the staff report dated October 7, 2020, contingent on the underlying application. Chris Yates seconded.

Roll call: Bill Stoughton - aye; Dwight Brew - aye; Marilyn Peterman - aye; Chris Yates – aye; and Tracie Adams - aye. Motion carried unanimously.

Bill Stoughton moved that, in regard to this application, active and substantial development be defined as, within 24 months after the date of approval, the following items must be completed in order to constitute "active and substantial development or building"; pursuant to RSA 674:39, I, relative to the 5-year exemption to regulation/ordinance changes: commencement of ground preparation for stormwater infiltration structures.

Discussion:

Arnie Rosenblatt stated that the Board should have discussion over this issue.

Bill Stoughton stated that a previous commercial application requested to extend the typical 24-month period to 36-months and defined active and substantial development as the receipt of a building permit. This was due to the applicant noting the uncertainty of the economy. This request was not made as part of the current application. He believes that the appropriate time to lock this in is when groundwork is started. It is important that the

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applicant have certainty at an early stage; this could happen when the ground is being prepared for the stormwater items on site.

Tracie Adams agreed that this is not the same situation and that the Board should make sure concrete work is going on the property.

Marilyn Peterman noted that the Planning Director had previously attested to the conditions that the applicant was supposed to comply with. She is unsure of the need for these conditions, which are usually typical of an application proceeding to construction.

Dwight Brew stated that he appreciates the motions being broken out in this way. He also believes that the RSA will define active and substantial development for the Board, if something is not otherwise inserted by the Board.

Nic Strong stated that, if the Board does not specify the active and substantial piece, the applicant automatically receives a five-year exemption, meaning that if there are any changes to Town rules and regulations, they are exempt. If the substantial completion of the improvements is not specified, the applicant could become subject to changes in the rules and regulations after the five years. This statute is intended to protect both the Town and applicant. Once substantial completion is done, the plan is vested as it was approved, for the life of the project.

Bill Stoughton moved that the Board determine that the following activities must be completed within 24 months after the date of approval of the application, assuming it is approved, to constitute "active and substantial development or building" pursuant to RSA 674:39, I, relative to the 5-year exemption to regulation/ordinance changes: commencement of ground preparation for stormwater infiltration structures. Dwight Brew seconded.

Discussion:

In response to a question from Marilyn Peterman, Bill Stoughton explained that 24 months is the standard. 36 months was requested by a previous applicant but wasn't requested as part of this application.

The project's Attorney, Greg Michael, noted that 24 months starts from the time the plan is recorded or signed off by the Board. Nic Strong disagreed; she noted that the statute 674:39 I.A. says that it is after the date of approval. The project's Attorney requested that the 24 months commence after the plan is signed by the Board.

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Bill Stoughton amended his motion to read, "...within 24 months after the plan is approved/signed by the Chair of the Board." Dwight Brew seconded. Roll call: Bill Stoughton - aye; Dwight Brew - aye; Marilyn Peterman - aye; Chris Yates – aye; and Tracie Adams - aye. Motion carried unanimously.

Bill Stoughton moved that, if this application is subsequently approved, the following items must be completed in order to constitute "substantial completion of the improvements" pursuant to RSA 674:39, II, relative to final vesting: all foundations installed. Dwight Brew seconded.

Roll call: Bill Stoughton - aye; Dwight Brew - aye; Marilyn Peterman - aye; Chris Yates – aye; and Tracie Adams - aye. Motion carried unanimously.

Bill Stoughton moved to approve Case # PZ12996-081320 for S&E Realty, LLC, and Donzi Realty, LLC, for a Non-Residential Site Plan for an automobile dealership with ancillary auto repair and storage, at 96 & 98 N.H. Route 101A, Map 2 Lots 49 & 53, with the conditions set forth in the staff report amendment dated October 7, 2020, except for the condition addressing impact fees, and with the impact fee motion and definition motions previously approved. Dwight Brew seconded.

Roll call: Bill Stoughton - aye; Dwight Brew - aye; Marilyn Peterman - aye; Chris Yates – aye; and Tracie Adams - aye. Motion carried unanimously.

4. CASE #: PZ13105-090920 –Michachunk Development c/o Mike Foisie (Applicant & Owner) –Founder's Way & Gatchel Way, PIN #s: 005-059-017 through 005-059-037 –Submission of Application/Public Hearing/Subdivision Application –To amend Phases 3&4 of the previously approved open space development. Zoned Residential Rural.
5. CASE #: PZ13106-090920 –Michachunk Development c/o Mike Foisie (Applicant & Owner) –Founders' Village, PIN #: 005-059-024, 005-059-033 & 005-059-034–Submission of Application/Public Hearing/Conditional Use Permit –To depict stormwater management improvements within the wetland buffers. Zoned Residential Rural

Nic Strong noted that the issue with a missing abutter has been rectified.

Brian Coogan entered the meeting.

Bill Stoughton moved to accept the Founder's Village Conditional Use Permit as complete. Marilyn Peterman seconded.

Roll call: Bill Stoughton - aye; Dwight Brew - aye; Marilyn Peterman - aye; Chris Yates – aye; and Tracie Adams - aye. Motion carried unanimously.

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As Brian Coogan had entered the meeting and took his seat as a voting member, Chris Yates now sat for Mike Dell Orfano.

Bill Stoughton moved to accept the Founder's Village amended subdivision application as complete. Marilyn Peterman seconded.

Roll call: Bill Stoughton - aye; Dwight Brew - aye; Marilyn Peterman - aye; Chris Yates – aye; Brian Coogan – abstained; and Tracie Adams - aye. 5-1-0; motion carried.

Ken Clinton, LLS, Meridian Land Services, representing Michachunk Development c/o Mike Foisie, explained that this ongoing subdivision project is located on the southwest side of Amherst. This was originally approved in 2009; the Planning Board process was started in about 2006. There are four phases of the project. The project has sought to keep its State permits active, wetlands and AoT for stormwater management. Both of the wetlands permits in Phase III and the AoT in Phases III and IV have expired. These permits need to be reestablished, and the AoT requirements have changed enough that stormwater management has been added to the plan, along with new/expanded easements. He explained that there are also wetland buffers in the plan set that need to be updated due to changes in the Town's requirements. There is also an issue with building setbacks. The original ordinance, in regard to the open space on site, had a 75' front setback and a 35' rear and side setback; this has since changed, as have the plans to reflect the current regulations. Finally, in regard to North Street, there was a Warrant Article to discontinue part of North Street. As part of this, trail access was not allowed, which was an oversight. The Town had also inadvertently created trails over the open space. There is, thus, revised language within the documents regarding open space and trail access.

Ken Clinton stated that note 1 itemizes the issues discussed above. Phase III, Gatchel Way, no longer has restricted building envelopes on Lots 20 and 21. The old Class 6 road restricted these, but this has since been discontinued. As the Warrant Article was written, North Street would be discontinued fully, about 4-5' north of the Founder's Way right of way. Originally, the trailhead parking here was supposed to be 3 spaces, within the right of way of North Street, but Mike Foisie actually enlarged this to 5 spaces and placed it outside of the right of way. The intention now is to collect this within a trailhead parking easement. Ken Clinton explained that Lot 36 also originally had no drainage proposed, but the updated plan will look to treat the stormwater to a greater extent through an improved and enlarged treatment area. This is simply an additional easement for the AoT permit but is outside of the wetlands buffer and not part of the CUP.

Ken Clinton stated that he and Bill Stoughton have worked on some language regarding trail access for the Old Skid Road Trail and the Patch Hill Trail. This can essentially be incorporated into the Open Space document.

The more critical easements for stormwater treatment happen in Phase IV. An easement will be added on Lot 24, a larger stormwater management area on Lot 33, and a second on Lot 34 with a swale. The CUP portion of the application really deals with these three lots. One of the changes from AoT is that there are impervious surfaces on some of the lots, 26, 25, and 24 that shed

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directly into the wetlands. There is thus proposed a swale on Lot 24 to collect that residential stormwater and bring it across the street to Lot 33 to be treated. Residential runoff from Lots 32 and 33 would also runoff into that wetland, and so this will also be collected, treated, and infiltrated in the swale. The CUP presented to and endorsed by the ACC includes two additional stormwater systems, as required by the AoT.

Ken Clinton reviewed the narrative of the project. One of the major aspects is an enlarged structure for the wetlands crossing on site. It is well oversized from a drainage standpoint, but more appropriate from a wildlife standpoint.

Cynthia Dokmo entered. She stated that she would not vote on this application, as she missed part of the presentation.

Bill Stoughton thanked Ken Clinton and Mike Foisie. The trails on the property were created with no record of acceptance, and the two have been helpful in making sure these trails can remain and that there is good access to them. The ACC reviewed the CUP under the ordinance regulations, in part that the applicant avoids wetlands and buffers if possible, or at least to minimize use in those areas.

In response to a question from Bill Stoughton, Ken Clinton explained that, due to contours of the land and the terrain, there is no way to locate the proposed stormwater features entirely outside of the buffers on site. Ken Clinton also explained that the stormwater features are collecting residential impervious runoff. Ken Clinton noted that these features impact the value of every lot, so it is a goal to minimize them as much as possible.

In response to a question from Bill Stoughton, Ken Clinton stated that he has no issues with any of the conditions in either the CUP or amended subdivision Staff Reports. Ken Clinton also stated that he has no issue with an additional condition to the amended subdivision application, requiring final acceptance by the Town of easement documents regarding drainage, trailhead parking, and trail access.

In response to a question from Dwight Brew, Ken Clinton explained that the proposed drainage easements are included as part of the subdivision and will also be accepted as part of the road. The last piece of Phase IV is that the easements, if constructed as planned, be accepted by the Town. This will be further addressed with DPW Director, Eric Hahn. The two easements in Phase IV are integrated with the road and will need to be maintained by DPW.

In response to a question from Tracie Adams, Ken Clinton stated that he has had conversations with the Fire Department regarding emergency access, but that they are not germane to this discussion. He stated that the DPW has weighed in on emergency access to North Street and has no issues. He will seek to confirm this with the Fire Department because it will need to be complied with as part of the previous approval.

Public Comment:

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Tom Quinn, 30 Christian Hill Road, asked if impact fees can be assessed to amended site plans. Nic Strong stated that impact fees could be assessed at the building permit phase, but tonight's discussion is only involving an amendment to an already approved application.

Dean Brammer and Wendy Depuy, 88 North Street, Milford, asked if the drainage easement for Lot 34 was going to be wooded.

Ken Clinton explained that the stormwater basin will have modified ground to accept stormwater and release it. It will not be a forested area and will have berms constructed. The area will eventually be seeded so that it doesn't erode. All of the ground cover will be kept in place and nature will eventually take over. This area will not be allowed to regenerate into forest, as it would undermine the purpose of the basin.

In response to a question from Wendy Depuy with regard to traffic circumnavigating the gate on North Street, Ken Clinton stated that the emergency access gate located outside of the North Street right of way is in its permanent location. He noted that a few large rocks could be placed on the side of it to further restrict access.

In response to a question from Bill Stoughton, Nic Strong noted that the houses on this lot, when constructed, could be subject to impact fees.

Bill Stoughton moved that the Board finds the application satisfies the criteria of Section 4.11 I. 1. of the Zoning Ordinance, addressing the findings required for approval of a Conditional Use Permit in the Wetlands and Watershed Conservation District; and, further, that the Board finds the application satisfies the criteria of Section 4.11 H. 2. of the Zoning Ordinance addressing the findings required for approval of construction of streets, roads, and other access ways, including driveways, footpaths, bridges, and utilities if essential to the productive use of land beyond the Wetland and Watershed Conservation District use; and, further, to approve Case # PZ13106-090920 for Michachunk Development c/o Mike Foisie, for a Conditional Use Permit pursuant to Section 4.11 H. to depict stormwater management improvements within the wetland buffer in the Wetland and Watershed Conservation District, at Founder's Way, Map 5 Lot 59 Sublots 24, 33, & 34, with the conditions set forth in the staff report dated October 7, 2020. Dwight Brew seconded.

Roll call: Bill Stoughton - aye; Dwight Brew - aye; Marilyn Peterman - aye; Chris Yates – aye; Brian Coogan – aye; and Tracie Adams - aye. Motion carried unanimously.

Bill Stoughton moved to approve Case # PZ13105-090920 for Michachunk Development c/o Mike Foisie, for an Amended Subdivision Application of Phases 3 and 4 of the previously approved open space development, formerly Michachunk Passage, and now known as Founder's Village, at Founder's

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Way, Map 5 Lot 59 Sublots 17 through 37, specifically to note updated NHDES AoT and Wetlands Bureau permits; to depict new or expanded drainage easements; to depict current wetland buffers and note conditional use permit for wetland/buffer impacts; to depict current front, side and rear setbacks; to note and depict the current North Street disposition with related uses, subject to the conditions set forth in the staff report dated October 7, 2020 and the following:

Final acceptance by the Town and recording of easement documents addressing drainage, trailhead parking and trail access.

Dwight Brew seconded.

Roll call: Bill Stoughton - aye; Dwight Brew - aye; Marilyn Peterman - aye; Chris Yates – aye; Brian Coogan – aye; and Tracie Adams - aye. Motion carried unanimously.

Cynthia Dokmo took her seat as a voting member and Tracie Adams returned to alternate status.

OTHER BUSINESS

7. Appeal pursuant to Section 3.10, Roadway and Utility Standards, re: driveway width at 35 Thornton Ferry Road II, Map 4 Lot 62-3

Nic Strong explained that a driveway permit was submitted in April with conditions from the DPW. The driveway, as constructed, does not meet the required conditions of the permit; the applicants were given the chance to correct the issue, as the width is not correct, but chose to appeal the decision. The DPW can grant an appeal during the construction process, but after the construction process the appeal must come before the Planning Board to determine whether or not to grant the waiver. The Board can decide to let the driveway stand or ask for it to be reconstructed to the conditions of the permit, as decided on by the DPW.

Eric Slosek, Assistant DPW Director, explained that the driveway regulations give a maximum driveway width of 24' wide. The original driveway was 18' wide, and was requested to be widened by 6', which is permissible. Upon inspection, it was determined that the driveway measured 30' wide. He believes it is an issue to not follow through and uphold the regulations. He requested that the Board deny the waiver request, as the DPW would have denied it prior to the construction of the driveway. He explained that the driveway could have been moved slightly to the south in order to fix the issue. He does not believe that the widening of the driveway has improved or alleviated any of the safety concerns.

In response to a question from Marilyn Peterman, Eric Slosek suggested that the owner cut the flare that was added to the south side of the driveway, to reduce it back to the 24' width.

In response to a question from Cynthia Dokmo, Eric Slosek stated that the driveway, as it is now, is not unsafe. He is concerned with watering down the regulations by granting the waiver. He explained that the DPW wouldn't have granted the waiver request prior to the construction.

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In response to a question from Tracie Adams, Eric Slosek explained that the DPW has granted waivers in the past but has documented why. He acknowledged that it might be a difficulty for the owner to have to revert the driveway back, but that that can't be the sole reason to grant the waiver. He does not believe that the widening will improve the safety in this area.

In response to a question from Dwight Brew, Eric Slosek stated that the DPW regulations mirror the State's regulations of 24' width for residential access. As to why a maximum width is regulated, Eric Slosek explained that it gives travelers proper anticipation as to where a car may pull out from.

Arnie Rosenblatt noted that the Board is in receipt of a letter from Champion Paving explaining that not granting the waiver would be an undue and unnecessary hardship on the owner.

In response to a question from Arnie Rosenblatt, Eric Slosek explained that, if the Board chooses to not grant the waiver, the request would be for Champion Paving to do the work necessary to bring the driveway into compliance. Eric Slosek stated that he would recommend cutting the north side of the driveway at the road edge to measure 24' wide. This would be continued through the town right of way.

Dwight Brew moved to deny this appeal. Cynthia Dokmo seconded.

Discussion:

In response to a question from Bill Stoughton, Eric Slosek stated that he believes denying the appeal would actually make the driveway safer than how it currently exists.

Roll call: Bill Stoughton - aye; Cynthia Dokmo – aye; Dwight Brew - aye; Marilyn Peterman - abstained; Chris Yates – aye; and Brian Coogan – aye. 5-1-0; motion carried.

Marilyn Peterman exited the meeting.

Tracie Adams sat for Marilyn Peterman.

8. Discussion regarding Map 5 Lot 51, Amherst Street, landlocked land and Board of Selectmen request for comment on Release of Liability.

Nic Strong explained that a variance was granted to this applicant by the Zoning Board of Adjustment (ZBA) for a single-family dwelling to be built on this lot that has no frontage but does have an easement across the lot in front of it. An easement cannot be used for access unless the Board of Selectmen grants a release of liability. In order for the Board of Selectmen to do this, the item has been forwarded first to the Planning Board for review and comment.

Tom Quinn, Esq., explained that he is representing CoAd Realty, the owner of Lot 5-51. He explained that this lot predates current zoning and has existed since the 1940's in its current state. It has been served by a right of way. Due to specific zoning ordinances, the lack of frontage causes an issue for becoming a building lot. In March, relief in the form of a variance

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was sought along with a release of liability per 674:41; the variance was granted in August. In September, the Board of Selectmen referred the release of liability to the Planning Board. Tom Quinn, Esq., stated that the lot can be accessed by a private easement, as long as certain conditions are met.

There are three conditions of the release of liability: 1) the Town will accept no responsibility for maintenance of the access and no responsibility for damage to any individuals who use the road. 2) that the notice of limits of municipalities responsibility and liability be recorded at the Registry of Deeds, 3) the Board of Selectmen must vote to authorize.

Tom Quinn noted that the application meets all of these items. The ZBA, by granting the requested variance, noted that it would be a hardship to the owner for reasonable use of property without the waiver. The driveway is in and the easement is 35' wide. It is supported by a declaration of easement. The prior owner sought to obtain a wetlands permit to cross wetlands in two places and the driveway was built at that time.

Bill Stoughton moved that the Planning Board has no objection to the Release of Liability. Chris Yates seconded.

Roll call: Bill Stoughton - aye; Cynthia Dokmo – aye; Dwight Brew - aye; Tracie Adams - aye; Chris Yates – aye; and Brian Coogan – aye. Motion carried unanimously.

9. Minutes, August 19, 2020; September 2, 2020; and September 16, 2020

Tracie Adams moved to approve the August 19, 2020, minutes as presented. Chris Yates seconded.

Roll call: Bill Stoughton - aye; Cynthia Dokmo – aye; Dwight Brew - aye; Tracie Adams - aye; Chris Yates – aye; and Brian Coogan – aye. Motion carried unanimously.

Tracie Adams moved to approve the September 2, 2020, minutes as presented. Chris Yates seconded.

Roll call: Bill Stoughton - aye; Cynthia Dokmo – aye; Dwight Brew - aye; Tracie Adams - aye; Chris Yates – aye; and Brian Coogan – aye. Motion carried unanimously.

Tracie Adams moved to approve the September 16, 2020, minutes as presented. Bill Stoughton seconded.

Roll call: Bill Stoughton - aye; Cynthia Dokmo – aye; Dwight Brew - aye; Tracie Adams - aye; Chris Yates – aye; and Brian Coogan – aye. Motion carried unanimously.

Chris Yates requested that the Board review the process for completed applications as outlined in a memo from Nic Strong, Community Development Director, at a future meeting. Several other

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649 Board members were in agreement and Arnie Rosenblatt asked that it be added to a future
650 agenda.
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652 **Cynthia Dokmo moved to adjourn the meeting at 9:52pm. Chris Yates**
653 **seconded.**

654 **Roll call: Bill Stoughton - aye; Cynthia Dokmo – aye; Dwight Brew - aye;**
655 **Tracie Adams - aye; Chris Yates – aye; and Brian Coogan – aye. Motion**
656 **carried unanimously.**
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663 Respectfully submitted,
664 Kristan Patenaude
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666 Minutes approved as amended: October 21, 2020
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