

TOWN OF AMHERST
Planning Board

January 20, 2021

APPROVED – 2/9/2021

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

Staff present: Nic Strong, Community Development Director, and Natasha Kypfer, Town Planner.

Arnie Rosenblatt called the meeting to order at 6:30 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.

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, alone; Chris Yates, alone; Dwight Brew, alone; Tracie Adams, alone; Arnie Rosenblatt, alone.

Bill Stoughton moved that the Board enter Non-Public Session pursuant to RSA 91-A:3. II (l) Consideration of legal advice provided by legal counsel, either in writing

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or orally, to one or more members of the public body, even where legal counsel is not present. Dwight Brew seconded.

Chris Yates sat for Brian Coogan, until he later entered the meeting; Tracie Adams sat for Marilyn Peterman who would not be attending this evening's meeting.

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

Arnie Rosenblatt stated that the Board would end this public meeting and enter into a separate Zoom session for the non-public part of the meeting. The Board would then reconvene in a separate Zoom session for the originally published agenda.

See separate minutes for the non-public session.

In attendance: Arnie Rosenblatt - Chair, Dwight Brew-Selectman Ex-Officio, Bill Stoughton, Brian Coogan, Mike Dell Orfano, Tracie Adams (Alternate), Chris Yates (Alternate), and Christy Houpis (Alternate) [7:29pm].

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.

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

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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; Brian Coogan; Tracie Adams; Chris Yates; Mike Dell Orfano; and Arnie Rosenblatt; all alone and present.

Tracie Adams sat for Cynthia Dokmo, in her absence.

Chris Yates sat for Marilyn Peterman, in her absence.

PUBLIC HEARINGS

- 1. SCENIC ROAD PUBLIC HEARING –DPW DIRECTOR ERIC HAHN In accordance with NH RSA 231:158, the Amherst Planning Board will hold a Public Hearing for the removal of oak trees on the following scenic roads: Brook, Mack Hill, Pond Parish and Baboosic Lake Roads. *Continued from January 6, 2021***

DPW Director, Eric Hahn, and Assistant DPW Director, Eric Slosek, joined the Board. Eric Hahn explained that the proposal is to cut trees on scenic roads in three locations. Two of these areas are due to line-of-sight issues, and the third due to concerns with a dead tree.

Eric Hahn stated that the first location is on Pond Parish Road, heading toward Baboosic Lake Road. Approaching the last 100 yards to Baboosic Lake Road at the intersection, there is a stop sign that can't be seen until within 40-50' of the intersection. The DPW has moved the sign closer to the edge of the pavement and placed a Stop Ahead sign in order to help with traffic control. The sign has been hit twice since it was moved. There are trees on the right-hand side of Pond Parish Road that block drivers from being able to see the stop sign. He is proposing to remove four trees in this location, the largest of which is approximately 12" in diameter.

Eric Hahn stated that the second location is at Mack Hill Road and Woodland Drive, approaching the stop sign on Mack Hill Road. There are five large pine trees in this area that completely block the view of cars. The only way to see the stop sign in this location is to stop prior to the stop bar and look up the hill. He noted that he has the support of the local residents to make this change.

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Eric Hahn explained that the third location is along Brook Road. There are seven trees in this area, six of which are completely dead, and the seventh of which is dying. These trees are clustered so closely together that there is concern about wind/storm events. The DPW hired an aerial lifter prior to this hearing to trim the trees as a preventive measure. This is an important enough hazard that the trimming needed to be completed prior to this request for removal.

In response to a question from Brian Coogan, Eric Hahn explained that he has the support of the residents at 3 Brook Road for the removal, and also the neighbors across the street. The trees proposed for removal along Pond Parish Road are on the Town's property and do not add value to the overhead canopy in this area.

Mike Dell Orfano moved to accept the cutting of trees along scenic roads, as proposed by the DPW. Dwight Brew seconded.

Roll Call: Brian Coogan – aye; Mike Dell Orfano – aye; Chris Yates – aye; Dwight Brew – aye; Bill Stoughton – aye; and Tracie Adams – aye. Motion carried unanimously.

- 2. 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– Public Hearing/Subdivision & Non-Residential Site Plan. Proposed 54-unit condominium style development. Zoned Residential/Rural. Continued from December 16, 2020**

Nic Strong noted that the Board previously accepted this application as complete. The hearing was continued in December, with the applicant's agreement. The Town has since received one sheet of a revised plan from the applicant, showing some of the proposed stormwater features on site no longer located within the wetlands buffer. This is the reason that a CUP has not yet been submitted for this project.

Chad Branon, civil engineer with Fieldstone Land Consultants, and Gerry Prunier, attorney, both representing GAM Realty, joined the Board. Chad Branon stated that he last met with the Board on December 16, 2020, and that there were many concerns regarding stormwater, the location of the stormwater features on site, and how the density of the project will impact stormwater in this area. He discussed these items with the owner and a redesign was completed to remove the stormwater features from the buffer. Chad Branon noted that this change did impact density, now proposed at 52 units, by reducing the total density by two units.

Chad Branon explained that he spoke with the State and the UNH Stormwater Center regarding temperatures of the water on site to see if improvements can be made. The stormwater management changes were made behind units 5 and 6, and in the middle of the development. The stormwater systems behind units 1, 2, and 3 were reworked and shifted as well. The outlet into the buffer was graded to move the water away from the jurisdictional wetland. He explained that the UNH Stormwater Center completed a four-year study on thermal impacts and the best

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management practices to mitigate the temperatures of associated stormwater. It was determined that the type of development and function of it is important. This project being proposed is different than the parking lot that UNH uses to collect its data because, while there are impervious surfaces, these are being run over infiltration areas for cooling to occur. The proposed gravel wetland systems on site are a requirement of the Alteration of Terrain (AoT) Bureau because they will remove a substantial amount of pollutants, and due to this being a sensitive watershed area. The UNH results showed that gravel wetlands do well to mitigate some temperature impacts because of the amount of time that the stormwater spends in them and the subsurface components. He noted that the revised plans will be reviewed by the AoT Bureau to look at impacts on water quality and the effects on adjacent areas. The plans will also be reviewed by Fish & Game. He explained that the whole revised plan set has not yet been submitted to the Town but will be shortly. He will also be making a presentation to the ACC.

Christy Houpis entered the meeting [7:29 pm].

Bill Stoughton thanked Chad Branon for taking the Board's concerns to heart. He believes the proposed changes made to the stormwater systems on site are significant improvements. He explained that anything that gets the water on site into the ground and doesn't allow it to pool will be good for the temperature. The distance of the proposed systems from the wetlands and Witches Brook is a tremendous improvement. He noted that the ACC will be interested in seeing these changes; he suspects the Commissioners will likely be pleased.

Bill Stoughton noted that there was obviously some technical work still to be done on this application, so he assumed the applicant was not asking the Board for an approval at this meeting. Chad Branon stated that at the last meeting it had been noted that a CUP should be submitted and go to the ACC and that had been his intention. He noted that he was always ready to get an approval, but that he had decided to come to meet with the Board to provide an update and explain the change in plans and the reason why a CUP had not been submitted.

In response to Bill Stoughton's question about technical work to be done, Chad Branon stated that he still needs to change the stormwater analysis numbers, but these will meet local and state requirements for stormwater treatment standards.

Bill Stoughton stated that this development is proposed to be partly 62/65+ housing and partly non-restricted (less than 62/65). He questioned if this layout complies with federal regulations. He mentioned section 24 CFR 100.303, which he believes suggests that all units in the development must be 62+ in order to qualify for an exemption from antidiscrimination laws. He noted that this is not crystal clear, but he would like it addressed. Bill Stoughton stated that the Town's requirement for a development to qualify as elderly housing is that it complies with federal and state law. He questioned if this proposed development would comply because it has some restricted housing, and some non-restricted housing. Chad Branon stated that he would look into this issue.

Bill Stoughton questioned how the applicant will assure that the elderly housing units will be occupied only by qualifying persons. If the applicant is using the 62+ exemption, every occupant

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of the dwelling must be 62+ at all times. He would like to know how that will be enforced. Federal regulations, when dealing with 55+ housing, require periodic surveys of the age of occupants, with identification to prove age, with records of this information kept and available. This is part of 24 CFR 100.307. This requirement is not found in the 62+ housing section of the regulations.

Gerry Prunier stated that part of the condo docs will be rules and regulations to keep the restricted housing within the correct age bracket. He believes a survey could be added to the condo docs so that the directors could complete an annual review survey. Bill Stoughton noted that there is nothing yet currently in the condo docs with regard to the age-restricted units' enforcement. Gerry Prunier stated that, once it is known which units will be restricted, this section can be added for compliance.

Bill Stoughton stated that it is the Board's job to make sure that applicants are following the requirements set forth. He appreciates where there is an effort made by an applicant to comply with these requirements, and not for it simply being left for the Board to catch. He stated that this is unfair to the people of this Town.

Chris Yates stated that he would like to see diagrams of the 1- and 2-bedroom units and a phasing plan. He noted that he has asked for this multiple times.

Mike Dell Orfano emphasized Bill Stoughton's comment around being upfront about the long-term enforcements of the proposed age-restricted housing.

In response to a question from Tracie Adams, Chad Branon stated that he will need to relook at the landscaping proposed in the buffer now that the stormwater features have been moved out. The intent is to try to generate more shade for the jurisdictional wetland areas on site. Part of the CUP to the ACC was going to be an updated plan that specifically addresses buffer mitigation through the center of the project.

Brian Coogan stated that he had no comments at this time.

Dwight Brew extended his appreciation to the applicant for his effort to relocate the stormwater treatments out of the buffer areas.

Christy Houpis stated that he appreciates the proposed changes. He will re-watch this hearing, as he missed the beginning.

Public Comment:

Linda Sutherland, 32 Peacock Brook Lane, stated that she appreciates the adjustments made. She would also like to see an adjustment to the total number of units being proposed.

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In response to a question from Linda Sutherland regarding the traffic study, Nic Strong explained that the traffic study is part of the record for this application and can be found on the Town website.

Linda Sutherland asked how long this development would take to build from start to finish, noting her concerns with noise, dirt and commotion. Chad Branon explained that this will be a phased project. The applicant hopes to submit a complete application package for the Board's next meeting that will contain more information. This is proposed to be a four phased approach, entirely market-based. He has seen similar projects elsewhere take anywhere from three to eight years depending on the market conditions. The project will be phased so that construction and infrastructure will be completed in an orderly fashion.

Tom Quinn, 30 Christian Hill Road, asked that the Board consider if the proposed bonus units are really worthy of being approved. He also has questions about the mix of age-restricted and non-restricted housing being allowed within one development and what would happen if this was not feasible.

The Board discussed continuing the application and Chad Branon indicated that the applicant was willing to agree to an extension of the deadline for Planning Board action on this application until the March 3, 2021, meeting.

Mike Dell Orfano moved to table this application to March 3, 2021, at 7pm, via Zoom. Dwight Brew seconded.

Roll Call: Brian Coogan – aye; Mike Dell Orfano – aye; Chris Yates – aye; Dwight Brew – aye; Bill Stoughton – aye; and Tracie Adams – aye. Motion carried unanimously.

OTHER BUSINESS

3. Meeting Minutes: 12/16/20, 1/6/21

Bill Stoughton moved to approve the meeting minutes of December 16, 2020, as modified [Line 567 – Bill Stoughton abstained from the vote].

Roll Call: Brian Coogan – aye; Mike Dell Orfano – aye; Chris Yates – aye; Dwight Brew – aye; Bill Stoughton – aye; and Tracie Adams – aye. Motion carried unanimously.

Bill Stoughton moved to approve the meeting minutes of January 6, 2021, as modified [Line 187 – to change “this village” to “the west village”].

Roll Call: Brian Coogan – aye; Mike Dell Orfano – aye; Chris Yates – aye; Dwight Brew – aye; Bill Stoughton – aye; and Tracie Adams – aye. Motion carried unanimously.

4. Any other business that may come before the Board

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Arnie Rosenblatt explained that two outside independent reviews for the Clearview project's traffic and hydrogeological studies were reviewed with Ken Clinton, Meridian Land Services. The proposed hydrogeological study peer review included an assumption of time spent with the Board at a meeting. The other study mentioned an additional charge should there be any time spent with the Board. He noted that Ken Clinton didn't believe that there should need to be attendance at a Board meeting by the independent consultant. This appears to be at a standstill because the Board needs the applicant's blessing.

Christy Houpis explained that he assumed when requesting the consultant that the consultant would be available to speak to the Board and answer questions if need be.

Mike Dell Orfano noted that he cannot recall a time that the Board had a review consultant come in to speak to them. Typically, an outside consultant reviews the submitted studies for the process and methodology used. The independent consultant then reworks the conclusion and accepts/rejects the conclusion of the study. The independent consultant works for the Board as an irrefutable expert to determine if the information submitted meets the intent of the ordinances and is in the best interests of the Town.

Dwight Brew stated that he understands that Ken Clinton doesn't want to spend his client's money unnecessarily. He believes it would be reasonable to request a written report from the independent consultant and, if it doesn't stand alone, the Board would then have the ability to ask questions of the consultant.

Mike Dell Orfano stated that he believes this is a reasonable way to proceed. He also noted that, if the written report casts any doubts, Ken Clinton will likely know and want to hear from the consultant as well.

Bill Stoughton agreed with Dwight Brew.

Tracie Adams agreed with Dwight Brew.

Arnie Rosenblatt noted that one of the independent consultants stated that additional time with the Board would be an extra charge. The other independent consultant had the time included in the quote. He explained that the second consultant could be asked for their quote, minus the time spent additionally with the Board, as it is yet unclear if this will be necessary. This second quote was overall lower.

Nic Strong noted that the Board meeting on February 9, 2021, will start with a Non-Public Meeting and then move into Public Session, similar to this meeting.

Mike Dell Orfano moved to adjourn the meeting at 8:09pm. Tracie Adams seconded.

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346 **Roll Call: Brian Coogan – aye; Mike Dell Orfano – aye; Chris Yates – aye; Dwight**
347 **Brew – aye; Bill Stoughton – aye; and Tracie Adams – aye. Motion carried**
348 **unanimously.**

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352 Respectfully submitted,

353 Kristan Patenaude

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355 Minutes approved: February 9, 2021