

TOWN OF AMHERST
Planning Board

March 17, 2021

APPROVED

In attendance: Arnie Rosenblatt - Chair, Dwight Brew-Selectman Ex-Officio, Bill Stoughton, Mike Dell Orfano [7:32pm], Cynthia Dokmo, Marilyn Peterman, Brian Coogan [7:04pm], Tracie Adams [7:32pm] (Alternate), Chris Yates (Alternate), and Christy Houpis (Alternate).
Staff present: Nic Strong, Community Development Director; Natasha Kypfer, Town Planner; and Kristan Patenaude, Recording Secretary.

Arnie Rosenblatt called the meeting to order at 7:02 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 897 8112 7363, or by clicking on the following website address: <https://zoom.us/j/89781127363> 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; Marilyn Peterman; Christy Houpis; Chris Yates; and Arnie Rosenblatt; all alone and present.

March 17, 2021

APPROVED

*Chris Yates sat for Mike Dell Orfano, until he joined later in the meeting.
Christy Houpis sat for Brian Coogan, until he joined later in the meeting.*

PUBLIC HEARINGS

- 1. 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 – 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. Continued from February 17, 2021.**

Ken Clinton, Meridian Land Services, Erol Duymazlar, applicant and owner of Clearview Development Group, and John Callahan joined the Board. Ken Clinton explained that he received the third-party consultant materials for the traffic and hydrogeological studies. The traffic consultant requested an additional discussion with the applicant's traffic consultant, Stephen Pernaw. Ken Clinton explained that this application originally proposed 60 units, but due to topography, access points, etc., the proposal has been reduced and is now seeking 49 units in 36 buildings, including six Accessory Dwelling Units and seven senior duplexes. This is only five more units than the determined baseline value of 31 units. Ken Clinton explained that the applicant is seeking 25.94 bonus units from the Restrictions and Amenities incentives. These bonuses are not only appropriate per the formulae established in the ordinance, but also beneficial to the Town. When combined with the 31.25 baseline units, the total available units to the project are 57. The applicant is only seeking 49 units, which is essentially a voluntary reduction of 8 units, or 14% less. Ken Clinton stated that even if the Board thought that one of the categories was not deserving of 100% of the bonuses, the fractional differences should be accounted for in the eight unit reduction and anything more than that was egregious and without merit.

Ken Clinton stated that CUP condition C.1.E allows for impacts. It also allows for adverse impacts. It is only when they become significant adverse impacts that the Board can take issue. Any impacts should be considered by comparison to a more conventional subdivision, which does not include IIHO bonuses. He noted that the conventional approach on this property involved 31 units in a sprawling subdivision with an expensive through road that was very impactful. Ken Clinton stated that is not what the applicants are proposing. They are proposing compact, diverse housing for a wide variety of people. He also noted that the Town has implemented police, fire, recreation, road and school impact fees, which can be used by the Town to address any health, safety and general welfare issues, as it chooses.

Ken Clinton explained that, after the peer review consultant, VHB, refused to accept his phone call to work out the scope of the traffic peer review as instructed by the Board, VHB issued the peer review letter on March 1, 2021. Stephen Pernaw submitted a response to the VHB peer review on March 15, 2021, using the actual 49-unit count. Ken Clinton noted that the peer review consultant, VHB, had two limited scope items:

March 17, 2021

APPROVED

- 88
89 1) Technical Review of the methodologies employed to determine the validity and
90 accuracy of the study.
91 • Relative to traffic volumes by Comments 1 through 5. The Pernaw study was
92 found to be reasonable, and its methodology was acceptable and consistent
93 with standard traffic engineering practice.
94 ○ Ken Clinton stated that Steve Pernaw noted no response was required
95 for Comments 1-5.
96 • Relative to intersection analysis by Comments 6 & 7. It was noted that the
97 Pernaw study should have used a more recent edition of the Highway
98 Capacity Manual and should have relied more on the Syncro software
99 program results. The peer review consultant then chose to apply Comments 6
100 & 7 to tables 4 and 12, knowing full well that those tables were based on the
101 original Pernaw study having a combined 126 units, instead of the 49 units
102 specific to Clearview.
103 ○ Ken Clinton stated that Steve Pernaw applied Comments 6 & 7 to the
104 referenced tables using 49 units and noted that all but one intersection
105 is expected to operate below capacity with the Clearview project fully
106 occupied. The exception being Boston Post & Main, which is expected
107 to be over capacity in 2031 even without the Clearview project.
- 108 2) To the extent the Boston Post Rd / Main St intersection is deficient, what are your
109 suggested options to ameliorate the effect of the proposed development?
- 110 • Ken Clinton stated that the Peer Review Consultant ignored question 2.
111 • However, the Peer Review Consultant decided to include a few extraneous
112 comments which were not part of their scope of work.
113 • Comment 8 provided additional analysis on intersections which were not
114 requested to be reviewed, using data which was known by them to be erroneous
115 (61% greater than actual values).
116 ○ Ken Clinton stated that Steve Pernaw notes an increase of >10 second
117 delay during the 2031 AM peak hour at two intersections which will
118 be approaching capacity (Foundry & Boston Post and Amherst &
119 Boston Post). This indicates the delay estimates are not to be
120 considered accurate or are inconclusive.
121 • Comment 9 added unnecessary statements regarding all season safe sight
122 distance, knowing that this item cannot be addressed until the 'final' application
123 stage.
124 ○ Ken Clinton stated that Steve Pernaw notes that this will be a design
125 stage item.
126 • Comment 10 suggested the applicant should propose improvements at certain
127 intersections while knowing that they used erroneous data to reach that
128 conclusion.

TOWN OF AMHERST
Planning Board

March 17, 2021

APPROVED

129 ○ Ken Clinton stated that Steve Pernaw responded “The information
130 presented in the previous traffic study is no longer valid as the
131 TransFormations project is no longer before the Planning Board, and
132 the smaller Clearview Development project adds fewer than +40
133 vehicles during the AM and PM peak hour periods to the Village area.
134 Increases of this order of magnitude do not require mitigation: random
135 traffic flow from one day to the next accounts for more “impact” to the
136 Village intersections than does the proposed development”.

137 Ken Clinton noted that VHB’s Finding paragraph states, “In general, the traffic study was
138 developed in accordance with the Town of Amherst’s Department Regulations, NHDOT
139 Guidance and standard traffic engineering practice,” and goes on to say, “VHB recommends that
140 the applicant provide additional information related to intersection operational analysis
141 methodologies, improvements to offset the projects traffic impacts and clarification on available
142 sight lines at the proposed site roadways.”
143

144 Ken Clinton noted that Steve Pernaw’s concluding paragraph states, “In conclusion, the current
145 development proposal (49 dwellings) is considerably smaller than the plan analyzed in the
146 original traffic study. The analysis contained herein demonstrates that these 49 additional units,
147 consisting of single-family homes, accessory dwelling units and age-restricted units, will not
148 create a significant adverse traffic impact to the neighborhood, or within the Town of Amherst.”
149

150 Ken Clinton stated that Steve Pernaw also noted that the estimated 45 p.m. trips in the peak hour
151 were well below the commonly accepted threshold for conducting a traffic study which is 100
152 trips.
153

154 Ken Clinton stated that the hydrogeological peer review consultant, Stone Hill Environmental,
155 submitted a water assessment peer review letter on March 9, 2021, after a phone call took place
156 for the two to work out the scope, as directed by the Planning Board. No response to this peer
157 review was necessary on behalf of the applicant.
158

159 The selected Water Peer Review Consultant, Stonehill Environmental had three limited
160 scope items:
161

- 162 1. Technical Review of the methodologies employed to determine the validity and
163 accuracy of the study.
- 164 • Stonehill’s response is, “Based upon Stonehill’s review of these documents, it is
165 our opinion that the methodologies and assumptions employed by SH to complete
166 the Assessment were appropriate and contained sufficient data to reasonably
167 conclude that the groundwater withdrawals proposed at the Prew Purchase
168 Development are sustainable, even during the drought period as was experienced
169 this past summer.”

170
171 2. Provide opinion as to whether:

March 17, 2021

APPROVED

a. Wells for this development will adversely impact existing wells or groundwater resources?

- Stonehill states, "...due to the overall acreage of the site, as well as the significant acreage of undeveloped open space, there is little likelihood of measurable interference from the proposed residential water supply wells on nearby existing residential wells," and, "In general, due to the relatively small water withdrawal volumes for typical residential uses, such groundwater withdrawals seldom have a significant impact on water levels and water availability beyond the immediate area of the well..."

b. Concerns about the ability to support the new wells?

- Stonehill states, "... these soils should allow for adequate recharge of precipitation to support the proposed number of supply wells," and, "...it is generally accepted that up to 85% of groundwater withdrawn from a typical residential supply will be returned directly to subsurface soils and the water table as a result of discharges to on-site septic system leach fields."
- Stonehill did note however, that there was, "some concern regarding the possible density of supply wells to be installed within the single home portion," but followed up by saying, "...in rare cases, interference can occur...", and, "...if wells are interconnected by bedrock fractures..., it is often just as likely that such interconnection of fractures would also indicate a more permeable fracture zone within the bedrock, resulting in more abundant water availability along that zone."

3. Should the Board be worried about drought conditions as a matter of planning for the adequacy of groundwater in drought periods

- Although Stonehill alluded to the recent drought period in their opening supporting remarks, they may have intended the introduction of their irrigation recommendations as a means of addressing drought period conditions.

Ken Clinton noted that Stonehill also elected to include a few extraneous comments and recommendations which were not part of their scope of work, including:

- Advanced treatment septic systems
- Minimize percentage of impervious surfaces
- Utilize recharge enhancing features for surface drainage
- Manage discretionary water use
- Consider irrigation systems having state of the art monitoring
- Conduct well yield testing

Ken Clinton noted that as far as well yield testing was concerned, the developer has to provide a functioning and sufficient well and although the yield testing suggestion from Stonehill was interesting it was not appropriate to consider. Ken Clinton went on to say there was no need for Sanborn Head to follow up because Stonehill's review supported their findings.

March 17, 2021

APPROVED

Ken Clinton concluded by stating that Section 4.17 of the Planned Residential Development (PRD) Purpose Paragraph includes the following language:

“It is intended to encourage the preservation of open space and, at the same time, provide for a greater variety of housing types and affordability in the Town of Amherst at somewhat greater densities than permitted elsewhere in the Zoning Ordinance,” and, “The PRD should contain a variety of housing types to accommodate the Master Plan purposes of encouraging a diversity of people, a variety of age groups of different interests, backgrounds and economic levels.”

Ken Clinton stated that the applicant had checked every one of the required items and the self-imposed restriction down to 49 units indicated that they were not looking to develop to maximize their profits. He noted that the applicant is quite confident that if the Board follows the intent and plain language of the ordinance and applies the vast amount of application materials supplied and presented, the Board will find that the proposed 49 units are worthy of CUP approval. He asked that the Board consider each of the incentive bonus categories individually to arrive at the IIHO density, then apply the provided studies and other materials to reach the CUP decision, which may result in both ‘minimum’ and ‘up-to’ unit values. Ken Clinton noted that the "up to" number would be proved during the design of the subdivision in the final application stage.

Arnie Rosenblatt explained that the Board would ask questions or make comments, then the abutters and interested parties would be able to comment and then it would go back to the Board at which time there would be no further public comment.

Mike Dell Orfano & Tracie Adams entered the meeting at approximately 7:32pm.

Mike Dell Orfano noted that a standard grid subdivision, by right, could have 31 units on this property, each with its own accessory dwelling unit (ADU) allowed by right, for a total of 62 units. He noted that this proposal seems to be capping the number of units and ADUs that will be available on this property because no ADUs will be permitted in the PRD after the allowance including them now. He stated that if the development was approved without ADUs the applicant would have to come back to the Planning Board for a CUP, which is not true of a grid subdivision. He would still like to see one 2-bedroom ADU unit included in the plan. Mike Dell Orfano stated that he is confused as to why VHB used the larger number of units originally proposed for both Clearview and Jacobson in its peer review. He noted that this is actually okay in some ways, because it shows the Board what the impact will be when the Jacobson property is developed someday, however, it is not okay to put the maximum impacts of both these projects solely on Clearview.

Mike Dell Orfano noted that there seems to be some confusion in the VHB peer review, as different years of the Highway Capacity Manual are referenced (2016 and 2000). He explained that the VHB comment regarding the traffic software being used seems to be cherry-picking to make the report sound as adverse as possible. He doesn’t understand why a standard approach wasn’t used throughout, or why there is no explanation as to why different approaches seem to be used throughout. He also explained that the sight distance problem noted in the study is an issue throughout Town due to the maintenance as vegetation grows in.

TOWN OF AMHERST
Planning Board

March 17, 2021

APPROVED

Mike Dell Orfano explained that, in regard to the peer review water study, there were some extra comments made by Stonehill but, overall, there doesn't seem to be an issue with the groundwater supply for the number of units being proposed. He asked that the applicant consider monitoring sprinkler use on the property based on conditions so that irrigation does not take place when it is raining.

Mike Dell Orfano suggested that the Planning Board consider asking the Board of Selectmen to consider traffic management coordination efforts around the schools. He believes there could be significant improvements made to the existing conditions, at reasonable costs to the Town, if efforts can be coordinated.

Tracie Adams stated that the additional information provided by Stonehill was helpful. She still has concerns regarding the number of droughts that have occurred between the years of 2000-2020 (11). She asked that the applicant be attentive to the area water resources.

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

Marilyn Peterman asked what structure the development would take and if there would be condo ownership documents specifying the use of the premises. Ken Clinton stated that there will be two sets of condominium docs, one for the east village and one for the west village. Both villages will be controlled by a set of master covenants and restrictions. He stated that the east village would have less infrastructure to maintain in the senior housing section and the fees would likely not be the same as the west village.

In response to a question from Marilyn Peterman, Ken Clinton stated that condominium associations tend to manage themselves, but the applicant is willing to use a third-party to manage the age-verification on senior units in the east village.

Marilyn Peterman questioned if the applicant would consider using odd/even watering days versus monitoring wells. She believes it's easier to have restrictions when appropriate for the use of outside water in this method. She asked if the land would not be owned in common around the units. Ken Clinton stated that there will be limited common areas around the units. There will be small lots that the owner will have a hierarchy of rights to. He went on to say that during the next stage of design there would be some level of prohibition or restriction on water usage and the use of high-tech sprinkler systems.

Christy Houpis stated that he has concerns regarding the intersections mentioned, both short and long-term. He is disappointed that there wasn't more agreement and discussion between the applicant's traffic consultant and the peer review consultant, but both reports show that some of these intersections will fail. He did not think it appropriate to say that drivers can avoid the problem intersections. He noted that he was grateful that there appeared to be more alignment between the hydrogeological firms but was still concerned if there are many years of droughts and the number of units proposed.

TOWN OF AMHERST
Planning Board

March 17, 2021

APPROVED

Christy Houpis noted that the Town has repealed the IIHO and that reality cannot be ignored. The Board is being asked to look at the units and amenities proposed to determine if there is a benefit to the Town, while also determining if the bonuses proposed have impacts. He explained that the trails on the property aren't proposed to be connected but could be. He also does not believe that the applicant could place 62 units, including ADUs, on the property by right; he believes it would have to come before the Board.

Bill Stoughton stated that Steve Pernaw's traffic report noted a point of caution from the Highway Capacity Manual that "*if demand exceeds capacity during a 15-minute period, the delay results computed by the procedure may not be accurate.*" Bill Stoughton stated that his takeaway from that is that the delay may be less or more than indicated. Ken Clinton stated that the nature of the intersection and a delay or capacity issue on one approach did not mean that the other three sides would be at or over capacity. One of the four approaches could skew the numbers meaning the results could be lower or higher.

Bill Stoughton stated that, with regard to the water analysis he understood the offsite impacts and drought conditions were considered in the review and thought that both of those analyses were very professionally done. He did not know why anyone could differ from the conclusions in the report. Bill Stoughton stated that he appreciated Stonehill's thoughts regarding onsite impacts about well yield testing, septic system control of nitrates, and irrigation controls and limitations when necessary. He believes that the Board has a responsibility to look at those items as land is being developed.

Bill Stoughton stated that he has concerns about two of the intersections discussed, both at AM peak hours.

1) Boston Post Road and Foundry – Eastbound from Foundry. The delay is currently 19 seconds (Grade C). By 2031 without the Clearview development as proposed, it would increase to 72 seconds (Grade F); with the Clearview development as proposed, it would increase to 87 seconds (Grade F).

2) Boston Post Road and Main – Southbound from Boston Post Road. The delay is currently 8 seconds (Grade A). By 2031 without the Clearview development as proposed, it would increase to 21 seconds (Grade F); with the Clearview development as proposed, it would increase to 28 seconds (Grade F). He noted that with a queue increasing from 119 to 444 feet, the 2031 build scenario would have a queue reaching nearly to Foundry Street.

Bill Stoughton stated that his concern is not only the delay to residents using those roads, but also, the very real risk that emergency vehicles will be impaired and delayed, lowering standards of emergency response service to more households of the town. This is not all caused by Clearview; most is not from Clearview. But it is a problem the Board should be planning to address, not reacting to when it happens. If nothing is done, then he believes the proposed Clearview development would be "premature" within the meaning of the RSAs and Section 203.1 of the subdivision regulations. His goal is to avoid that situation and identify solutions when the applicant comes in with the subdivision plan.

TOWN OF AMHERST
Planning Board

March 17, 2021

APPROVED

Dwight Brew addressed a number of conditions that he would like considered as part of the approval of this application: 1) that the open space proposed remain as presented; 2) that the net tract area remain as presented; 3) that the Best Management Practices in terms of water and septic be used as recommended; 4) in terms of traffic, he agrees with Bill Stoughton that a solution needs to be found and that he would like to make sure that the developer is amenable to share in any offsite improvements needed; 5) to include third-party oversight of senior housing, as was proposed by the developer; 6) to include the restriction of future ADUs on this property.

Cynthia Dokmo stated that she is a proponent of diverse housing - low income, elderly, smaller and more affordable housing which would allow teachers and seniors, for example, to live in town. She does not believe that small houses devalue abutting homes. She noted that the Village contains both large and small houses right next to each other and under current zoning, that type of mix could not be created today. She believes the proposal is a step in the right direction toward giving people different housing options in Town.

Cynthia Dokmo stated that she has a concern regarding the wells on the property. She would like the developer to reduce the negative impacts on surrounding wells as much as possible.

In regard to traffic, Cynthia Dokmo noted that Bill Stoughton's earlier suggestion that the development might be considered "premature" would then mean that the Town is under the obligation to fix the specific condition. She believes the Town should work to fix the issues at these intersections.

Cynthia Dokmo said that she was not crazy about the number of units being proposed and would like to see fewer, but she would rather see what is being proposed than 31 standard houses on this property.

Chris Yates asked what testing would be used to assure a minimum well yield. Ken Clinton explained that the applicant will not be able to get a Certificate of Occupancy without meeting the volume and quality testing required by the State when drilling wells for minimum well yield. He stated that if the well is drilled to 200' and there is no water, drilling will continue until water is found. Or the site could be moved over 100' and tried again. He stated that if no water was found then no house could be constructed there. Ken Clinton stated that the peer reviewer's suggested protocol was above and beyond what was appropriate.

Chris Yates stated that he has a concern regarding the fact that nine dwellings are proposed to run off one well. He explained that there must be a minimum number of gallons of water of recharge needed to support this proposal. He wanted to make sure the bare minimum is not being proposed for this. Ken Clinton explained that shared wells have storage options. During off peak times, unused water can be used to fill these storage tanks for extra capacity later.

Chris Yates stated that he likes the condo side of the proposed houses. He does have a concern about the number of standalone houses proposed. He would prefer there to be a smaller number of houses, or houses of smaller sizes.

TOWN OF AMHERST
Planning Board

March 17, 2021

APPROVED

Arnie Rosenblatt stated that the Board would now hear from the public, pointing out that no Board members had yet commented on the CUP or the bonuses. This is to be the public's only opportunity to ask questions and comment.

Public Comment:

Tim Morgan, 23 Pendleton Farms, stated that he was pleasantly surprised that the applicant agreed to voluntarily reduce the proposed number of units from 66 to 49. Living in Pendleton Farms, he enjoys being able to walk within his community and see people from his neighborhood and other neighboring communities. He likes the idea of a development that people can come in and enjoy. He is also happy to see the amount of open space proposed to be preserved.

Jim Hendrix, 44 Christian Hill Road, noted that midsummer is the worst time to draw water from the area for irrigation systems. He knows many people in this area that have suffered regeneration issues. He reminded the Board about the testimony of the previous crossing guard who stood at the intersection of Boston Post Road and Foundry Street; that the traffic there during peak hours was pure chaos. He stated that these intersections are already in rough shape. Adding 49 units to this area at approximately 7.5 trips/day, will lead to approximately 360 additional trips/day. He believes that the traffic impact should be considered an adverse impact to the Town.

Kelly Mullins, 48 Christian Hill Road, stated that it is not only the traffic, but also the children walking in this area, that need to be considered for safety concerns. If drivers become impatient, which could happen with additional traffic, there could be a tragedy.

Martin Rowley, 8 Old Mont Vernon Road, stated that he was disappointed to not see the differences between 31 standard units and the 49 proposed, in terms of traffic impacts. He noted that it will be difficult for people who do not live in this development to go in and walk around. He believes it is optimistic to think people will go to walk there because there is no sidewalk to get them there. He stated that he believes smaller homes do affect abutter values if they are of an unlike size or quality.

Mike Akillian, 10 Old Mont Vernon Road, stated that he believes any homeowner can apply to put an ADU on their home. He questioned if it is correct to say that this application would disallow additional ADUs being built on this property.

Arnie Rosenblatt stated that he is unclear as to what the ordinance says about the ADU issue. There are also many different interpretations as to what the ordinance says. Arnie Rosenblatt asked Mike Akillian to address his question regarding ADUs directly to a Board member.

Mike Dell Orfano stated that the CUP criteria note that any change to the site plan that changes density requires the applicant to come back to the Board. Thus, additional ADUs would not be allowed without coming back to the Board.

TOWN OF AMHERST
Planning Board

March 17, 2021

APPROVED

In response to a question from Mike Akillian, Mike Dell Orfano stated that an owner is allowed, by right, to put a 2-bedroom ADU on his/her home. As part of a CUP development, like this one, if an owner wants to put an additional ADU onto a unit, s/he must go to the Community Development Office and apply for a CUP to do so.

Mike Akillian stated that there seems to be confusion regarding the ADU issue. He also noted that he was unclear that he needed to pose his questions directly to a Board member.

Cynthia Dokmo stated that the condo docs could limit the number of ADUs approved on the property. The condo docs can limit many rights of the development.

Arnie Rosenblatt stated that there are many different opinions regarding interpreting the ordinances. He believes it is hard to answer this question definitively, which is why he is hesitating to answer it.

Tom Quinn, 30 Christian Hill Road, noted that it has been stated that the applicant can have 31 units on the property by right, and that if each added an ADU, it would total 62 potential units. He asked the Board to question what percentage of homes in Town currently have ADUs. Possibly 10%. Thus, if only 10% of the units in this proposed development with the 31 standard units put on ADUs, the total number would still be well below 49. He believes stating this is a scare tactic, as adding ADUs to each unit is just not the way it is in Amherst. He stated that any development would contribute to the traffic choke in the center of Town. If the Board is considering handing out bonus density to this proposed development, he asked that it consider the potential impacts on areas of Town. In terms of water, he asked if it was possible to demand that the applicant run public water to the development. He noted that there have been two major droughts in the last five years, and that droughts may get worse due to climate change.

Arnie Rosenblatt noted that there was no further public comment.

Mike Dell Orfano moved to approve the subdivision for up to 50 units, with one of the proposed ADUs being a 2-bedroom unit, instead of a 1-bedroom unit. Marilyn Peterman seconded.

Discussion:

Chris Yates noted that he would like a condition that there be no additional ADUs allowed in the proposed condo association other than the proposed six.

Bill Stoughton stated that he stands by his calculation from the last Board meeting, which came out to 39 units and he did not agree with 50 units. He noted that he would like the conditions proposed earlier by Dwight Brew to be included. He would also like his following conditions to be included:

A. The Board may require a downward reduction in the number of units at the time of future conditional use permit or site plan reviews for any of the following reasons:

March 17, 2021

APPROVED

1. If the bases for bonus requests or the proposals or representations of the applicant in its written materials and discussion before this board are changed.

2. If the board's detailed site plan review or any associated studies or engineering reviews identify detrimental impacts to the town that offset some or all of the benefits supporting the bonus unit awards herein.

3. If subsequent applications fail to comply with applicable law, ordinance or regulation, or if relief is sought from other town ordinances or regulations in order to accommodate the increased density allowed.

4. For any other reason required or permitted by law, ordinance, or regulation.

B. The Board's action addresses density only and does not constitute acceptance of Applicant's depiction of site features that are subject to review in later applications including, but not limited to, wetland crossings and road designs.

C. At the time of subdivision application, the applicant shall propose well yield protocols, septic system nitrate controls or analysis, and irrigation controls and limitations consistent with those identified in the Stonehill Environmental letter of March 9, 2021, or shall offer rationale for any differences.

D. At the time of subdivision application and following due consultation with the town Department of Public Works, the applicant shall address potential off-site improvements to alleviate traffic delay, capacity, and queuing issues at the intersections of Boston Post Road and Foundry and Main Streets.

In response to a question from Arnie Rosenblatt, Bill Stoughton stated that he would like to incorporate some of his comments from the Board's February 17, 2021, meeting, regarding how he calculated 39 units.

Brian Coogan had no comments at this time.

Marilyn Peterman stated that she would like Bill Stoughton to restate his comments from the previous meeting because it was hard to recall what he had said. She did remember that Bill Stoughton did not think that single floor units were necessary or deserving of bonuses, but she thought that single-floor units are very important in this Town for condos, rentals, and 55+. If a motion looks to get rid of the bonuses associated with single-floor units, she will not agree with it. She added that many of the proposed conditions are items that are generally reviewed during the site plan phase of the application. She does not understand the need for the repetition.

Arnie Rosenblatt asked Bill Stoughton to review his comments from the previous meeting to make sure they are included in the record for this meeting.

Bill Stoughton reiterated his comments from the February 17, 2021, meeting, beginning on Line 445 of those minutes:

March 17, 2021

APPROVED

Bill Stoughton stated that his view of the ordinance is that each Board member must determine if each proposed bonus is of a benefit to the Town. The Board may not award density bonuses without hearing a commensurate benefit to the Town, in an exercise of judgment and discretion. A determination of some marginal benefit does not entitle the applicant to the maximum bonus in the category. Rather, the magnitude of the bonus must correspond to the degree of benefit conferred to the town. This is necessarily an exercise of discretion. Thus, if a density bonus of 5 units is requested, but the Board finds that it only merits a bonus of 2 units, only 2 bonus units will be granted.

Bill Stoughton stated that he has not in his analysis worried about “double-dipping” rules between categories. Rather, he has exercised discretion in evaluating the degree of benefit conferred to the Town and made reductions commensurate with those benefits. If the benefit nominally conferred to the Town in a bonus category is already recognized in a different bonus category and no new additional benefit is conveyed, then he has awarded bonus units only in one category.

Bill Stoughton stated that there are a number of beneficial aspects to this development:

- 1. Clustering, reducing the amount of impervious cover, including open space*
- 2. The creation of two separate but connected communities is a good design*
- 3. Preservation of open space and trails/trail connectivity with a conservation easement*
- 4. 55+ housing, and monitoring of compliance with the requirements for maintaining 55+ housing, is done well.*

However, Bill Stoughton noted that still has concerns that lead him to conclude not all the bonus units sought should be awarded. He would award bonus units as follows:

- 1. Over 55 – 2.7 bonus units.*
- 2. Attached housing – 1.4 bonus units. There is benefit to the Town in having housing stock that is attached, as in the condominium village, such as reduced impervious cover and increased energy efficiency.*
- 3. Single floor units, Handicap, 2-bedroom units in 55+ condo units – 0 bonus units total. There is insufficient additional benefit to the Town from these features beyond the benefit already represented in the 55+ and attached housing bonuses. These units are not available to a buyer under age 55, in which case there might have been some additional benefit to the Town.*
- 4. Single Bedrooms in ADUs – 0 bonus units total. The ADU is controlled by the owner of the house and Marilyn Peterman stated herself in a previous meeting that one-bedroom units are not marketable. Bill Stoughton stated that, unless the owner rents the units, they are not available, and the Planning Board cannot control that. He did not see that as a significant benefit.*

March 17, 2021

APPROVED

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568 *5. Walkability, Community Space Open to Public, and Open Space Under*
569 *Restrictive Covenant – 6 bonus units total. He has considered these together*
570 *because the trail network is the justification for the walkability bonus, and for*
571 *the community space open to the public. There are no sidewalks proposed*
572 *within the two villages, and no community space other than the conserved open*
573 *space. The majority of the benefits are realized only because of the presence of*
574 *the open space under restrictive covenant and, in his judgment, a bonus of 6*
575 *units fairly matches the bonus to the total benefit to the Town.*

576

577 *Bill Stoughton noted that he still has other concerns, regarding traffic, and*
578 *groundwater. Even if ultimately acceptable, and he has not concluded they will*
579 *be, the bonus units will contribute to increased traffic through the village and*
580 *will place demands on groundwater, which several residents have identified as a*
581 *concern. This reduces the overall benefit to the Town and, in his view, must be*
582 *accounted for by a reduction of bonus units. Thus, he would reduce the amount*
583 *by 2 bonus units. This all equates to 8 total bonus units, for an approval of up-*
584 *to 39 units.*

585

586 **Bill Stoughton noted that he does not think there is not value in single-floor units,**
587 **but he believes the benefit for this bonus is already being filled through the senior**
588 **housing units. There is no additional benefit to the Town from the single-floor units.**

589

590 **Marilyn Peterman noted that 1-bedroom units, as a rule, are configured in a certain**
591 **way. The same unit could have one-bedroom and a study or an office. She noted that**
592 **having trails open to the public is very beneficial. There are very few sidewalks in**
593 **Town, and what is proposed will be a benefit to walkers/runners. She believes the**
594 **requested bonus for walkability is valid for that reason.**

595

596 **Cynthia Dokmo stated that she would not support the motion for up-to 50 units, as**
597 **she believes that is too many. She also believes that the up-to number from Bill**
598 **Stoughton is too low. She would like to see the number of units in the middle of**
599 **those two suggestions and more bonuses awarded for the open space and amenities**
600 **proposed.**

601

602 **Dwight Brew stated that he will vote against the proposed motion due to the lack of**
603 **conditions and the raw number it presents. He would like to see a new motion with**
604 **the restrictions Bill Stoughton presented, along with conditions for third-party**
605 **oversight of senior housing units, and the explicit limitation on additional ADUs in**
606 **the future. Dwight Brew noted that he differentiated between "homeowner ADUs"**
607 **and "condo association ADUs," noting that in the case of this proposal the**
608 **homeowner would not own the land where a new ADU would go.**

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March 17, 2021

APPROVED

Dwight Brew next noted that while he may not like the bonus density for senior, attached, single floor, ADA compliant, one-bedroom and two-bedroom, the IIHO allows for them and he would not reduce them. He believes that the number of bonus units proposed for the walkability, open space open to the public, and open space under restrictive covenants is excessive as proposed at 17. He thought it was using the same thing to get all three credits. Dwight Brew stated that he looked at the highest number which was 7.81 for community open space open to the public and thought that was applicable but thought that walkability and open space under covenants was not applicable. Accordingly, Dwight Brew's up-to number would be somewhere between 45-47 units and he could support 45 or 46 with additional restrictions.

Mike Dell Orfano stated that the ACC is proposing a \$6M bond in order to buy more open space in Town. He is unclear as to why Bill Stoughton, as an ACC Alternate member, is against this project's proposal for open space and the associated bonuses. He noted that there is a huge market for single-floor units. A recent study completed by the Nashua Regional Planning Commission (NRPC) found a deficit of approximately 500 units for affordable housing in Town. The proposed ADUs of this project could allow a chance for more affordable housing in Town. There is not a large market for handicap units, but there is a need for ADA compliant units in order to accommodate wheelchair-bound people, etc. The intent of the IIHO was to build in these housing needs, and not simply more "McMansions," which are unaffordable to many young families. The IIHO also looks to retain seniors in Town and attract a younger working group. There is a clear deficit for these types of homes in Town, and he believes this application meets those needs.

Christy Houpis stated that he would prefer to vote on Bill Stoughton's motion that was made during the February 17, 2021, Board meeting for this application. He appreciates the efforts of the applicant, but also appreciates the concerns regarding the traffic, water, and density issues of this proposed project. He would prefer a compromise between the up-to numbers of 50 units and 39 units.

Tracie Adams stated that she would support an up-to number of closer to 42 units by her calculations. She is okay with there being one proposed ADA-compliant unit. She believes the open space and walkability bonus categories should be combined. She has no issues with Dwight Brew and Bill Stoughton's proposed conditions, noting that septic requirements can be resolved later.

Arnie Rosenblatt stated that there seems to be a disagreement about if bonus units are a matter of right, if certain conditions are met. In his opinion this is not true and the applicant has the absolute burden to satisfy if there is a benefit to the Town for each and every bonus proposed. He believes that the discussion about ADUs being by-right for each unit, if this was a standard subdivision, is a red herring and does

March 17, 2021

APPROVED

not carry weight. Arnie Rosenblatt believes the conditions set forth by Dwight Brew and Bill Stoughton seem logical, and the up-to numbers presented by Bill Stoughton and Tracie Adams are closer to what he would agree to approve.

Mike Dell Orfano stated that he would be willing to modify his motion to include Dwight Brew's conditions regarding third-party oversight of the senior housing units, and restrictions for future ADUs. However, he still believes that the 49-unit number presented by the applicant is reasonable.

In response to a question from Mike Dell Orfano, Nic Strong explained that once the Board approves a CUP and subdivision for the project, any increase in density past the number given would require Board action.

Mike Dell Orfano stated that, unless the applicant were to build on a surrounding parcel of land, the up-to number given by the Board is all that can be built on the parcel.

Arnie Rosenblatt stated that he is uncomfortable stating unequivocally that items regarding the law are final.

In response to a question from Mike Dell Orfano regarding the future site plan review of this project and Bill Stoughton's conditions, Nic Strong explained that this application will be for a subdivision application and that she could not recall all of Bill Stoughton's proposed conditions to be able to comment on them.

Mike Dell Orfano requested that Bill Stoughton relist his proposed conditions.

Bill Stoughton restated his conditions:

A. The Board may require a downward reduction in the number of units at the time of future conditional use permit or site plan reviews for any of the following reasons:

1. If the bases for bonus requests or the proposals or representations of the applicant in its written materials and discussion before this board are changed.
2. If the board's detailed site plan review or any associated studies or engineering reviews identify detrimental impacts to the town that offset some or all of the benefits supporting the bonus unit awards herein.
3. If subsequent applications fail to comply with applicable law, ordinance or regulation, or if relief is sought from other town ordinances or regulations in order to accommodate the increased density allowed.
4. For any other reason required or permitted by law, ordinance, or regulation.

March 17, 2021

APPROVED

Mike Dell Orfano asked Bill Stoughton to clarify the language on his bullet #4, as it seems vague. Bill Stoughton stated that hours had been spent on another application arguing whether or not the density could be reduced at the subdivision stage, and that he was told that it could not. Bill Stoughton intends to make it clear with this approval that the Board can reconsider density at the subdivision stage under certain conditions. Mike Dell Orfano stated that he needed to narrow any arbitrary or capricious activity by the Board and asked for an example of what Bill Stoughton is trying to achieve with this condition.

Bill Stoughton stated that this condition is not arbitrary or capricious because it is only listing any other reason permitted by law, ordinance or regulation. He noted that he added this condition as a “catch-all,” for anything that might come up that he cannot think of right now.

Mike Dell Orfano questioned how, if an item is allowable by law, it would warrant a future reduction in the number of units. Bill Stoughton stated that would depend on the law; thus, why this item is a “catch-all.”

Mike Dell Orfano noted that if the project is not proposed to be built to Town standards, the application will not be approved. Bill Stoughton explained that today’s hearing deals only with the density of the project. His conditions are designed to cover items that may currently be on the plan, but that the Board may also still want to review and not be obligated to in the future. He noted, for instance, that the staff report indicated that the road design should comply with Town regulations for road construction, and he wanted to preserve the Board’s ability to resolve that later on. Bill Stoughton did not want to be in a position where because something was shown on the current plans a certain way, the Board would be forced to accept it later. He reiterated that this discussion was only about the density at this time.

Dwight Brew noted that the conversation currently seems to be a negotiation between two Board members. He would rather the Board vote on the motion at hand. This does not seem efficient.

Arnie Rosenblatt stated that he would normally agree with Dwight Brew, but in this case, he sides with Mike Dell Orfano and Bill Stoughton. He believes that Mike Dell Orfano is trying to rearticulate a motion with Bill Stoughton’s conditions.

Mike Dell Orfano stated that he has no issues with Dwight Brew’s proposed conditions, but he believes Bill Stoughton’s conditions are slightly ambiguous and he is trying to tighten up the language.

Bill Stoughton ran through the rest of his previously articulated conditions:

March 17, 2021

APPROVED

C. The Board's action addresses density only and does not constitute acceptance of Applicant's depiction of site features that are subject to review in later applications including, but not limited to, wetland crossings and road designs.

D. At the time of subdivision application, the applicant shall propose well yield protocols, septic system nitrate controls or analysis, and irrigation controls and limitations consistent with those identified in the Stonehill Environmental letter of March 9, 2021, or shall offer rationale for any differences.

E. At the time of subdivision application and following due consultation with the town Department of Public Works, the applicant shall address potential off-site improvements to alleviate traffic delay, capacity, and queuing issues at the intersections of Boston Post Road and Foundry and Main Streets.

Mike Dell Orfano noted that the Town is now able to charge impact fees to applicants and that he is unclear if item E is allowing the Board to charge additional fees to the applicant at a later time. Bill Stoughton stated that the condition is meant to not preclude a future Board from seeking future investments in offsite improvements. The applicant will only be charged for his/her proportionate share. Mike Dell Orfano stated that he is concerned that this condition will enable the Board to add additional costs to the developer down the road for offsite improvements. Bill Stoughton noted that the Board can do this under current laws.

Mike Dell Orfano moved to approve the application for up-to 49 units, subject to the 5 conditions just discussed (the first three of Bill Stoughton's and Dwight Brew's two). Dwight Brew seconded.

Discussion:

Marilyn Peterman noted that one of Bill Stoughton's conditions references the Stonehill Environmental letter. This letter promotes that company's own well yield test protocol. She has an issue with that letter being referenced, but the applicant using the State regulations for well yield protocols.

Mike Dell Orfano agreed to amend his motion to strike reference of that letter in this condition from Bill Stoughton. Dwight Brew seconded.

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

Brian Coogan suggested that the next motion consider splitting the difference of the suggested up-to numbers, to be up-to 44 units.

Arnie Rosenblatt stated that he is not okay with using a number that simply splits the difference. The number that he prefers will be what he believes the applicant has satisfied its burden to.

March 17, 2021

APPROVED

Bill Stoughton suggested that he would make a motion that includes all of the proposed conditions.

Nic Strong noted that the Board has not gone through all of the items in the CUP Section 3.18 yet. The Board needs to grant the CUP by stating that the criteria in Section 3.18 have been satisfied.

Bill Stoughton stated that he would include the Section 3.18 criteria as part of his motion to approve. He also proposed deleting his “catch all” condition as previously proposed. Arnie Rosenblatt asked why Bill Stoughton was proposing to delete this condition. Bill Stoughton noted that this was only a “catch all” item and that a motion needs votes in order to pass.

Bill Stoughton moved to approve Case # PZ13107-090920 for JEP Realty Trust & Robert H. Prew Revocable Trust (Owners) & Clearview Development Group (Applicant), for a Conditional Use Permit for a Planned Residential Development under the Integrated Innovative Housing Ordinance, at 38 New Boston Road and Boston Post Road, Map 7 Lot 72 and Map 5 Lot 159-1, as the proposed IIHO development complies with the Zoning Ordinance, including the specific provisions and standards of Section 3.18 of the Ordinance regarding Conditional Use Permits and Section 4.16 regarding IIHO projects, for a maximum of 39 units which may be subject to change during any required subdivision/site plan review process and the details that may be determined with regard to such things as, but not limited to, road design and construction, drainage constraints, septic capabilities, water resources, and so on, with the following conditions:

CONDITIONS PRECEDENT:

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

- 1. Submission of plans that include all the details determined by the Planning Board to be required.**
- 2. No lot shown on a plan for which a permit is granted under this ordinance may be further subdivided and a note to this effect shall be placed on the Final Plan.**
- 3. The mix of housing types, number of dwelling units and structures, and the number of bedrooms for each dwelling unit shall be determined at the Final Review and be noted on the Final Plat.**
- 4. As a condition of final approval, the applicant must obtain the Board’s approval of the external architectural design of the PRD to ensure that it complies with the goals of harmonious existence with the neighborhood and the environment as stated in the paragraph on PURPOSE at the beginning of this ordinance (4.17). The approval of the architectural design shall be a part of the Final Review approval.**
- 5. Execution of a Development Agreement or other similar instrument specifying the phasing, timing and sequence of the improvements contained**

March 17, 2021

APPROVED

- 829 within the IIHO project; the performance guarantees relating thereto;
830 actions to mitigate development impacts; and any other information and
831 commitments the Board deems necessary to ensure the successful completion
832 of the project as proposed and approved, including all mitigation
833 commitments. A copy of the signed agreement shall be recorded at the
834 HCRD at the applicant's expense. The Development Agreement shall require
835 Town Counsel review at the applicant's expense.
- 836 6. The Board may require a downward reduction in the number of units at the
837 time of future Conditional Use Permit or Subdivision/Site Plan Reviews for
838 any of the following reasons:
- 839 1. If the bases for bonus requests or the proposals or representations of
840 the applicant in its written materials and discussion before this Board
841 are changed.
 - 842 2. If the Board's detailed Subdivision/Site Plan Review or any associated
843 studies or engineering reviews identify detrimental impacts to the
844 town that offset some or all of the benefits supporting the bonus unit
845 awards herein.
 - 846 3. If subsequent applications fail to comply with applicable law,
847 ordinance or regulation, or if relief is sought from other town
848 ordinances or regulations in order to accommodate the increased
849 density allowed.
- 850 7. The Board's action addresses density only and does not constitute acceptance
851 of the applicant's depiction of site features.
- 852 8. At the time of Subdivision Application, the applicant shall propose well yield
853 protocols, septic system nitrate controls or analysis, and irrigation controls
854 and limitations consistent with those identified in the Stonehill
855 Environmental letter of March 9, 2021, or offer rationale for any differences.
- 856 9. At the time of Subdivision Application and following due consultation with
857 the Town Department of Public Works, the applicant shall address potential
858 offsite improvements to alleviate traffic delay, capacity, and queuing issues at
859 the intersections of Boston Post Road and Foundry and Main Streets.
- 860 10. The applicant shall provide for third party oversight and monitoring of the
861 age restrictions in the 55+ housing section of the development.
- 862 11. The applicant shall provide in its condominium documents that additional
863 Accessory Dwelling Units beyond those approved herein are not permitted.
- 864 12. Payment of any outstanding fees for the Conditional Use Permit application,
865 including any fees for recording at the HCRD.

866
867 **CONDITIONS SUBSEQUENT:**

868 The following conditions subsequent shall be met during construction and on an
869 ongoing basis.

- 870 1. The open space shall be held in common, equally, by all the owners of the
871 PRD. All the open space shall be readily accessible to all the residents of the
872 PRD and such open space shall be retained in perpetuity for one or more of

March 17, 2021

APPROVED

the following uses: conservation, agriculture, recreation or park. No building or construction whether it be structures or septic systems shall take place in the open space. Harvesting of trees in the open space is permitted if it is done according to good forestry practice and with the expressed permission of the Planning Board.

2. The applicant shall file a Non-Residential Site Plan Review application in accordance with the "Non-Residential Site Plan Review Regulations" with the Amherst Planning Board, if needed, along with a Subdivision Application, and any other applications as necessary.
3. The applicant shall comply with all of the Town of Amherst's Zoning Ordinance, Subdivision Regulations, Non-Residential Site Plan Review Regulations and Stormwater Ordinance.
4. This approval is based upon the plans, specifications and testimony submitted to the Planning Board. Any alterations, additions or changes to the plans are not authorized and may require additional Planning Board approval.
5. In the event that field conditions, building plan modifications or requirements of the Town of Amherst or any other governmental authority necessitate changes to the IIHO project, a detailed written description of such changes shall be submitted to the Board. The Board shall determine whether such changes warrant further review by the Board. If the Board determines that such changes require review and amendment of the Conditional Use Permit, then the petition to amend the IIHO project Conditional Use Permit shall be subject to the notice and public hearing requirements as set forth in Section 202.1 of the Subdivision Regulations and in applicable law.
6. Substantial construction must commence within one year of the Planning Board approval of the Conditional Use Permit and Site Plan Approval.
7. If construction is not commenced within this period, the Conditional Use Permit approval may be extended for up to one additional year upon approval of the Amherst Planning Board. If construction is not commenced within this extended period, the Conditional Use Permit is declared null and void.
8. Actions sufficient to vest an approval for a Conditional Use Permit include site plan approval, subdivision approval, issuance of a building permit authorized under the Conditional Use Permit. However, should any site plan or subdivision approval or building permit granted under an approved IIHO Conditional Use Permit expire unused after the conclusion of the two-year validity period provided for herein, said Conditional Use Permit shall become void as well.

Mike Dell Orfano seconded.

Discussion:

March 17, 2021

APPROVED

Mike Dell Orfano asked why Bill Stoughton had eliminated the ADUs from the plan. Bill Stoughton stated that his motion does not propose to eliminate the proposed ADUs, but simply does not give bonuses for them, as they are already proposed in the up-to count.

Christy Houpis stated that he agrees with the proposed motion and conditions. He believes that Bill Stoughton's math is correct and supportable.

Tracie Adams stated that she supports the motion as presented. She believes the lower up-to number supports the continued concerns regarding traffic and water.

Dwight Brew stated that his only concern with the motion is the up-to number.

Cynthia Dokmo agreed that she believes the proposed up-to number is low.

Marilyn Peterman stated that she agrees with Dwight Brew's proposed up-to number. She cannot support Bill Stoughton's proposed up-to 39-unit number. She believes this is irresponsible given the developer's work up to this point on this project.

Brian Coogan stated that he had no comments.

Chris Yates stated that he supports the motion as stated.

Roll call: Mike Dell Orfano – nay; Brian Coogan – aye; Marilyn Peterman – nay; Cynthia Dokmo – nay; Dwight Brew – nay; Bill Stoughton – aye. 2-4-0; motion failed.

In response to a question from Mike Dell Orfano, Dwight Brew stated that his up-to number would probably be around 45 units, but that he was not positive he would vote on a motion with that number included. Dwight Brew stated that he would not feel comfortable with a number 45 or above.

Cynthia Dokmo stated that, in looking at reducing the number of bonus units given for walkability and open space, her up-to number would probably be around 44 units.

Mike Dell Orfano moved to approve Case # PZ13107-090920 for JEP Realty Trust & Robert H. Prew Revocable Trust (Owners) & Clearview Development Group (Applicant), for a Conditional Use Permit for a Planned Residential Development under the Integrated Innovative Housing Ordinance, at 38 New Boston Road and Boston Post Road, Map 7 Lot 72 and Map 5 Lot 159-1, as the proposed IIHO development complies with the Zoning Ordinance, including the specific provisions and standards of Section 3.18 of the Ordinance regarding Conditional Use Permits and Section 4.16 regarding IIHO projects, for a maximum of 44 units which may be

March 17, 2021

APPROVED

subject to change during any required subdivision/site plan review process and the details that may be determined with regard to such things as, but not limited to, road design and construction, drainage constraints, septic capabilities, water resources, and so on, with the following conditions:

CONDITIONS PRECEDENT:

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

1. Submission of plans that include all the details determined by the Planning Board to be required.
2. No lot shown on a plan for which a permit is granted under this ordinance may be further subdivided and a note to this effect shall be placed on the Final Plan.
3. The mix of housing types, number of dwelling units and structures, and the number of bedrooms for each dwelling unit shall be determined at the Final Review and be noted on the Final Plat.
4. As a condition of final approval, the applicant must obtain the Board's approval of the external architectural design of the PRD to ensure that it complies with the goals of harmonious existence with the neighborhood and the environment as stated in the paragraph on PURPOSE at the beginning of this ordinance (4.17). The approval of the architectural design shall be a part of the Final Review approval.
5. Execution of a Development Agreement or other similar instrument specifying the phasing, timing and sequence of the improvements contained within the IIHO project; the performance guarantees relating thereto; actions to mitigate development impacts; and any other information and commitments the Board deems necessary to ensure the successful completion of the project as proposed and approved, including all mitigation commitments. A copy of the signed agreement shall be recorded at the HCRD at the applicant's expense. The Development Agreement shall require Town Counsel review at the applicant's expense.
6. The Board may require a downward reduction in the number of units at the time of future Conditional Use Permit or Subdivision/Site Plan Reviews for any of the following reasons:
 1. If the bases for bonus requests or the proposals or representations of the applicant in its written materials and discussion before this Board are changed.
 2. If the Board's detailed Subdivision/Site Plan Review or any associated studies or engineering reviews identify detrimental impacts to the town that offset some or all of the benefits supporting the bonus unit awards herein.
 3. If subsequent applications fail to comply with applicable law, ordinance or regulation, or if relief is sought from other town

March 17, 2021

APPROVED

- ordinances or regulations in order to accommodate the increased density allowed.
7. The Board's action addresses density only and does not constitute acceptance of the applicant's depiction of site features.
 8. At the time of Subdivision Application, the applicant shall propose well yield protocols, septic system nitrate controls or analysis, and irrigation controls and limitations consistent with those identified in the Stonehill Environmental letter of March 9, 2021, or offer rationale for any differences.
 9. At the time of Subdivision Application and following due consultation with the Town Department of Public Works, the applicant shall address potential offsite improvements to alleviate traffic delay, capacity, and queuing issues at the intersections of Boston Post Road and Foundry and Main Streets.
 10. The applicant shall provide for third party oversight and monitoring of the age restrictions in the 55+ housing section of the development.
 11. The applicant shall provide in its condominium documents that additional Accessory Dwelling Units beyond those approved herein are not permitted.
 12. Payment of any outstanding fees for the Conditional Use Permit application, including any fees for recording at the HCRD.

CONDITIONS SUBSEQUENT:

The following conditions subsequent shall be met during construction and on an ongoing basis.

1. The open space shall be held in common, equally, by all the owners of the PRD. All the open space shall be readily accessible to all the residents of the PRD and such open space shall be retained in perpetuity for one or more of the following uses: conservation, agriculture, recreation or park. No building or construction whether it be structures or septic systems shall take place in the open space. Harvesting of trees in the open space is permitted if it is done according to good forestry practice and with the expressed permission of the Planning Board.
2. The applicant shall file a Non-Residential Site Plan Review application in accordance with the "Non-Residential Site Plan Review Regulations" with the Amherst Planning Board, if needed, along with a Subdivision Application, and any other applications as necessary.
3. The applicant shall comply with all of the Town of Amherst's Zoning Ordinance, Subdivision Regulations, Non-Residential Site Plan Review Regulations and Stormwater Ordinance.
4. This approval is based upon the plans, specifications and testimony submitted to the Planning Board. Any alterations, additions or changes to the plans are not authorized and may require additional Planning Board approval.
5. In the event that field conditions, building plan modifications or requirements of the Town of Amherst or any other governmental authority necessitate changes to the IIHO project, a detailed written description of

March 17, 2021

APPROVED

such changes shall be submitted to the Board. The Board shall determine whether such changes warrant further review by the Board. If the Board determines that such changes require review and amendment of the Conditional Use Permit, then the petition to amend the IIHO project Conditional Use Permit shall be subject to the notice and public hearing requirements as set forth in Section 202.1 of the Subdivision Regulations and in applicable law.

6. Substantial construction must commence within one year of the Planning Board approval of the Conditional Use Permit and Site Plan Approval.
7. If construction is not commenced within this period, the Conditional Use Permit approval may be extended for up to one additional year upon approval of the Amherst Planning Board. If construction is not commenced within this extended period, the Conditional Use Permit is declared null and void.
8. Actions sufficient to vest an approval for a Conditional Use Permit include site plan approval, subdivision approval, issuance of a building permit authorized under the Conditional Use Permit. However, should any site plan or subdivision approval or building permit granted under an approved IIHO Conditional Use Permit expire unused after the conclusion of the two-year validity period provided for herein, said Conditional Use Permit shall become void as well.

Dwight Brew seconded.

Discussion:

Arnie Rosenblatt asked if the Board was comfortable with the record of pro/con reasons in response to the up-to number as part of this motion.

Mike Dell Orfano stated that he believes the applicant would be justified at up-to 49 units, but his motion compromises to up-to 44 units.

Dwight Brew noted that the Board has had conversation regarding reducing the number of proposed bonus units within the areas of open space and walkability. He questioned if Arnie Rosenblatt was looking for more conversation on these topics.

Arnie Rosenblatt explained that his previous question was a broad one.

Cynthia Dokmo explained that she added an additional five bonus units to the walkability, community open space bonus group categories from Bill Stoughton's original up-to number of 39, in order to get to up-to 44.

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

March 17, 2021

APPROVED

Arnie Rosenblatt noted that there will be additional hearings on this application in the future and thanked all involved for their work.

OTHER BUSINESS:

1. REGIONAL IMPACT:

- a. CASE #: PZ13865-031021 – Napior Rentals, LLC (Owners) & NH Custom Builders and Fieldstone Land Consultants, PLLC (Applicant) – 104 NH Route 101A, PIN #: 002-047-002 – Propose a commercial Change of Use from retail to a mix of residential and retail on Tax Map Lot 2-47-**

2. Zoned Commercial.

Cynthia Dokmo noted that she would recuse herself from this item.

Bill Stoughton moved that there is no regional impact with respect to this application. Marilyn Peterman seconded.

Roll call: Mike Dell Orfano – aye; Dwight Brew – aye; Marilyn Peterman – aye; Brian Coogan – aye; and Bill Stoughton – aye. 5-0-0; motion carried unanimously.

Cynthia Dokmo rejoined the Board.

- b. CASE #: PZ13877-031221 – Donald Theriault and David & Suzanne Theriault (Owners) & Meridian Land Services, Inc. (Applicant) – 482 Boston Post Road & 10 Aglipay Drive, PINs #: 002-170-037 & 002-170-014 – To depict a Lot Line Adjustment and Subdivision to create one new residential lot. Zoned Residential Rural.**

Marilyn Peterman moved that there is no regional impact with respect to this application. Bill Stoughton seconded.

Roll call: Mike Dell Orfano – aye; Dwight Brew – aye; Marilyn Peterman – aye; Cynthia Dokmo – aye; Brian Coogan – aye; and Bill Stoughton – aye. 6-0-0; motion carried unanimously.

2. Other Business: Brief TAP Grant Presentation by Eric Hahn and Christopher Buchanan

Chris Buchanan made a brief presentation to the Board regarding the upcoming TAP Grant. He explained that a vote and letter of support from Town bodies helps to bolster the application.

The Town of Amherst is applying to a federal grant which, if awarded, would see the construction of 19,530 ft of infrastructure for bicyclists and pedestrians, including direct connections to Clark School, Wilkins School, Amherst Middle School, Souhegan High School, the Amherst Village, Joshua's Park, Upper Wilkins Field, and the Bean Fields. Through 80% federal funding and finding efficiencies by incorporating already scheduled road construction, budget estimates indicate that Amherst taxpayers would stand to gain nearly \$1 million in infrastructure with likely no increase in the currently planned municipal budget.

TOWN OF AMHERST
Planning Board

March 17, 2021

APPROVED

In response to overwhelming popular demand from our 2018 survey of Amherst residents, the Bicycle & Pedestrian Advisory Committee is hoping to pursue a project that can capitalize on a federal funding opportunity that can build some of the Town's most requested bicycle and pedestrian facilities, including around each of Amherst's schools. One such project presents the opportunity to build upon many established plans in Town, to be eligible for federal funding, and to build desperately needed infrastructure by our schools.

In 2001, the Town of Amherst hired CLD Engineering to develop a transportation plan for the Amherst Pedestrian/Bikeway, a project to create a special corridor of bicycle and pedestrian infrastructure through town. The main focus of the project is to create two special roadway districts in town, where the roadways would be specially designed to safely and comfortably accommodate bicyclists and pedestrians, and also to connect the two districts with a multi-use path. The Amherst Village, including Clark Elementary School and Wilkins Elementary School campuses would form the northern district and the school campuses of Amherst Middle School and Souhegan High School would form the southern district.

While the project was originally developed in 2001, the goals of the proposed infrastructure improvements were supported by several other organizations over the years, including the Nashua Regional Planning Commission in 2006, the Amherst Safe Routes to School Committee in 2013, and the Amherst Bicycle and Pedestrian Advisory Committee in 2019.

The first phase that constructed infrastructure called for by the Amherst Pedestrian/Bikeway was concluded in 2014 when sidewalks were added to the village. The second phase funded an extension of a 1.91-mile branch of multimodal infrastructure westward along Amherst Street, connecting many neighborhoods with the Amherst Village and the Town of Milford, which will be built in the spring of 2021. This year, the Town of Amherst has the opportunity to leverage two major cost savings opportunities in order to build the third phase of the Amherst Pedestrian/Bikeway, but also to do it while minimizing the cost to the Town of Amherst.

- The Town is applying to the Transportation Alternatives Program (TAP), a federal grant, which could cover the cost of 80% of the cost of a project
- By building along some areas where road construction is already scheduled to occur, the Town can leverage existing road budget monies to cover the remaining 20%, while still being able to rebuild the roads in question.

With these two factors in mind, the Town of Amherst stands to build nearly \$1 million in infrastructure with likely no increase in the currently planned municipal budget. Not only is this an excellent cost-savings opportunity for the Town, but it also offers the chance to build desperately needed infrastructure for Amherst residents, emphasizing safe travel for students at all of Amherst's four schools.

Dwight Brew moved that the Planning Board go on record as supporting the TAP Grant application, and that the Chair sign the letter of support on behalf of the Board. Marilyn Peterman seconded.

TOWN OF AMHERST
Planning Board

March 17, 2021

APPROVED

1180 **Roll call: Mike Dell Orfano – aye; Dwight Brew – aye; Marilyn Peterman – aye;**
1181 **Cynthia Dokmo – aye; Brian Coogan – aye; and Bill Stoughton – aye. 6-0-0; motion**
1182 **carried unanimously.**

1183
1184 **3. Minutes: 2/17/21; 3/3/21**
1185

1186 **Marilyn Peterman moved to approve the meeting minutes of February 17, 2021, as**
1187 **submitted. Bill Stoughton seconded.**

1188 **Roll call: Mike Dell Orfano – aye; Dwight Brew – aye; Marilyn Peterman – aye;**
1189 **Cynthia Dokmo – aye; Brian Coogan – abstain; and Bill Stoughton – aye. 5-0-1;**
1190 **motion carried.**

1191
1192 **Marilyn Peterman moved to approve the meeting minutes of March 3, 2021, as**
1193 **amended [Line 377: change “effects” to “affects;” Line 480: change “for the reasons**
1194 **made” to “for the reasons stated by the Chair;” Line 586: change “Tom Car” to**
1195 **“Tom Carr.”] Bill Stoughton seconded.**

1196 **Roll call: Mike Dell Orfano – aye; Dwight Brew – aye; Marilyn Peterman – aye;**
1197 **Cynthia Dokmo – aye; Brian Coogan – aye; and Bill Stoughton – aye. 6-0-0; motion**
1198 **carried.**

1199
1200 **Marilyn Peterman moved to adjourn the meeting at 10:01pm. Cynthia Dokmo**
1201 **seconded.**

1202 **Roll call: Mike Dell Orfano – aye; Dwight Brew – aye; Marilyn Peterman – aye;**
1203 **Cynthia Dokmo – aye; Brian Coogan – aye; and Bill Stoughton – aye. 6-0-0; motion**
1204 **carried.**

1205
1206
1207 **Respectfully submitted,**
1208 **Kristan Patenaude**

1209
1210 **Minutes approved: April 7, 2021**