

TOWN OF AMHERST  
Planning Board

November 3, 2021

**APPROVED**

In attendance: Arnie Rosenblatt, Dwight Brew, Bill Stoughton, Christy Houpis, Mike Akillian (alternate), Tracie Adams, Cynthia Dokmo (alternate), Chris Yates, Tom Quinn, and Tom Silvia (alternate).

Staff present: Nic Strong, Community Development Director; Natasha Kypfer, Town Planner; and Kristan Patenaude, Recording Secretary (remote).

Arnie Rosenblatt, Chair, called the meeting to order at 7:00pm at the Souhegan High School and via Zoom concurrently. He explained the Board is requesting all present in-person to wear masks over nose and mouth, as a courtesy. The Board is masked and there are extras available.

**COMPLIANCE HEARING:**

- 1. CASE #: PZ14923-101321 – Ballinger Properties/Nash Family Investment Property (Owners) & Ashoke Rampuria (Applicant) – 2 Howe Drive, PIN #: 002-034-001 – Non-Residential Site Plan Application. To show a site plan for a proposed 253,914 square foot warehouse building with associated parking and site improvements. Zoned Industrial.**

Arnie Rosenblatt read and opened the case.

Jeff Kevan, PE, of TF Moran, stated that an as-built plan has been provided to the Board. Phase 1 of the plan shows an as built for occupancy, with buildings up and drainage and pavement installed. He stated that everything had been built substantially according to plan. Construction will proceed in the second phase.

In response to a question from Bill Stoughton, Mr. Kevan stated that the project has received and passed all Town inspections.

In response to a question from Tom Quinn regarding language stating that the project was “substantially built to plan”, Mr. Kevan stated that there were minor variations in some of the inverts onsite, but they were within tenths of a foot and will function as designed and intended to. He noted that the building was on the money, and the parking, and pavement were all on design. Jeff Kevan stated that there was a degree of accuracy during construction and the table on the plan showed the as-built elevations of everything compared to the design elevations. Mr. Kevan also noted, in response to a comment from Tom Quinn, that there had been some erosion on the right side of the entrance of the site due to the amount of rain recently and the plantings not being yet established and that this area would be repaired, and everything would be grassed over for Phase 2.

There was no public comment at this time.

**Bill Stoughton moved to confirm compliance with the conditions to the approval of the Amended Non-Residential Site Plan Review for Ballinger Properties / Nash Family Investment Properties (Owner) and Ashoke Rampuria (Applicant) at 2 Howe Drive, Map 2 Lot 34 Sublot 1 for the operation of Phase 1 of a**

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furniture warehouse, subject to conditions set forth in the Staff Report. Seconded by Tracie Adams.

Voting: Dwight Brew - aye, Bill Stoughton - aye, Tracie Adams - aye, Tom Quinn - aye, Christy Houpis - aye, and Chris Yates – aye; motion carried unanimously.

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

**2. CASE # PZ14920-101321 - Clearview Subdivision (Owner & Applicant); Boston Post Road, PIN #: 005-159-001 & 38 New Boston Road, PIN #: 007-072-000 – Subdivision Application. To depict the design of a 43-unit Planned Residential Housing Development and WWCD CUP known as Prew Purchase Condominium on Tax Map 7, Lot 72 & Tax Map 5, Lot 159-1. Zoned Residential/Rural.**

Arnie Rosenblatt read and opened the case.

*Mike Akillian noted that he is an abutter to the project and recused himself.*

Arnie Rosenblatt noted that the Board will first resolve if the application is complete. If it is, there will be a public hearing.

Ken Clinton, Meridian Land Services, stated that there are two applications for this project. One is a condominium subdivision final application, and the other is a Conditional Use Permit (CUP) for wetland and buffer impacts. He will present the first item in three parts: a plan set and design, a review of the key portions of the staff report items, and a review of the 12 conditional items from the last CUP. He explained that the previous CUP granted for this project awarded up to 44 units, as long as the project meets the listed conditions precedent and subsequent. Ken Clinton stated that he hoped that he will hear from the Board and public with comments and questions this evening. He would next like to meet with staff regarding the balance of housekeeping comments and revisions before planning for a third-party review for which the estimate had already been provided. At the end of the presentation this evening, he would like this application to be continued to the December 1, 2021, meeting for the Board to then review legal documents and third-party reviews. He noted that the wetland permit has not yet been completed, so the applicant has not yet gone before the Amherst Conservation Commission (ACC) to present the CUP for wetland and buffer impacts.

In response to a question from Cynthia Dokmo, Ken Clinton stated that there are waivers requested in three or four areas of this application. He noted that the Board may not be able to decide on some of these waivers without third-party review.

Dwight Brew stated that, in the past, the Board has accepted an application as complete with waiver requests in order to be able to hold a public hearing and hear the whole presentation. He would like to see this application move forward to a public hearing, with the caveat that the Board may require more information on certain waivers in the future.

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Bill Stoughton read from the Planning Board's Rules of Procedure: *In connection with a completeness determination, the Board may consider waiver requests that bear on the question of the completeness of the application. Any waivers granted in the course of determining whether or not an application is complete shall be granted conditionally for purposes of the completeness determination only, shall not restrict the Board from requiring adherence to a conditionally waived provision upon full hearing of the application, and shall not be final unless incorporated in final Board action on the application. This provision ensures that final waivers, if any, are granted with the benefit of complete discussion and understanding of the application, which may not be possible at the time a completeness determination is required to be made.*

Bill Stoughton noted that there are three waivers being requested by the applicant that speak to the level of completeness of the application: an environmental impact study, a hydrogeological impact study, and a fiscal impact study. While he has concerns about ultimately waiving the fiscal impact study, he has less concern with waiving the other two studies. He suggested that the Board conditionally accept these waiver requests for the purpose of determining completeness only.

Christy Houpis and Chris Yates agreed with Bill Stoughton.

Tracie Adams noted that some of the legal documents are also missing from the application. Ken Clinton agreed with this and stated that they are in process.

Tom Quinn stated that he believes the Board should resolve any missing documents ahead of time, before discussing if the application is complete. His primary concern is with the fiscal impact study. He does not believe there has been anything provided to show that there will be no fiscal impact from this proposed development. He asked if an engineer is qualified to discuss fiscal impact with the Board. He believes it is harder to discuss items after the application has been accepted as complete because then there are statutory clocks ticking. Tom Quinn noted that the proposed road from the development onto Boston Post Road exceeds the maximum grading, per Town regulations. Per the requested waiver, the plan shows this road having a grading 33% over what is allowed in the regulations. He is uncomfortable granting these waivers without more details.

Tom Silvia had no questions at this time.

Arnie Rosenblatt noted that he personally will not agree to the fiscal impact waiver request. He will need to see the other waiver requests in the context of the application and, he noted, that the Board's procedure allows the provisional acceptance of waivers in order to do so.

Bill Stoughton asked about the impact of ruling that this application is incomplete without a submitted fiscal impact study. Ken Clinton noted that time is money, and the applicant has owned this property and taken two years to get to this point. Ken Clinton stated that there seems to be no end to this process, as the Board requests additional requirements each meeting and

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once studies are submitted, third party review may be required. Ken Clinton stated that he cannot recall over his past 20 years coming before the Board, a fiscal impact study being required for completeness. While he agreed that this study could be warranted for this application, he does not want to hold up getting the Board's feedback and then being able to work to satisfy any comments.

Ken Clinton noted that he has received an email from the former DPW Director that supports the road standards waiver request. He explained that, as part of the Alteration of Terrain (AoT) permit, the State now requires a habitat study be done on the property. He is unclear if this will satisfy the requirement for an environmental impact study. He noted that, while working within the time constraints of the application, he would be happy to extend the deadline in order to have the project thoroughly completed. He requested that the Board conditionally grant these waiver requests so that a full conversation can be had.

Arnie Rosenblatt clarified that the Board has had a number of fiscal impact studies presented over the years, although not always in the process of acting on completeness, as this is a fairly new procedure. He acknowledged the applicant's concerns about the slippery slope with requiring studies but noted that the Board could grant the waiver request for a fiscal impact study but still require a third-party review of the item in the future which need not impact a completeness determination.

In response to a question from Cynthia Dokmo, Ken Clinton stated that the Board is currently determining completeness only. The Board could deem this application incomplete this evening, but the applicant still has time under the CUP deadline to submit a complete application for the Board to hear.

Dwight Brew noted that he was willing to go the provisional waiver route and pointed out that if the Board rejects this application as incomplete, the applicant may need to re-notice abutters.

**Bill Stoughton moved to conditionally waive the completeness requirements to submit a hydrogeological report, an environmental impact study, and a fiscal impact study, noting that these waivers are for determining whether or not the application is complete only, shall not restrict the Board from requiring adherence to a conditionally waived provision upon full hearing of the application, and shall not be final unless incorporated into final Board action on the application.**

**Bill Stoughton amended his motion to include conditionally waiving the requirement to submit legal data, specifically condominium documentation.  
Seconded by Dwight Brew.**

**Discussion:**

**Tom Quinn stated that he believes it is a bad idea for the Board, as a matter of course, to grant conditional waivers. He believes it becomes more difficult to discuss these items once the application is accepted as complete. He would like to begin the**

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process by having all information needed for the requested waivers. He noted that no information for the fiscal impact study has been presented to the Board. He would prefer not to grant any of these waiver requests.

Bill Stoughton stated that he sympathizes with Mr. Quinn's position, but that in order to have a full discussion on these items and be in a public hearing, the Board must determine that the application is first complete. He agrees that the Board should move toward obtaining more information from applicants faster in the process, in order to then do its job more quickly as well. The Board could look at its regulations regarding completeness to determine which studies should be included.

**Voting: Dwight Brew - aye, Bill Stoughton - aye, Tracie Adams - aye, Tom Quinn - nay, Christy Houpis - aye, and Chris Yates – aye; 5-1-0, motion passed.**

Arnie Rosenblatt stated that the application will now move forward to a public hearing. The applicant will present his position, the Board will ask questions and make comments, the public will ask questions and make comments, and then the Board will discuss the application. While the Board technically could act on this item tonight, he believes all present recognize that this will not occur this evening. He noted that he is positive that he will request a fiscal impact study from the applicant and believes that the rest of the Board feels the same. This may also require third-party review. Arnie Rosenblatt stated that he did not know about the other waivers

**Bill Stoughton moved to accept the application as complete. Seconded by Chris Yates.**

**Voting: Dwight Brew - aye, Bill Stoughton - aye, Tracie Adams - aye, Tom Quinn - nay, Christy Houpis - aye, and Chris Yates – aye; 5-1-0, motion passed.**

Ken Clinton stated that he may step over some aspects of the plan that were previously presented to the Board. He explained that the base plan contains all requested information to understand the property's limitations and areas proposed for development. The topography of the site separates it into eastern and western building areas. There are two lots associated with this project; one located off New Boston Road and the other located off Boston Post Road. The topography dictates the layout of the site for residential use. He noted that there is a lot line adjustment proposed as part of this application. There is an internal stonewall that separates Lot 7-72 and Lot 5-159-1. The total acreage of the site is 79.22, with a net acreage of approximately 62.49. The base density calculated for this site is 31.25 acres. Ken Clinton explained that there is an area in the southeastern corner of the site that may have a potential deed overlap. This piece of the site is excluded from the net tract area but included in the gross area, thus it will not affect the base density as calculated. The plan identifies the area proposed for an open space conservation easement and determines that there will be no detention basins located in this area. Any required improvements or infrastructure to the site will be located outside of this open space.

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Ken Clinton explained that there is a drainage feature located on the western site that is surrounded by undisturbed open land; however, this is not part of the open space conservation easement. He explained that the plan shows a potential placing of the units on site marked by boxes that will allow for a range of unit types, footprints, etc. to be placed within each box. Buyers can then choose from a set of architectural floor plans for the unit, that will fit within each box area. It has been predetermined that each of these locations will work with the proposed leach field and wells. All of the leach fields on site are proposed to be gravity fed at this time. Each unit has a limited common area associated with it. On the west village, these common areas have higher rights of use to them than on the east village and look more like lots although they will not have monumentation as such. Ken Clinton noted that the condo sheets of the plan defined the unit boxes and showed the leach fields, wells, and other infrastructure and the open space with conservation easement area versus the development area.

Ken Clinton explained that the open space provided on the east side of the site is approximately 49% of the gross area. The minimum required is 40%. The plan could increase this open space to approximately 52-53% if the open space area was brought in tighter to the backs of the units. It is unclear if this is the best idea at this time. The west village will look and feel like small yards. He noted that there is no separate right of way for a road in a condominium - it will not be public or transferred to the Town. There will be no Town maintenance of this road. Ken Clinton stated that there will be no monumentation of the road because there is no right-of-way. He noted that in some previous condo developments he had worked on, the condo owner had asked for the Limited Common Area (LCA) to be marked but he further noted that the LCA is a surface use right.

Ken Clinton stated that the project layout would include the roads, utilities, and homes and, as part of the Certificates of Occupancy, there would be some level of plot plan including the unit box and the unit number which is required by the condominium law. He noted that some attached condo units may only be owned by the owner to the studs, where the condo owns from the studs out to the exterior of the building. Engineering notes have been added to the plans and profiles for both villages.

Ken Clinton stated that the proposed roads are private roads but have all the components of a public road. These roads will have to comply with the AoT requirements. He stated that the difficulty of using public road specifications to control private roads included the fact that some of the specifications are speed-based and on a private road the speeds can be dropped to whatever the condo developer chooses. Those specifications, therefore, such as curve radii, can be reduced because the speed limit may be 20- or 15-mph which allows for a tighter radius than on a public road with a 30-mph limit. As some public standards for roads do not apply, the applicant is asking for a waiver from those standards. The Board may wish to seek a third-party review of these waivers or hear from the DPW Director before considering them.

Ken Clinton stated that one of the key waivers for this application is at the entrance to Boston Post Road. He stated that during the IIHO CUP process and the design review application, the entrance had been a little further south. He stated that there was a wetland pocket to work

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around, and he needed to find a suitable location for the proposed cistern. Ken Clinton explained that he and the previous DPW Director had met onsite, watched the traffic in this area and agreed with the entrance at its current proposed location with an “S” turn or reverse curve onto the property. This entrance is located at the high point of Boston Post Road making it better for drainage, and a better platform for a fire truck to access the cistern. He explained that a waiver is being requested for the typical 125’ distance from the intersection, as this is proposed to be located 116.3’ from the intersection. This location, regardless of whether it is for a public or private road, is the most logical and suitable location. Ken Clinton stated but there are no road names proposed yet for the site, but the applicant is looking at historic owners of the properties for possible ideas.

Ken Clinton explained that landscaping would not ordinarily be required as part of a residential subdivision, but part of the Planned Residential Development requirements include landscaping. Street trees are being proposed on the internal drives and there will be unit specific planting groups of minimum numbers of certain shrubs and trees for each unit. The plans have been prepared by Arago Land Consultants, a sister company to Meridian Land Services.

Ken Clinton stated that architectural styles and floorplans had been submitted which were similar in style to some Village houses. He stated that market demand would dictate which units were chosen by buyers. The senior units are proposed to be single-floor units, for which there are certain floor plan requirements, which also drives the external architecture. Ken Clinton stated that there is a note on the plan asking that the Planning Board authorize Town staff to accept slight variations of the architectural plans to fit within the overall character of the site, as has been approved in the past for other applications. If staff does not feel comfortable accepting these variations, this will need to come back before the Board. Ken Clinton stated that the proposed placement of the units minimizes grading on site and the overall footprint of the development.

Ken Clinton stated that the plan set was 24 sheets, which is fairly commonplace these days to show all the different components of the application. He stated that the plans proved what he had intuitively known that the 43 units proposed would fit on the land. He went on to say that he was pleased overall with the layout and the environmental aspects being considered, with the wetland buffers and so on.

Ken Clinton stated that the terrain of the site shows an elevation change from east to west. There are wetlands pockets interspersed throughout the site. The road location is based on topo, wetlands, and buffers. Ken Clinton stated that he believes two more units could comfortably be added to the plan, but not without losing some open space.

Ken Clinton stated that there were a number of housekeeping items from the staff report that he would like to discuss with Community Development Director, Nic Strong, and Town Planner, Natasha Kypfer. He stated that the road names would be suggested and approved by the appropriate people. He noted that, as previously stated, there would be no rights-of-way and no monumentation for those roads and no lot corners. Ken Clinton pointed out the PRD requirement

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regarding bedrooms. He noted that the senior units will have two-bedrooms and the units in the west village will have up to four-bedrooms. He stated that there are currently 43 units shown on the plan, with 43 home locations, but there is a question about accessory dwelling units (ADUs). The original CUP approval included six ADUs. The current plan is requesting one ADU to be located within the west village, based on the market. Thus, while there are 43-unit locations shown, one of these could include a single ADU to comply with the original approval for up to 44 units. This single unit would then have up to five-bedrooms in it.

Ken Clinton stated that the legal documents required are incomplete and pending, as there is still much to be determined. There is some boilerplate language available, and covenant restrictions that have already been agreed to, such as for metering water usage for irrigation on site. The phasing of the plan is still to be determined. The applicant is requesting that the phasing be market-driven, especially due to shortages in labor and materials and the unknown housing market. If there were to be a strong surge in school-aged children coming from this site, that could be a reason for a more formal phasing plan, but that is not currently being requested.

Ken Clinton noted that the proposed cistern locations were shown on the plan, but the specifications had not yet been determined. He stated that there were different types of cisterns, different manufacturers, different materials and so on. He noted that some of the road waivers may affect the locations, depending on the road construction requirements.

Ken Clinton stated that, in terms of the trailhead proposed, while the Amherst Land Trust (ALT) will have oversight of the trail system, it is believed that the trailhead will be a public item either listed in the covenants or as a separate easement. The parking is proposed to be gravel with sheet flow and no substantial drainage due to the flat area. It is proposed to contain three parking spaces.

Ken Clinton stated that the illustrations of the architectural styles proposed had been consistent throughout the application process of conceptual consultation, design review, and CUP. He noted that the applicant may look to add in a couple more and he reiterated the request that the final design of each unit be allowed to be administrative.

Ken Clinton addressed the 12 precedent conditions of the previously approved CUP:

1. Submission of plans that include all the details determined by the Planning Board to be required.

There are many requirements that will all be complied with.

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.

This note has not yet been placed on the plan but will be. Once land is dedicated as common area, it is owned in fractions amongst the owners, and thus, is protected.

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.



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If the Board wishes to see more architectural designs, they will be shown.

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.

This is all embedded within the plan set.

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.

This will be a signed agreement between the Town and applicant, above and beyond the Covenants and Restrictions.

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:
  - a. 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.
  - b. If the Board's detailed Subdivision/Site Plan Review or any associated studies or engineering reviews identify a detrimental impacts to the Town that offset some or all of the benefits supporting the bonus unit awards here in.
  - c. 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.

Ken Clinton stated that he would like to hear more from the Board on item (a). He believes item (b) may be covered through a fiscal impact study. There will be some level of road waivers sought for this application. He believes some of these waivers meet the spirit and intent of the ordinance and are not required to gain the 13 extra units but are required to use the land. The land in New England is generally not flat. An 8% road grade, without substantial cuts and fills, cannot always be fulfilled. The only road grade above this that the applicant is seeking is within the first 100' of the development.

7. The Board's action addresses density only and does not constitute acceptance of the applicant's depiction of site features.

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This plan set is the detailed engineering design. If it did not support the number of units based on the conceptual plans, then there would be a problem. But there is no question that this design accommodates 43-44 units.

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.

Ken Clinton stated that he was unable to find the DES well requirements, that he believes are appropriate for the well yield protocols required. He stated that he had an issue with the applicant being required to use a specific protocol from a specific consultant that was volunteered during the previous study, but he did not have an alternative suggestion at the time. There are specific nitrate pool requirements and irrigation controls that will be listed in the condominium documents.

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

Ken Clinton stated that he previously communicated with previous DPW Director Hahn on this item. Much of this is dependent on a third-party determination/recommendation, specifically a traffic study from Nashua Regional Planning Commission (NRPC) and the DPW Director. These may not be completed for a number of months.

10. The applicant shall provide for third-party oversight and monitoring of the age restrictions in the 55+ housing section of the development.

This will be written into the condo documents and maybe into the development agreement as well.

11. The applicant shall provide in its condominium documents that additional accessory dwelling units beyond those approved herein are not permitted.

The applicant is requesting the ability to add one ADU unit into the west village. Beyond that, per this condition, no others will be allowed.

12. Payment of any outstanding fees for the Conditional Use Permit application, including any fees for recording at the HCRD.

There is no issue with this item.

Arnie Rosenblatt opened up the floor to Board comments and questions.

Tom Silvia and Tom Quinn had no questions or comments.

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Tracie Adams stated that she will be interested in seeing the completed studies requested.

Christy Houpis asked if the applicant is looking for guidance from the Board on the proposed roadways, legal documents, and/or architectural designs. Ken Clinton stated that his overarching concern is regarding precedent condition #6 of the CUP. Ken Clinton stated that he is open to having conversations with the Board regarding the architectural approach. He stated that legal documents will be developed through the comments based on this and future meetings. Ken Clinton explained that the private road in the condominium will show no deed to, and no maintenance by, the Town. There can be further discussion on this item as well. He is most interested in if the Board has any cause for a precedent downward reduction in the units shown. He stated that, based on the 12 conditions present in the CUP and engineering plan shown, that the land can support the proposed number of units.

Christy Houpis stated that, in order to give specific feedback on these items, he will need other information and reports. He noted that, although the roads on site are proposed to be private, the Board must still take them into consideration under Section 3.18, for the health, safety, and welfare of the Town.

In response to a question from Christy Houpis regarding the floodplain/flood zones on the site, Ken Clinton stated that this is noted within the existing conditions of the site. He explained that Beaver Brook runs through the southeastern corner of the site. The 100-year floodplain has been determined and the Special Flood Hazard Area is listed on the plans. This area will not impact development at all.

In response to a question from Chris Yates regarding why the east village is now being shown as spread out, instead of compact as originally shown in the CUP, Ken Clinton stated that his team brainstormed the proposed CUP conditions and what the Board was looking for. The number of senior units proposed is integral to the diversity of the site and better in terms of public benefit. Thus, the senior units were reconfigured. Chris Yates noted that he preferred the compact senior area previously presented. Ken Clinton stated that, based on the available footprint, roads, setbacks, and wetland buffers, the current proposal shows less infrastructure which leads to a reduced number of units.

Chris Yates expressed concern regarding short driveways off reduced width development roads, in terms of navigating them if people park in the street and for snow removal. Ken Clinton stated that this is often done as a traffic calming measure and that he has no concerns about maneuverability or snow removal. Chris Yates stated he had personal experience from driving into the Pendleton Farms development and not being able to get his truck past two parked cars in the street. Ken Clinton stated this could be discussed further when the road waivers were discussed and when the third-party review was underway.

Bill Stoughton stated that he personally does not support a waiver from the fiscal impact study. He is open to discussing waiver requests for the environmental impact and hydrogeological

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473 impact studies, as he believes the information required has been supplied in previous reports or  
474 as part of the current application. He noted that the conservation easement documentation is also  
475 missing from the application submission items.

476  
477 In response to a question from Bill Stoughton regarding the current plan's proposal for acreage  
478 of the conservation easement, Ken Clinton stated that the proposed acreage is the same as was  
479 previously presented in the CUP, within a few percentage points.

480  
481 Bill Stoughton noted that any substantial changes to the plan could become an issue regarding  
482 significant benefits previously proposed to the Town. He stated that he believes more discussion  
483 is needed on the proposed roads and noted that he would take into account comments from the  
484 DPW and Fire Department.

485  
486 In response to a question from Bill Stoughton regarding the wetland crossing previously  
487 proposed, Ken Clinton stated that the crossing is still proposed in the same position. This leads to  
488 approximately 1,400 s.f., or 0.029 acres, of impact. Ken Clinton noted that there are seven  
489 wetland buffer impact areas on site. These will first be detailed to the ACC in the CUP  
490 application for wetland and buffer impacts.

491  
492 In response to a question from Bill Stoughton regarding an area located near an infiltration basin  
493 on the west side of the site, Ken Clinton explained that this will be an area to bury stumps.  
494 Stumps on site will be handled in three ways: some will be ground for erosion control, some will  
495 be buried, and some will be removed off-site. Bill Stoughton noted that he prefers stumps be  
496 ground and not buried. Ken Clinton stated that there is such a large volume of stumps on site that  
497 some will need to be disposed of in other ways.

498  
499 Bill Stoughton noted that there is a large stormwater feature in the east village on the western  
500 edge, with two wells located nearby. He suggested that the applicant look to see that this meets  
501 the AoT setback requirements.

502  
503 Bill Stoughton stated that he would like the Board to have a discussion regarding water capacity  
504 and supply onsite. He stated that abutters have been concerned regarding these two items. He  
505 noted that there are several units proposed that will have adjacent wells very close to one  
506 another. Bill Stoughton is concerned about the drawdown of one well affecting the capacity of  
507 the other. He suggested the applicant consider a capacity test on adjacent wells simultaneously  
508 and that, if the applicant did not want to use the Stonehill Environmental model, then a different  
509 one should be used.

510  
511 Bill Stoughton also noted that Stonehill Environmental recommended advanced treatment in  
512 order to keep nitrates down. While many septic systems rely on dilution, advanced systems have  
513 a removal component which is preferable for dense developments. Bill Stoughton stated, for  
514 Section 11.A.10, that the ordinance requires a note on the plan for compliance of septic systems  
515 located near the Aquifer Protection and Wellhead District.

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In response to a question from Bill Stoughton regarding the detention pond located at the west village entrance, Ken Clinton stated that the proposed road access is located at the most downward slope of the site. It may be that the soils in this area cannot handle an infiltration basin. Bill Stoughton noted that DES shows that a detention pond does not provide the nitrogen and phosphorus removal that the Town's regulations require.

Bill Stoughton stated that he believes the traffic issue with regard to this site is important, and that the traffic issues in this area need to be addressed by the Town. He stated that he would like to see a fiscal impact report before deciding on the request to allow phasing based on the market.

Bill Stoughton stated that the ACC would prefer trails onsite be relocated to not cross wetlands or wetland buffers. The ACC will also request that the applicant incorporate the Town Trail Standards into trail creation and use the Best Management Practices (BMPs) for trail construction.

Dwight Brew noted that, per the original CUP approval, there were six ADU units proposed, each limited to approximately 1,200 s.f. He asked if four of those units are now being transitioned to full-size units. Ken Clinton explained that the originally proposed ADUs were attached to full-size units. This plan removes those ADUs from the full-size units. The applicant is requesting to maintain one ADU in the west village. The applicant originally sought approval for up to 49 units and was approved for up to 44 units. The originally proposed 6 ADU units were attached to full-size units, and thus removing those does not increase the number of full-size units originally proposed.

Dwight Brew stated that he would like to see a phasing plan that allows for some leeway based on the market. He believes there can be some flexibility to the phasing, but that the Town and schools also need to plan accordingly for the development. He would also like to see a fiscal impact study. Dwight Brew noted that the reason that the Town looks to apply public road standards to private roads in condo developments is for emergency vehicles and passing purposes. If this development plans to deviate from the standards, he would like to run this by the DPW and Fire Department for their approval.

Cynthia Dokmo stated that one of the reasons that private roads are required to be built to Town standards is that it is not unheard of for future residents of the development to decide to petition the Town to take over the road at some future date. She stated that this can cause great expense to the Town. She noted that she would like the applicant to submit a statement and a note on the plan that the private roads will never be considered town-owned roads. Cynthia Dokmo also had comments about the way Ken Clinton characterized abutter concerns as outcries in some of his documents. She stated that the word held some negative connotations and that the abutters' concerns were, in her opinion, entirely normal.

Arnie Rosenblatt opened the floor for public questions and comments. He noted that the Board will not be making a decision on this application tonight. He explained that the public will have other opportunities to speak and ask questions. He noted that, if any members of the public are

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making comments in a way to impact the decision of the Board, practically speaking, the Board will be more likely to remember these at the actual time of decision.

Doug Chabinsky, 89 Boston Post Road, stated that he was happy to hear the Planning Board discussing traffic questions. He stated that the police could not control current speeders and adding 43 units would make the matter worse. His other concern was the volume of construction traffic that could be expected from this development and the workers' vehicles during construction. Doug Chabinsky stated that this may not be a long-term problem, but it would be a big difference in traffic in the short-term. He is concerned that the added traffic from this development would change the character of the village.

Brian Delanty, 42 Boston Post Road, asked how the areas labeled Limited Common Area on the plans could and would be used.

Ken Clinton explained that the Limited Common Area can be as small as the driveway of the unit, or the patio/deck in the back. A larger condo unit will have larger individual rights around it for landscaping and outside uses. It is not yet determined if pools and sheds will be allowed, but those would be controlled by covenants and restrictions.

Chuck Siragusa, 39 New Boston Road, stated that the entrance to the east village would be located directly across the street from his house. That would create approximately 30 car trips in front of his house each day. He would like to see this proposal condensed on the land. Chuck Siragusa also stated that he would like it if the units could be turned so that he was not given a view of the back of all the houses from his property.

There was no further public comment at this time.

Arnie Rosenblatt asked the Board to tell the applicant what it needs from him.

Bill Stoughton stated that, aside from his specific questions already raised, he would like to see a fiscal impact study, legal documents including condominium documents, open space documents and a draft development agreement. He also wants to make sure that the conditions from the IIHO CUP notice of decision have been satisfied.

Tom Quinn stated that he cannot answer if the proposed number of units is appropriate without more information. He would like information on all the requested waivers.

Arnie Rosenblatt stated that he does not need more information on the fiscal impact study waiver; he would like to see the fiscal impact study completed for a project of this size. He asked if the Board would consider waiving the hydrogeological and environmental impact studies if more information is provided.

Bill Stoughton read the items that are included in a hydrogeological impact study: identify stratified drift aquifers and impacts to them, identify aquifer conservation districts and impacts to

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them, excavation restrictions from areas subject to flooding and flash flooding, wastewater and stormwater discharge impact on groundwater and surface water, evaluate BMP's in mitigating the effects of development, blasting impact studies, and implementation and review of a groundwater monitoring program in situations where development activity may introduce contaminants or otherwise impact quantity and quality of water.

Bill Stoughton read the items that are included in an environmental impact study: threatened and endangered plants and wildlife species and habitats, air quality impacts, water quality impacts, floodplain alterations, wetland impacts - direct and indirect, historical sites impacted, and occasionally noise levels, and exposure to radio frequencies.

Ken Clinton stated that he believes many of these items are built into the plan set or are part of other permits that will need to be obtained. He stated that he believes the AoT permit covers many of the hydrogeological impact study items, and that the habitat study may cover many of the environmental impact study items. Ken Clinton stated that he has heard clearly from the Board that a fiscal impact study is needed. He will provide the Board with other specifics regarding questions and comments raised, and as part of other permitting requirements.

Christy Houpis stated that he is unclear on the timing of when these items will be provided. He is also unclear on what information will not be provided. He is hesitant to waive the requested items and would err on the side of requiring them to be completed.

Tom Quinn stated that this is why it is important to receive all of this information before accepting the application as complete. The Board must ask for every piece of information it needs for the next meeting, because the application is now on the clock.

Tracie Adams stated that she is in favor of not granting any of the requested waivers, as the Board may not receive this study information as quickly as it needs.

**Bill Stoughton moved to require the applicant to prepare and submit a hydrogeological impact study, environmental impact study, and fiscal impact study for this application. Seconded by Christy Houpis.**

**Voting: Dwight Brew - aye, Bill Stoughton - aye, Tracie Adams - aye, Tom Quinn - aye, Christy Houpis - aye, and Chris Yates – aye; motion carried unanimously.**

Tom Quinn stated that he would like to also get input on the road dimensions proposed from the DPW.

The Board discussed when to continue this application to, as the proposed studies may not be ready by December 1, 2021. Bill Stoughton asked the applicant if he was willing to extend the 65-day deadline, if necessary.

Ken Clinton stated that he would prefer to meet on December 1, 2021, to clear up some items, while waiting for the larger studies to be completed. He would like progress to continue to be

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made on this application. Arnie Rosenblatt noted that the Board could have decided to vote this application as incomplete, thus delaying progress on it further. Arnie Rosenblatt stated that the Board is trying to accommodate the applicant.

Bill Stoughton noted that the wetland CUP is a separate item and can proceed separately if the applicant desires.

**Bill Stoughton moved to continue this application to January 5, 2022, at 7:00 PM at Souhegan High School, with the understanding that this continuance does not apply to the wetland CUP. Seconded by Tom Quinn.**

**Discussion:**

The Board discussed if the High School would be available on January 5, 2022. They discussed needing the date certain for the motion, and possibly moving the hearing to a different date if the date in January is unavailable. It was suggested that this application be continued to December 1, 2021, as it is known that the High School will be available at that time and the applicant previously requested that date.

**Bill Stoughton withdrew his previous motion.**

Nic Strong noted that a recent State law change meant that any application for which Regional Impact was determined had an extra 30 days added to the deadline for the Planning Board to act on the application once it was accepted as complete.

The Board discussed potentially holding the meeting at Town Hall but there were concerns with the available space for the number of attendees to spread out.

Tracie Adams pointed out that Ken Clinton had said there would be things he could cover on December 1<sup>st</sup>.

**Bill Stoughton moved to continue this application to December 1, 2021, at 7:00 PM at Souhegan High School. Seconded by Dwight Brew.**

**Discussion:**

Christy Houpis stated that he is reluctant to agree to this motion, without knowing that the studies will be ready at that time.

Arnie Rosenblatt stated that he would vote against this motion. He would support the previous motion made or would like to discuss possible dates available for the High School with the applicant.

**Voting: Dwight Brew - aye, Bill Stoughton - aye, Tracie Adams - aye, Tom Quinn - nay, Christy Houpis - nay, and Chris Yates – aye; 4-2-0, motion carried.**



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*The Board took a 5-minute recess.*

Arnie Rosenblatt stated that the next case will be short, but that the Board may need to continue the following item on the agenda tonight.

- 3. CASE # PZ14921-101321 - EIP One Bon Terrain (Owner & Applicant); 1 Bon Terrain Drive, PIN #: 002-026-004 – Non-Residential Site Plan Application. To show the improvements necessary to permit and construct a 30,000 square foot building addition to the existing facility for the purposes and use of warehousing product, with associated truck parking yard and other ancillary improvements. Zoned Industrial.**

Arnie Rosenblatt read and opened the case.

**Bill Stoughton moved to accept the application as complete. Seconded by Chris Yates.**

**Voting: Dwight Brew - aye, Bill Stoughton - aye, Tracie Adams - aye, Tom Quinn - aye, Christy Houpis - aye, and Chris Yates – aye; motion carried unanimously.**

Doug Brodeur, Meridian Land Services, explained that this proposal is to create a 30,000 s.f. addition, truck yard, and access drive. This site was originally approved for a 394,000 s.f. warehouse in 2003. The Board approved a CUP on September 18, 2021, for approximately 24,000 s.f. of wetland buffer impacts. The Zoning Board of Adjustment approved a variance for a 1' separation to the high-water table, where 4' is normally required. Doug Brodeur explained that the stormwater management system proposed meets local and State standards. A review of this was completed by Keach-Nordstrom, and they were in agreement, with exception of a few minor details needed to inform the contractor on construction of the basins. A traffic study conducted showed minimal impacts to the surrounding area, and a review by Keach-Nordstrom agreed.

Doug Brodeur reviewed the waivers requested for landscaping, lighting, and some existing conditions shown on the plan.

1. Article 5 of the Site Plan Regulations for Landscaping Standards, and part of the Parking Standards in Article 6. There are 172 trees and 184 shrubs located along the frontage and throughout the existing parking lot, accessways, and former front entrance open space areas. There is also a landscape berm along the majority of the frontage of Bon Terrain Drive, with heights of up to 10' from the adjacent roadway shoulder. The berm was further planted with shrubs and trees. All of the proposed improvements are shielded from public views, via the existing building and existing woodland buffers onsite. There would be no benefit to the public in complying with these articles.
2. Article 7 for Outdoor Lighting Guidelines, which requires metal halide lamps and total cutoff shields. Metal halide lamps are no longer available for new fixtures, per a phaseout of inefficient bulbs. Cutoff shields are often no longer available through a majority of manufacturers. The plan proposes to use high efficiency LED fixtures, which should satisfy

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736 the regulation's intent. The proposed design maintains a zero-illumination spillage 100' + for  
737 all property boundaries.

738 3. Article 7 Outdoor Lighting Guidelines, Section 7.1.A.6, for a waiver from the requirement  
739 that light fixtures be limited to 20' in height. The request is for fixture heights to be increased  
740 to 30' for portions of the development, primarily the truck yard. 20' pole heights would be  
741 very dim and pose health, safety, and security risks to the applicant.

742 4. Article 2 General Standards, Section 3.2.B; .9, .14, .15, and .18, for a waiver from the  
743 requirement to provide the required existing condition elements to the plan, in the areas  
744 outside of the proposed development facility. These include items such as the character of all  
745 signs and exterior lighting, and a utility plan. Conformity with this item would not have a  
746 benefit to the public.

747 Tom Quinn stated that, after driving by the site, these waiver requests seem reasonable.

748  
749 There were no other comments from the Board or from the public.

750  
751 **Bill Stoughton moved to grant the waiver requested to Section 5 of the Non-**  
752 **Residential Site Plan Review Regulations as the Board has determined that strict**  
753 **conformity with the requirement would pose an unnecessary hardship to the**  
754 **applicant because of previously provided landscaping and the location of the**  
755 **building, and the waiver will not be contrary to the spirit and intent of**  
756 **the regulations. Seconded by Dwight Brew.**

757 **Voting: Dwight Brew - aye, Bill Stoughton - aye, Tracie Adams - aye, Tom Quinn -**  
758 **aye, Christy Houpis - aye, and Chris Yates – aye; motion carried unanimously.**

759  
760 **Bill Stoughton moved to grant the waiver requested to Section 7 of the Non-**  
761 **Residential Site Plan Review Regulations as the Board has determined that strict**  
762 **conformity with the requirement would pose an unnecessary hardship to the**  
763 **applicant because of a change in technical standards and the need for adequate**  
764 **lighting to the truck yard, and the waiver will not be contrary to the spirit and**  
765 **intent of the regulations. Seconded by Dwight Brew.**

766 **Voting: Dwight Brew - aye, Bill Stoughton - aye, Tracie Adams - aye, Tom Quinn -**  
767 **aye, Christy Houpis - aye, and Chris Yates – aye; motion carried unanimously.**

768  
769 **Bill Stoughton moved to grant the waiver requested to Section 6 of the Non-**  
770 **Residential Site Plan Review Regulations as the Board has determined that strict**  
771 **conformity with the requirement would pose an unnecessary hardship to the**  
772 **applicant because of the nature of the area for which landscaping would be required**  
773 **by the parking regulations, and the waiver will not be contrary to the spirit and**  
774 **intent of the regulations. Seconded by Dwight Brew.**

775 **Voting: Dwight Brew - aye, Bill Stoughton - aye, Tracie Adams - aye, Tom Quinn -**  
776 **aye, Christy Houpis - aye, and Chris Yates – aye; motion carried unanimously.**  
777

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Bill Stoughton moved to grant the waiver requested to Article 2 Section 3.2B, 9, 14, 15, & 18 of the Non-Residential Site Plan Review Regulations as the Board has determined that strict conformity with the requirement would pose an unnecessary hardship to the applicant because this is redevelopment of the site and the existing conditions have already adequately been covered, and the waiver will not be contrary to the spirit and intent of the regulations. Seconded by Dwight Brew. Voting: Dwight Brew - aye, Bill Stoughton - aye, Tracie Adams - aye, Tom Quinn - aye, Christy Houpis - aye, and Chris Yates – aye; motion carried unanimously.

Bill Stoughton stated that he would recommend this application have impact fees imposed at the Industrial rate. There was discussion by the Board as to what items were still needed for the application to be finalized.

Bill Stoughton moved to continue this application to December 1, 2021, at 7pm at Souhegan High School. Seconded by Tom Quinn. Voting: Dwight Brew - aye, Bill Stoughton - aye, Tracie Adams - aye, Tom Quinn - aye, Christy Houpis - aye, and Chris Yates – aye; motion carried unanimously.

4. CASE # PZ14922-101321 – David & Laura Wang (Owners) & Bennett Chandler (Applicant); 4 Gatchel Way, PIN #: 005-059-021 – Conditional Use Permit Application. To add a 998 square foot apartment within the footprint of a 40'x42' pool house and garage already permitted for construction under PO13151-092220. Zoned Residential/Rural.

Bill Stoughton moved, due to the late hour, that CASE # PZ14922-101321 regarding a proposed ADU for the Wang residence located at 005-059-021 be continued to November 17, 2021, at 7pm, at Town Hall. Seconded by Dwight Brew. Voting: Dwight Brew - aye, Bill Stoughton - aye, Tracie Adams - aye, Tom Quinn - aye, Christy Houpis - aye, and Chris Yates – aye; motion carried unanimously.

**OTHER BUSINESS:**

**5. Report on tree cutting proposal at Atherton Commons**

Tom Silvia stated that he met with a representative from Atherton Commons regarding tree work to take place. He reviewed the proposed cut plan. He explained that the development was created in the 1980's with the main housing area clear-cut and small trees then planted, per the landscaping plan. The surrounding area has a wooded buffer area. The cutting plan looks to deal with some of the larger (30-40') landscaping trees but does not propose to touch the trees in the buffer. The Atherton Commons Board is also looking into the bylaw that requires a member of the Planning Board to have representation on the tree cutting committee.

The Board thanked Mr. Silvia for his time on this matter and determined that nothing more needed to be done in order for the tree cutting to take place.

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- 820           **6. Minutes: October 20, 2021; non-public October 28, 2021 (sealed)**
- 821           **Christy Houpis moved to approve the meeting minutes of October 20, 2021, as**  
822           **presented. Seconded by Chris Yates.**
- 823           **Voting: Dwight Brew - aye, Bill Stoughton - aye, Tracie Adams - abstain, Tom**  
824           **Quinn - aye, Christy Houpis - aye, and Chris Yates – aye; 5-0-1, motion carried.**  
825
- 826           **Christy Houpis moved to approve the non-public meeting minutes of October 28,**  
827           **2021, as presented. Seconded by Chris Yates.**
- 828           **Voting: Dwight Brew - aye, Bill Stoughton - aye, Tracie Adams - abstain, Tom**  
829           **Quinn - aye, Christy Houpis - aye, and Chris Yates – aye; 5-0-1, motion carried.**  
830
- 831           The next Board meeting will be held at the Town Hall on November 17, 2021.  
832
- 833           **Christy Houpis moved to adjourn at 10:26pm. Seconded by Chris Yates.**  
834           **Voting: Dwight Brew - aye, Bill Stoughton - aye, Tracie Adams - aye, Tom Quinn -**  
835           **aye, Christy Houpis - aye, and Chris Yates – aye; motion carried unanimously.**  
836
- 837           Respectfully submitted,  
838           Kristan Patenaude  
839
- 840           Minutes approved: November 17, 2021