

TOWN OF AMHERST
Planning Board

December 16, 2020

APPROVED - Amended

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

4 Staff present: Nic Strong, Community Development Director; Natasha Kypfer, Town Planner;
5 and Kristan Patenaude, Minute Taker.

6
7 Arnie Rosenblatt called the meeting to order at 7:01 p.m., with the following statement. As Chair
8 of the Amherst Planning Board, I find that due to the State of Emergency declared by the
9 Governor as a result of the COVID-19 pandemic and in accordance with the Governor's
10 Emergency Order #12 pursuant to Executive Order 2020-04, as extended by various Executive
11 Orders, this public body is authorized to meet electronically.

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

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

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

17 We are utilizing Zoom for this electronic meeting.

18
19 All members of the Board have the ability to communicate contemporaneously during this
20 meeting through this platform, and the public has access to contemporaneously listen and, if
21 necessary, participate in this meeting through dialing the following phone #312-626-6799 and
22 password 832 2254 2633, or by clicking on the following website address:
23 <https://zoom.us/j/83222542633> that was included in the public notice of this meeting.

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

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

29
30 Providing a mechanism for the public to alert the public body during the meeting if there are
31 problems with access: If anybody has a problem, please call 603-341-5290.

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

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

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

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

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

46
47 *Christy Houpis sat for Cynthia Dokmo.*

48
49 **Public Hearing on Proposed Zoning Ordinance Amendments. See separate notice.**

50
51 Arnie Rosenblatt read and opened the public hearing.

52
53 Nic Strong reviewed the proposed amendments with the group:

- 54
- 55 1) This is a housekeeping item to remove any reference to the Integrated Innovative
56 Housing Ordinance (IIHO) in the Zoning Ordinance. The petition from March 2020
57 removed Section 4.16, IIHO, but did not also remove all references to it. Town
58 Counsel has advised that this now be done through this separate article.
 - 59 2) This item is due to a Zoning Board of Adjustment (ZBA) application proposed earlier
60 this year for a garage that fronted on two roads; it was setback from one road by 50'
61 and one by 31'. The ZBA has historically interpreted the language to be that the
62 structure must be setback 50' from both roads, but a strict reading of the language
63 created confusion and the applicant, thus, applied for a variance, which was granted.
64 This proposal is to change the language to make it clear that even accessory structures
65 on a corner lot must be setback 50' from both roads.
 - 66 3) This item deals with Planned Residential Development (PRD) applications. This
67 gives a method to calculate the density for these applications by referencing the
68 Purpose section.
 - 69 4) This item adds the density calculation to the Elderly Section but putting back in
70 language that was originally in place, prior to the IIHO.

71
72 Nic Strong suggested that the Board table this conversation to January 6, 2021, so that Town
73 Counsel can review these proposed amendments.

74
75 Arnie Rosenblatt stated that he would first ask for any comments from the public. There were
76 none. He then asked if there were any questions/comments from the Board.

77
78 In response to a question for Bill Stoughton, Nic Strong explained that the language being
79 proposed to be included in the PRD applications gives the Planning Board guidance on how to
80 determine density, based on the Purpose Statement.

81
82 Mike Dell Orfano questioned if prescribed density calculations should be included in the PRD.
83 Nic Strong noted that Town Counsel advised that that suggestion was not the best way to handle
84 this item.

85

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86 In response to a question from Mike Dell Orfano, Nic Strong explained that, per Town Counsel,
87 the statement in the Purpose Section of the ordinance is enough to give the Board the discretion
88 to determine density on a case-by-case basis.

89
90 Mike Dell Orfano stated that this sounds very subjective and counter to how the Board has
91 handled this process in the past.

92
93 In response to a question from Marilyn Peterman, Nic Strong stated that this proposal does not
94 look to reference the number of bedrooms to determine density for PRDs, but instead references
95 the Purpose Statement and allows the Board to take its guidance from that.

96
97 Mike Dell Orfano asked Nic Strong to read the Purpose Statement because he could not readily
98 access it. Nic Strong explained that the Purpose Statement is found in the first section of 4.17,
99 the PRD Ordinance. The Purpose Statement reads: "Planned Residential Development allows an
100 alternative pattern of land development to the pattern permitted in the Residential/Rural,
101 Northern Rural, Northern Transitional, and Commercial Zones. It is intended to encourage the
102 preservation of open space and, at the same time, provide for a greater variety of housing types
103 and affordability in the Town of Amherst at somewhat greater densities than permitted elsewhere
104 in the Zoning Ordinance, without causing a significant increase in the town-wide population
105 density. It is envisioned that in a PRD, dwelling units will be constructed in clusters which are
106 harmonious with neighborhood developments and housing, and with natural surroundings. These
107 clusters shall detract neither from the ecological and visual qualities of the environment, nor
108 from the value of the neighborhood, environment, or the Town. The PRD should contain a
109 variety of housing types to accommodate the Master Plan purposes of encouraging a diversity of
110 people, a variety of age groups of different interests, backgrounds, and economic levels. The
111 overall site design and amenities should enhance the quality of living for the residents of the
112 development and, in general, the neighborhood and the Town. The Board shall determine
113 whether the proposed PRD, namely the site plan or layout, and number, type, and design of the
114 proposed housing is suitable to the neighborhood within which it is to be located and is
115 consistent with the Master Plan and its reasonable growth objectives."

116
117 Mike Dell Orfano questioned how the Board is to define "somewhat greater density." He also
118 questioned if the approval for individual lots is somewhat smaller than the minimum acreage of
119 the zone, what are the setbacks and frontages. The mechanism of the IIHO specified that a PRD
120 would be allowed by a Conditional Use Permit. He questioned what conditions the Planning
121 Board can impose upon a PRD beyond the 40% open space, as specified in 4.17 F. He
122 questioned how the ordinance could be so subjective.

123
124 In response to a question from Arnie Rosenblatt, Mike Dell Orfano stated that, prior to the IIHO,
125 the objective bases used to determine density were very formulaic. Marilyn Peterman added that
126 the density calculations were based on the number of bedrooms after the 40% open space was
127 calculated. There were generally not lot lines, setbacks, etc. The number of bedrooms determined
128 the number of units that could be built of different types.

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130 Mike Dell Orfano noted that he believes this proposed amendment is flawed and he will not vote
131 to support it.

132
133 Arnie Rosenblatt suggested that Town Counsel provide written opinions on these items to the
134 Board. He also suggested that the Board try to meet with Town Counsel, prior to its January 6,
135 2021, meeting. Nic Strong stated that she would check with Town Counsel on his availability.
136 Marilyn Peterman suggested that Town Counsel also be given a copy of the ordinance language
137 that existed for the PRD ordinance, prior to the IIHO.

138
139 Dwight Brew stated that the IIHO language allowed density as an “up-to” amount. He does not
140 see this proposed language as being any more subjective than that language.

141
142 In response to a question from Dwight Brew, Nic Strong explained that the proposed
143 amendments to the PRD and Elderly sections specifically speak to the density calculations
144 because when the IIHO was removed there was no language left to speak to that item. The PRD
145 ordinance still contains the Purpose Statement, which allows the Board to determine density; the
146 Elderly ordinance currently does not contain any language to this effect, hence the proposed
147 amendment.

148
149 Christy Houpis noted that he thought, after the IIHO was deleted, that these sections would
150 simple revert back to the language that existed prior to the IIHO. He would like more clarity on
151 this.

152
153 **Christy Houpis moved to continue the discussion regarding the proposed Zoning**
154 **Ordinance Amendments, to a public hearing on January 6, 2021, and request that**
155 **Nic Strong schedule a meeting for Town Counsel to speak with the Planning Board**
156 **prior to January 6, 2021, depending on his availability. Dwight Brew seconded.**
157 **Roll Call: Brian Coogan – aye; Mike Dell Orfano – aye; Christy Houpis – aye;**
158 **Dwight Brew – aye; Bill Stoughton – aye; and Marilyn Peterman – aye. Motion**
159 **carried unanimously.**

160
161 **Public Hearing on Adoption of Revised Stormwater Regulations. See separate notice.**
162

163 Arnie Rosenblatt read and opened the public hearing.

164
165 Arnie Rosenblatt asked for questions/comments from the public. There were none. Arnie
166 Rosenblatt asked for questions/comments from the Board.

167
168 In response to a question from Dwight Brew, Nic Strong explained that the next step for these
169 proposed revised stormwater regulations, if the Planning Board votes to adopt them, is for the
170 Board of Selectmen and Health Officer, acting as the Board of Health, to vote to adopt them as
171 well.

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173 **Bill Stoughton moved to adopt the proposed Stormwater Regulations. Christy**
174 **Houpis seconded.**
175 **Roll Call: Brian Coogan – aye; Mike Dell Orfano – aye; Christy Houpis – aye;**
176 **Dwight Brew – aye; Bill Stoughton – aye; and Marilyn Peterman – aye. Motion**
177 **carried unanimously.**

178
179 **PUBLIC HEARING**

180 **1. CASE #: PZ12164-121619 – MIGRELA and GAM Realty Trust (Owners) &**
181 **MIGRELA Realty Trust (Applicant), Carlson Manor, 153-159 Hollis Road, PIN #s:**
182 **Tax Map 1, Lots 8 & 8-2, Tax Map 2, Lots 7, 7A, 7B, 3-1 & 3-2 – Public**
183 **Hearing/Subdivision & Non-Residential Site Plan. Proposed 54-unit condominium style**
184 **development. Zoned Residential/Rural. Continued from November 4, 2020**

185 Arnie Rosenblatt read and opened the public hearing. He explained that the process will be to
186 hear the presentation from the applicant, go to the Board for comments/questions, hear from the
187 public, and then come back to the Board.

188
189 Chad Branon, civil engineer with Fieldstone Land Consultants, stated that he is representing
190 GAM Realty Trust in this continued discussion for subdivision approval of a 54-unit
191 condominium-style development. When last before the Board, a site walk was scheduled. Two
192 site walks occurred, one on November 13, 2020, and the other on November 20, 2020. These
193 walks looked at the proposed stormwater management areas and structures on site to be
194 repurposed.

195
196 Chad Branon addressed the questions from the Staff Report. He explained that this project has
197 been designed to support a 54-unit development, as per the already approved Conditional Use
198 Permit (CUP). He noted that he has provided the Board with the correct density calculation
199 spreadsheet that shows the 54-unit calculation. The notes on the plan are identical to the previous
200 calculations done for the density bonuses.

201
202 Chad Branon explained that the design layout is essentially what was proposed on the conceptual
203 plan presented at the CUP hearing. He believes the up-to 54-unit number has been proved out
204 through the current design and studies completed. Some of the studies completed include an
205 environmental and wildlife habitat evaluation, a letter from Pennichuck stating that there will be
206 no negative impact on water availability to other residents nearby, a traffic study that showed
207 favorable results, a hydrogeological evaluation that shows the depth to seasonal water table and
208 stormwater/wastewater management systems, and a fiscal impact analysis that included an
209 evaluation of the impact fee schedule. Chad Branon explained that the design details have been
210 run past Keach-Nordstrom, and the applicant has no objections to the latest letter sent by Keach-
211 Nordstrom. He stated that the applicant will still need a wetlands permit from the State for a
212 proposed wetland crossing on site, and an Alteration of Terrain (AoT) permit, along with a
213 permit from NHDOT for the road accesses. A permit will also be needed from NHDES for the
214 proposed subsurface disposal system.

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216 Chad Branon explained that the second plan set sheet has added details about the boundary and
217 consolidation plan. He stated that there have been questions regarding Sheet 9, Note 7, which
218 reads that the "... applicant reserves the right to alter this, with approval of Town Staff ensuring
219 that CUP compliance is maintained." The intent of this statement is to allow certain types of
220 units to be shifted to certain lots based on what the buyer wants. This will allow latitude to
221 address market conditions. Chad Branon stated that there is a suggestion that there will be local
222 oversight throughout the project. He requested that the Board give insight as to if approvals for
223 slight alterations need to be brought to the Board, or if they can be approved by Town Staff. He
224 also requested insight on the proposed phasing plan.

225
226 Chad Branon stated that a list of possible road names has been submitted to the Fire Department
227 and is awaiting approval. The intention is to reuse the stone walls that exist on site. All septic
228 systems will need local and State approvals. The landscape plan has a component for the new
229 plantings proposed in the wetland buffer to address the requirement for a restoration plan from
230 the CUP approval; there is no separate plan for this item, but one can be made, if necessary.
231 Chad Branon stated that the stormwater design is made to exceed local standards and will be
232 worked through with Keach-Nordstrom. The design will also meet AoT design standards, which
233 are fairly high because this is located within a sensitive watershed. There are three subsurface
234 gravel wetland systems proposed on the property that will function with the infiltration systems.
235 The proposed stormwater design will mitigate any stormwater impact from the project.

236
237 Chad Branon explained that there were previous concerns about the potential impact to the water
238 temperatures flowing into the nearby cold water brook. He noted that there are not currently any
239 surface waters on site from which to establish a baseline temperature. Consulting wildlife
240 biologists believe that the proposed system is adequate and will meet/exceed local and state
241 standards.

242
243 Chad Branon noted that the Staff Report touches on bonding. The applicant is willing to post a
244 restoration bond, per the regulations. This will be prepared for review by Keach-Nordstrom. He
245 stated that various notes from the staff report will be added to the plan with no objection.

246
247 Chad Branon explained that he believes this project has advanced far enough that the detail in the
248 plan set and the information provided from the studies gives the Board enough information for a
249 conditional approval.

250
251 Arnie Rosenblatt stated that counsel for a number of abutters, Dan Muller of Cronin, Bisson, &
252 Zalinsky, P.C., submitted a letter on November 4, 2020, addressing some legal concerns. He
253 explained that Nic Strong submitted this letter to Town Counsel for his opinion, but this has,
254 unfortunately, not yet been received.

255
256 Mike Dell Orfano stated that, regarding Sheet 9 Note 7, he would like to see more specific
257 language regarding the intent of the note. The language could be more specific in terms of
258 relocating units due to lot usage, but not to change the mix of unit types within the site.

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260 Tracie Adams asked what had been done to follow up on the comments received from various
261 Town Departments early on in the application process. Chad Branon stated that there has not
262 been any further comment from Town Departments on this application. He has not yet been in
263 front of the Amherst Conservation Commission (ACC), but hopes to file a wetland CUP package
264 with them soon.

265

266 Tracie Adams asked about Pennichuck water and the provision of fire hydrants in the
267 development. Chad Branon stated that the proposed fire hydrants are shown on the plan. The
268 Fire Department will check the proposed placement of the hydrants. The development is located
269 on a loop road and so the location of the hydrants can be flexible. Tracie Adams asked about
270 comments in regard to the no parking signage and the width of the road, Chad Branon stated that
271 these details will be added to the plan. The DPW and Fire Departments have stated that they are
272 okay with the road width being reduced as proposed as long as cars do not park along the
273 roadside.

274

275 Marilyn Peterman stated that, in follow up to Mike Dell Orfano's comments, she would not have
276 a problem with moving different units within the development as long as the mix and the number
277 of units stays the same. She asked how the units would be sold and how whoever was marketing
278 the units would know that there could not be more of X number of units of X type. Chad Branon
279 stated that usually there is a marketing plan for selling units that includes color coded lots to
280 show which are allocated for particular uses. There is usually one primary real estate agent that
281 will work through the sale. The marketing plan will be available onsite for reference.

282

283 Marilyn Peterman responded that there had to be follow through on that because unless all the
284 footprints were the same, there may be units that cannot be built on certain parts of the lot where
285 others could be, due to the size of the limited common areas defined on the plan. Chad Branon
286 explained that the largest proposed unit footprint has been included for each lot, so that the
287 layout can be moved around interchangeably.

288

289 Marilyn Peterman noted that all the architectural information submitted so far was for single
290 family units. She asked what the floorplans would be like for attached units. Chad Branon
291 stated that this had been pointed out in the staff report and he hopes to have the architectural
292 floorplans for the attached units by the next Board meeting.

293

294 Marilyn Peterman noted that a development such as this usually has two parking spaces: one in
295 the garage and one in the driveway and it was usually specified in the condo documents that
296 there could be no off-site parking. She asked how parking was arranged in this subdivision and
297 about visitor parking. Chad Branon explained that each unit is currently designed with a two-car
298 garage and to allow for two cars to park in the driveway. There are 20 parking spaces available
299 near the clubhouse, which will double as visitor parking. There will also be some parking
300 available near the community garden, but this is to be used for the trails.

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302 In response to a question from Marilyn Peterman as to why a compliance hearing would be
303 required for this application, Nic Strong explained that #5 in the Staff Report deals with a
304 requirement in the Non-Residential Site Plan Review regulations for the portion of the site that is
305 open to the public. This will require a public hearing, which needs to be completed before a
306 certificate of occupancy can be given. Chad Branon stated that he would like to discuss this item
307 in terms of phasing. He does not want to impact certificate of occupancies in phase I for
308 something that needs to be completed in a later phase. He stated that he would review this with
309 staff and come up with a plan to handle this, probably including notes to be added to the plan set.

310
311 Chris Yates stated that during the process the Heritage Commission had submitted comments
312 suggesting that there be originality in lot layout and preservation of existing features. Chris
313 Yates was concerned with the number of units on this main road into town and how it would
314 affect the look and feel of the area. Chad Branon explained that, during the CUP process this
315 development started with an up-to number of 66 units. He and the Planning Board worked
316 through a number of different layouts until finding one that worked. This plan was reviewed with
317 the Heritage Commission and that group issued a letter asking that the existing structures and
318 stone walls on site be preserved. This was a condition of the CUP. The approved CUP included
319 an up-to number of 54 units. The current plan looks to preserve the stone walls on the property
320 and to repurpose the existing structures. Some of the stone walls will be set back in the line of
321 the common area on site through the right of way. There was also a request made by the Board to
322 distribute the proposed duplex units throughout the site, which this plan shows. The plan also
323 tries to keep the wetlands within the open space areas of the site. Chad Branon explained that
324 there are rows of pine trees on site that will be removed, but these are not natural features to the
325 site as they were planted at some point in the past. The plan also looks to close a number of
326 current curb cuts along Route 122 and install stone walls in those areas to keep with the rural
327 character of the area.

328
329 Chris Yates stated that he would like to see additional information from the Heritage
330 Commission about the repurposing of the existing structures on site. He would also like to
331 examine the IIHO density worksheet to discuss how the repurposing of these structures is a
332 benefit to the community for an increase in density bonuses.

333
334 Christy Houpis stated that he appreciates the detail that continues to be supplied. He has
335 concerns regarding the balance of the proposed density of the project. He stated that the volume
336 of traffic seen during the site walk he was on was concerning, especially due to the proximity of
337 the property to the intersection of Route 101A. The traffic study seems to indicate that the
338 project will not have an impact on traffic in this area, but he believes this is only a snapshot in
339 time. He also has concerns about the drainage and the runoff. There have been concerns raised
340 about the proximity to the cold water brook and the possible effect on the water temperature. He
341 also appreciates the IIHO density spreadsheet calculation, but there is a difficulty in balancing
342 the proposal for community and public space with the benefit to the Town.

343
344 Bill Stoughton discussed the stormwater items on site. He explained that he is not yet convinced
345 that there will be no effect to the temperature of the nearby cold water brook due to the proposed

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346 proximity of the stormwater features to the existing wetlands. In the 10-year storm, the runoff
347 will flow at a rate of 10 cubic feet/second, which will put some of it into Witches Brook. Unless
348 this runoff is cooled, it will make an ongoing issue worse. He would like an analysis of this issue
349 to be completed.

350
351 Bill Stoughton stated that three of the four proposed stormwater features on site are located in the
352 wetland buffer. The ordinance states that this should be avoided altogether, and, if not, should be
353 minimized. He is not convinced that the features, as currently designed, need to be located within
354 the buffer. He understands that the proposed locations might be the most convenient, but he is
355 unsure if placing them within the buffer could be avoided. He notes that the applicant received a
356 385% density bonus during the CUP process. In accordance with the ordinance, the Town needs
357 to see a benefit from every bonus awarded. He does not believe that the consideration of density
358 bonuses stops after the CUP is approved. He believes that this process continues through all
359 phases of the application. He questioned if the Town would actually realize the supposed
360 benefits that the Planning Board thought it was going to get when the CUP was approved for 54
361 units. He explained that the encroachment into the wetland buffers and the placement of the
362 stormwater features are less of a benefit to the Town and were also not shown on the plans when
363 the CUP was approved. He also questioned the proposed usage of the three buildings to be
364 repurposed, in order to get an extra 12 density bonus units.

365
366 Chad Branon stated that there seemed to be a misunderstanding - the density for the proposed
367 development was determined during the CUP process. In 2018, when the CUP was approved,
368 there was no language in the regulations regarding that the density bonus provisions must be
369 based on benefits to the Town. This item was changed after this development was approved
370 through the CUP process. This is touched on in the Staff Report. He explained that the existing
371 structures are proposed to be repurposed exactly as was stated during the CUP process. The three
372 structures include a community building in the garden area, a community clubhouse, and a
373 community building to be used by members of the development.

374
375 In response to a question from Bill Stoughton, Nic Strong stated that the 2018 ordinance
376 document included one sentence, in Section E, regarding incentives: "In order to achieve the
377 purpose of the IIHO, an applicant may propose to incorporate any of the following restrictions
378 and amenities which have been determined to be desirable to the Town in accord with the
379 Amherst Master Plan."

380
381 In response to a question from Bill Stoughton, Nic Strong stated that items deemed to be
382 "desirable by the Town," is in the judgment of the Planning Board. Bill Stoughton stated that
383 there is an element in the language that allows for judgement of the Planning Board to determine
384 if a proposed amenity is desirable by the Town. He does not believe this determination ends at a
385 CUP approval but carries on through the development of the project. Bill Stoughton explained
386 that the Planning Board gave density bonuses during the CUP process for restrictions and
387 amenities, but it is unclear if the related benefits to the Town have been realized.

388

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389 Dwight Brew explained that he attended the first site walk and that the group was, unfortunately,
390 unable to view the three building proposed to be repurposed. In response to a question from
391 Dwight Brew, Chad Branon stated that one of the structures to be repurposed is currently being
392 inhabited. Chad Branon reviewed each of the structures proposed to be repurposed.

393
394 Dwight Brew asked about the improved access to public places that had been included in the
395 spreadsheet for bonuses. Chad Branon explained that, as part of the CUP process, he and the
396 Board went through each of the proposed amenities and the Board decided on an up-to number
397 of units. The proposal is now going through a site design review and the up-to number is no
398 longer being discussed. He is confused as to why there is a CUP process if the up-to number is
399 going to continue to be discussed. The applicant has received the up-to number, as determined by
400 the Board, and is now proving that site design through roads, septic, drainage designs, and other
401 studies.

402
403 Dwight Brew brought up a discussion about the benefit to the Town from the proposed
404 community open space. Chad Branon stated that the applicant's position on this item, and the
405 Board's decision, was already discussed during the CUP process. Dwight Brew stated that, since
406 he was not getting any answers, he had no further questions.

407
408 Arnie Rosenblatt stated that, regarding the burden on the applicant of showing the benefit of any
409 proposed bonus, he does not believe it's true that, regardless of the ordinance language at the
410 time that this application was initially discussed, individual members of the Board led anyone to
411 believe that the ordinance provided that the bonuses were automatic. Arnie Rosenblatt read from
412 the minutes of the August 15, 2018, meeting. He noted in the early stages of the CUP process
413 that the incentive bonuses are not a formulaic process and that he believed each benefit must be a
414 benefit to the Town, each must be demonstrated and that any bonus may not be granted. He
415 stated that, regardless of the ordinance language, he believes the burden is on the applicant to
416 show that each bonus requested is a benefit to the Town and explained that he articulated this
417 during the CUP process. This was not arrived at from a revision to the ordinance.

418
419 Arnie Rosenblatt stated that the Board is waiting to receive word from Town Counsel on a
420 number of issues, including senior housing being mixed with other types of housing in the
421 development, as per Dan Muller's letter on page 2.

422
423 Public Comment:

424 In response to a question from Debra Keough, 16 Summerfield Way, Chad Branon stated that
425 there are six existing wells on the property and that the applicant is looking into utilizing one of
426 those wells for irrigation purposes. The applicant is not planning on using Pennichuck Water for
427 the irrigation system. There has not been an impact study on the wells to nearby abutters, as the
428 wells on site are private and only being used by the applicant.

429
430 Debra Keough noted that even private wells can have an impact on abutters.

431

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432 Linda Sutherland, 32 Peacock Brook Lane, stated that the drought that occurred toward the end
433 of the summer this year is the first time in her seven years living in this area that she hasn't seen
434 surface water on this site. She stated that her development consists of 19 units on 26 acres with a
435 common area in the middle and that snow removal is a nightmare. She also noted that the HOA
436 for her development pays the hydrant costs; they are not paid for by the Town. She has concerns
437 regarding the increased traffic from this proposal and also has concerns about the wells.

438
439 Arnie Rosenblatt noted that, as no other hands were raised, public comment was closed.
440

441 Marilyn Peterman noted that traffic along Route 122 has been increasing for many, many years,
442 even without the current developments that now exist along the road. She explained that Route
443 101A is rated a level D or F for traffic, and so much of the traffic has ended up offloading into
444 Route 122. She believes that the Summerfields development is denser in units than what is being
445 proposed through this application, and that it was approved even after this increase in traffic
446 along Route 122. While the Peacock Brook development has had less of an impact to traffic, it
447 was also built after the increase in traffic began.
448

449 Dwight Brew stated that he would like the Board to meet with Town Counsel and understand his
450 opinion on a number of items. The Board can then have a discussion regarding the public benefit
451 of the proposed bonuses and settle on a final unit number.
452

453 Brian Coogan asked, with regard to comments from abutters on drought and the timing of the
454 hydrogeological study, if there was generally a lot of water in this area and would the
455 neighboring wells be impacted. Chad Branon stated that the property in question is a large
456 property with a good number of wells on it from which to obtain irrigation. Chad Branon stated
457 that he has been involved with the design of many similar projects with wells that lay closer to
458 abutters than the ones on this site; he has not seen an influence on neighbors from well use in
459 these other developments. Chad Branon explained that water monitoring on the wells on site has
460 been done and the static level is known. He stated that he is confident with this design's
461 approach. Chad Branon explained that the wetland that bisects the property does not flow all the
462 time and is seasonal in nature. The wildlife report touches on this item and also notes that the
463 wetlands have been altered by man over time. Chad Branon went on to say that he had been
464 working on this project for two to three years now and in certain seasons there was not enough
465 surface water to monitor the temperature.
466

467 Christy Houpis stated that he appreciates the comments about not automatically approving the
468 up-to number of units even at this point in the process. He has concerns regarding the impacts of
469 the runoff into the cold water brook, especially due to the importance of this area. He was also
470 concerned with the traffic and the impact of adding traffic to the existing numbers. Christy
471 Houpis stated that the benefit to the community of granting the bonuses was tied into all these
472 factors and that the Board needed comments from Counsel.
473

TOWN OF AMHERST
Planning Board

December 16, 2020

APPROVED - Amended

474 Chris Yates agreed that the items of concern should be addressed with Town Counsel before
475 moving forward with this application. He would also like to see additional plan items and a
476 detailed phasing plan.

477

478 Mike Dell Orfano agreed with other Board member's concerns regarding runoff from the site to
479 the brook. He noted that he remembers crossing running water while taking an earlier site walk.
480 He does have concerns about the temperature of the water affecting the temperature of the cold
481 water brook. He stated that he has concerns with the Board considering rolling back the up-to 54
482 unit number at this point. He explained that, if the benefit to the Town cannot be quantified or
483 memorialized in some way, that might give the Board leverage to roll back the already given up-
484 to number, but otherwise he believes there would need to be something significant from one of
485 the studies to warrant a reduction in unit numbers. He stated that the CUP phase of this
486 application has already concluded, and he is uncomfortable attacking the already given density
487 number at this stage.

488

489 Tracie Adams agreed that she would like to hear from Town Counsel before moving forward
490 with this application.

491

492 Bill Stoughton stated that he would like to hear from Town Counsel before moving forward. He
493 also believes that the wetlands CUP will need to be resolved before the Board can make any
494 further decisions on this application. In response to a question from Arnie Rosenblatt, Bill
495 Stoughton explained that the applicant requires an approved wetlands CUP before being able to
496 place stormwater features on site. If the CUP is denied, the site plan may need to be changed to
497 accommodate any alterations. The Board would need to know if the site plan will be altered
498 before voting on it. He stated that he believes he once heard Chad Branon say that the
499 stormwater features could be placed somewhere else on the site without sacrificing the number
500 of proposed units. He would like this process to play out prior to the Board voting on the site
501 plan. The ACC has not yet seen this CUP application but hopes to soon.

502

503 In response to a question from Arnie Rosenblatt, Nic Strong stated that the Board has a deadline
504 to take action on this application by January 8, 2021. The Planning Board's next meeting is on
505 January 6, 2021. She noted, however, that the January 6th meeting was already very full, so, the
506 Board could request to extend the deadline for this application to January 20, 2021, with the
507 applicant's approval. Chad Branon asked if this application would be heard first on the agenda
508 on January 20th. Nic Strong noted that nothing else was currently scheduled for that meeting.
509 Chad Branon stated that he was in agreement with continuing this meeting until January 20,
510 2021, and agreed to extend the deadline for Planning Board action on this application until that
511 date.

512

513 Chad Branon noted that the wetlands CUP will be submitted well in advance of the January 20,
514 2021, Planning Board meeting. Rob Clemens, Chair of the ACC, stated that the ACC will hear
515 the wetlands CUP once received and send comments back to the Planning Board.

516

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517 Mike Dell Orfano questioned if the Board should also receive legal counsel on its ability to roll
518 back the already given up-to number of units at this time. He explained that the ordinance, as it
519 was written at the time this applicant's CUP was approved, was law. The up-to number approved
520 was conditioned on the physical restraints of the site and has now been proven, at least in regard
521 to the physical characteristics of the site. He believes that rolling back the number now could be
522 an issue with regarding to the legal rights of the applicant.

523
524 Marilyn Peterman stated that she agrees with Mike Dell Orfano and has concern regarding
525 interpreting the ordinance in this way.

526
527 Brian Coogan stated that he is comfortable moving forward with this application without hearing
528 Town Counsel's opinion on this matter.

529
530 Dwight Brew, Tracie Adams, Chris Yates, and Christy Houpis all noted that they would like to
531 hear Town Counsel's opinion on this matter.

532
533 Bill Stoughton stated that he is on the fence regarding hearing Town Counsel's opinion on this
534 matter.

535
536 Arnie Rosenblatt stated that there is enough interest for Town Counsel's opinion to be sought on
537 this item as well as the others previously mentioned.

538
539 **Mike Dell Orfano moved to table this application to January 20, 2021, at 7pm, via**
540 **Zoom. Marilyn Peterman seconded.**

541
542 **In response to a question from Arnie Rosenblatt, Bill Stoughton stated that the**
543 **Board could hear both the wetland CUP application and this application again at**
544 **the same meeting without issue.**

545
546 **Roll Call: Brian Coogan – aye; Mike Dell Orfano – aye; Christy Houpis – aye;**
547 **Dwight Brew – aye; Bill Stoughton – aye; and Marilyn Peterman – aye. Motion**
548 **carried unanimously.**

549
550 **OTHER BUSINESS:**

551 **2. Minutes: 11/4/20 & 12/2/20; site walk minutes 11/13/20, 11/20/20 and 12/2/20**

552
553 **Christy Houpis moved to approve the meeting minutes of November 4, 2020, as**
554 **amended [Line 359, to read “wetland ordinance.”] Dwight Brew seconded.**

555 **Roll Call: Brian Coogan – aye; Mike Dell Orfano – abstain; Christy Houpis – aye;**
556 **Dwight Brew – aye; Bill Stoughton – aye; and Marilyn Peterman – aye. 5-0-1;**
557 **motion carried.**

558
559 **Mike Dell Orfano moved to approve the meeting minutes of December 2, 2020, as**
560 **written. Christy Houpis seconded.**

December 16, 2020

APPROVED - Amended

561 **Roll Call: Brian Coogan – aye; Mike Dell Orfano – abstain; Christy Houpis – aye;**
562 **Dwight Brew – aye; Bill Stoughton – aye; and Marilyn Peterman – aye. 5-0-1;**
563 **motion carried.**

564
565 **Christy Houpis moved to approve the meeting minutes of the site walk of November**
566 **13, 2020, as written. Brian Coogan seconded.**

567 **Roll Call: Brian Coogan – aye; Christy Houpis – aye; Dwight Brew – aye; Bill**
568 **Stoughton - abstain. Motion carried.**

569
570 **Bill Stoughton moved to approve the meeting minutes of the site walk of November**
571 **20, 2020, as written. Arnie Rosenblatt seconded.**

572 **Roll Call: Bill Stoughton – aye; and Arnie Rosenblatt - aye. Motion carried.**

573
574 **Bill Stoughton moved to approve the meeting minutes of the site walk of December**
575 **2, 2020, as written. Brian Coogan seconded.**

576 **Roll Call: Bill Stoughton – aye; Mike Dell Orfano – aye; and Dwight Brew – aye.**
577 **Motion carried.**

578
579 **Christy Houpis moved to adjourn the meeting at 9:43pm. Mike Dell Orfano**
580 **seconded.**

581 **Roll Call: Brian Coogan – aye; Mike Dell Orfano – aye; Christy Houpis – aye;**
582 **Dwight Brew – aye; Bill Stoughton – aye; and Marilyn Peterman – aye. Motion**
583 **carried unanimously.**

584
585
586
587 Respectfully submitted,
588 Kristan Patenaude

589
590 Minutes approved as amended: January 20, 2021