

TOWN OF AMHERST  
Planning Board

March 2, 2022

APPROVED

In attendance via Zoom: Arnie Rosenblatt, Bill Stoughton, Christy Houpis, Mike Akillian (alternate), Cynthia Dokmo (alternate), Tracie Adams, and Tom Quinn

In attendance at Amherst Town Hall: Dwight Brew

Staff present: Nic Strong, Community Development Director (in attendance at Amherst Town Hall); and Kristan Patenaude, Recording Secretary (via Zoom)

Also in attendance at Town Hall: Danielle Pray

Arnie Rosenblatt noted that, while this meeting is being held remotely, it is likely the next meeting will be held fully in-person. He will make that decision shortly.

Arnie Rosenblatt, Chair, called the meeting to order at 7:00 pm via remote session. He read the following statement:

*As Chair of the Amherst Planning Board, I find that:*

- 1. the most recent information on the CDC website regarding the recent Omicron surges, including the increased transmissibility of the virus,*
- 2. the rising and dangerous rates of Covid infections evident in the CDC's statistics,*
- 3. the increased prevalence of infections even among vaccinated persons, and*
- 4. the current case and hospitalization rates in New Hampshire generally and in Hillsborough County in particular,*

*constitute an emergency within the meaning of RSA 91-A:2 III (b).*

*I also find that immediate action by the Planning Board is imperative in order to satisfy statutory deadlines for actions on applications and for public hearings on proposed ordinance changes. I also find that in light of the current state of the Covid pandemic, the physical presence of a quorum of the Planning Board is not reasonably practicable within the time period required to take action.*

*Accordingly, after consultation with members of the Board and Town Counsel, and pursuant to the authority granted by RSA 91-A:2 III (b), the Planning Board meeting on March 2, 2022, will be held via Zoom. Members of the public may, and are encouraged to, attend via Zoom using the information below. There will also be the opportunity for members of the public to attend at the Town Hall, with a connection to the Zoom meeting available there, if they wish.*

*The Zoom link is as follows: <https://us02web.zoom.us/j/81886309902>*

*Dial +1 312 626 6799 Webinar ID: 818 8630 9902*

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

**Roll call attendance: Arnie Rosenblatt, Dwight Brew, Bill Stoughton, Christy Houpis, Cynthia Dokmo, Mike Akillian, Tracie Adams, Tom Quinn, all alone and present.**

Arnie Rosenblatt noted that there are three members who will be leaving the Board after the upcoming election: Dwight Brew, Christy Houpis, and Mike Akillian. He expressed his appreciation for their service on the Board and the individual strengths that they brought to the table.

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*Cynthia Dokmo sat for Chris Yates.*

**PUBLIC HEARINGS:**

**1. CASE #: PZ14590-080321 – EAM Amherst Holdings, LLC (Owners & Applicants) – 317 Route 101, PIN # 008-072-000 – Non-Residential Site Plan Application. To depict proposed site improvements to utilize the subject property for a proposed Agricultural Farming and Supply Operation. Zoned Residential Rural. Continued from January 19, 2021**

Nic Strong explained that the applicant requested today to withdraw this application.

Arnie Rosenblatt stated that an applicant is entitled to withdraw an application at any time. He asked if there is a concept to having this withdrawn with/without prejudice. Nic Strong noted that there is a difference. If an application is withdrawn without prejudice, it closes the matter at hand for the Planning Board but notes that there is nothing precluding the applicant from submitting a new application in the future.

Bill Stoughton stated that, if the application is withdrawn with prejudice, a subsequent application would need to be materially different. Accepting this without prejudice, would allow the applicant to essentially resubmit the same application plan to the Board in the future, without needing to establish that it is materially different. The new application would still need to comply with all ordinances and regulations in place at the time.

Cynthia Dokmo stated that she could not imagine a scenario where she would vote to withdraw an application with prejudice and thought the Board could just accept the withdrawal request. She stated that she did not mind having the ‘without prejudice’ language included.

Tom Quinn agreed with Cynthia Dokmo but hoped the applicant can understand the concerns raised and would submit a materially different application. He stated that he was fine including the ‘without prejudice’ language.

Tracie Adams, Mike Akillian, and Bill Stoughton were all fine with including the ‘without prejudice’ language.

Christy Houpis asked if the Board can simply accept with withdrawal, without mentioning a level of prejudice. Arnie Rosenblatt agreed with that comment noting that the Planning Board could use whatever language they chose in the decision and wondering what a scenario would be that would be made ‘with prejudice’.

Dwight Brew stated that he prefers the idea of withdrawal without prejudice, which would allow a new application to be submitted in the future. With regard to Arnie Rosenblatt's question, Dwight Brew stated that if an applicant had gone through the process and thought the Board was

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going to deny the application and decided to withdraw it at the last minute, that withdrawal could be 'with prejudice' so that a materially different application would have to be submitted.

**Bill Stoughton moved to dismiss, without prejudice, CASE #: PZ14590-080321 – EAM Amherst Holdings, LLC– 317 Route 101, Map 8 Lot 72, at request of the applicant. Seconded by Tracie Adams.**

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

Mike Akillian noted that an abutter submitted a letter to the Board regarding EAM Amherst Holdings. This letter stated that they believe the property is being used in a way it is not zoned for. He explained that, unless a letter of concern is sent to either Nic Strong or Scott Tenney, Building Inspector, it does not trigger an investigation. If the abutter would like this to be addressed, the letter needs to be sent to the Community Development Office or the Building Inspector. Arnie Rosenblatt agreed that was the correct procedure.

**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. Continued from February 2, 2022**

*Cynthia Dokmo and Mike Akillian recused themselves.*

Ken Clinton, Meridian Land Services, Erol Duymazler, Clearview Subdivision, and Lilly Corenthall, Sanborn Head, joined the Board. Mr. Clinton explained that several road waivers were granted to the design, specific to geometry, at the last meeting. Additional information regarding three requested studies originally discussed by the Board in December has been compiled. Each study will be followed up on tonight, and he hopes that the Board will then acknowledge that the studies are sufficient without the need for third-party review. This will allow the applicant to move forward to the legal and technical document review stage.

Ken Clinton explained that the fiscal impact analysis questions were reviewed by Mark Fougere, Fougere Planning & Development, Inc. The original analysis noted that the combined east and west villages are projected to have a positive \$243,000 of tax impact per year. The analysis by Mark Fougere found a \$238,000 per year positive fiscal impact, using slightly more conservative numbers.

Ken Clinton asked if the Board could discuss each study analysis in substance one-by-one, to make sure that each is resolved. Arnie Rosenblatt explained that he would like individual questions from Board members to be addressed in one Board go-round and for there to be an opportunity for an individual with expertise to respond to questions. He would also like Board

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members to clarify if their comment needs an answer or not. He does not want this to turn into a debate.

Ken Clinton explained that he believes the fiscal impact analysis has a number of purposes in this case. One is that, if the proposal was shown to have a negative fiscal impact, it would mean that the taxpayers would need to pay more than their fair share to support the development. A \$0 fiscal impact cost to taxpayers would mean that, while taxpayers would not need to pay anything for the development at this time, this could change in future years. The amended resulting value for this proposal was found to be \$238,000/year, thus the development will pay far more in support of Town services than it will utilize. Ken Clinton stated that the Board had some questions at the last meeting about the author's legitimacy and he hoped those questions had been answered. He suggested that the Board acknowledge that the matter is closed, accept that Mr. Fougere is qualified and accept the findings in the supplemental report. Ken Clinton stated that he understood the Board's discussion and the questions about the values used but even if the Board dismissed a quarter of the values included in the report, this proposal is not a burden to the Town; it is a tax positive project. He asked if the Board agreed that the author of the report was qualified and that they accept the findings.

Arnie Rosenblatt stated that he is unclear if this is a yes/no question. Board members may agree with the validity of some of the reports, while questioning other pieces, based on their personal perspectives. He asked that Ken Clinton continue through the remainder of the presentation before Board members voice their opinions.

Ken Clinton stated that, regarding the hydrogeological report, the applicant submitted a preliminary groundwater resource assessment relative to water supply to the Board last year for review. This was bolstered by a presentation from Sanborn Head. This assessment was then sent out for third party review to StoneHill Environmental, Inc., per the Board. He read a section of that review into the record, *"Based upon StoneHill's review of these documents, it is our opinion that the methodologies and assumptions employed by SH [Sanborn Head] to complete the Assessment were appropriate and contained sufficient data to reasonably conclude that the groundwater withdrawals proposed at the Prew Purchase Development are sustainable even during a drought period as was experienced this past summer."* Sanborn Head then provided comments to the StoneHill review and attended another Planning Board meeting to respond to comments. The Board then requested a separate and distinct hydrogeological study, which has since been completed.

Ken Clinton explained that the hydrogeological study contained 6-8 subtopics from the Board to consider. That list was determined to be a working list of the Planning Board that may/may not be required of applicants in the future but were all requested of the applicant. Ken Clinton noted that some of the items may not apply at all, and that these would not be excluded but noted as such. Two areas in particular, wastewater discharge impacts on ground and surface water, and stormwater discharge impacts on ground and surface water, were of interest to Christy Houpis at the last meeting. He paraphrased Christy Houpis from the previous meeting, "compliance with Town and State design and approval requirements are not sufficient enough of a response." Ken

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Clinton stated that wastewater discharge is a septic system and stormwater discharge is a drainage system. These designs are created in-house by qualified, permitted individuals. The Town has septic design standards that must be met, and test pits on site are inspected by Town staff. The design is reviewed by the Town and then submitted to the State. Any deficiencies along the way require the plan to be amended. The septic plan then goes through a final inspection before a certificate of occupancy is released. He asked, if all of the regulations are followed through the Town and State and this process is completed, what additional issues can arise that are not sufficiently responded to.

Similarly, the State and Town have requirements for stormwater that must be complied with. The engineering design will be submitted to the Town for third party review, likely by Keach Nordstrom Associates. Ultimately, the Alteration of Terrain Bureau at DES will also review the design. Any deficiencies along the way will, again, need to be addressed. During construction, there will be inspections completed by the Town engineering consultant, and, prior to road approvals, all items, including drainage, must be approved. There is thus a quandary if Town and State approvals are already determined not to be enough. Unless there are issues dealing with design of the site or design of the drainage system, he is unclear how to further respond to this item.

In regard to blasting, a sub criteria the Board asked the applicant to respond to, he asked what the criteria are that would warrant a blasting study. He noted that a blasting study may be warranted for a portion of the site if intensity of the blasting, substantial cuts near ledge, or proposed location of blasting near an abutter, were concerns. In this case, the particular circumstances do not warrant any identified substantial blasting. In reviewing the data, Ken Clinton stated that he did not notice any areas of ledge or surface ledge at all. There are some areas where test pit depths were halted at the depths required for septic system and drainage purposes. He noted that borings do not need to be completed along the proposed roadways, as substantial ledge was not shown through the test pits. However, he cannot say with certainty that no blasting will be needed on site. There are some certain cuts and fills proposed on site, but the site is mostly at grade. Ken Clinton stated that he believes no intensive blasting study is warranted at this time, due to these findings.

Ken Clinton noted that a statement was previously made that just because something is not applicable does not mean it might not become a concern. He stated that this is a hypothetical statement. There has been nothing produced to indicate that stormwater, septic, and/or ledge will be issues on this site. The underlying soils and nature of the proposed roads and drainage design on the east section of the site in particular are not complicated. He has reviewed all of these items with an open mind, and the report addresses all of them appropriately.

Ken Clinton noted that it has been stated many times that there is sufficient water for this project. While many existing wells in the area may not have sufficient water, this is particular to those wells and water usage on those properties.

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Lilly Corenthal explained that Sanborn Head previously gave a value of 70 gal/day water use per person in the original hydrogeological letter. This data point came from NHDES Water Resources Primer, citing 69.3 gal/day for a non-conserving home. The estimate rounded this to 70 gal/day. This is a common conservatively used number agreed on by StoneHill Environmental. The drought 2020 low recharge assessment data, based on 49 units, came out to 172 gal/day/resident which is 2.5 times greater than the 70 gal/day assumption and provides a conservative buffer. Regarding the lower yielding wells approaching the property, this reflects the heterogeneous nature of the bedrock systems.

Ken Clinton stated that the applicant agreed to some level of well testing, borne from recommendations in the StoneHill Environmental report. Smart irrigation systems were previously verbally acceptable by the applicant, which would monitor and account for regional rainfall. While the applicant disagrees with the full implementation of the well yield test protocol suggested by StoneHill Environmental, it was agreed that some level would be agreed upon, largely based on NH DES requirements. The applicant is now agreeing, for the two shared wells in the east village, to fully comply with the recommended StoneHill well test protocol. For the west village, the applicant does not believe this is necessary, but will comply with DES Water Bureau Fact Sheets, DWGB-1-13 (2021), determining the reliable capacity of a private water supply well and pumping system. The applicant will utilize the StoneHill Environmental table for well requirements for a 6" diameter well, in a hybrid fashion well protocol system. The table utilizes the recommended optimal capacity for wells and increases it beyond that. This exceeds the State's minimum and optimum standards.

Ken Clinton explained that the environmental study report, completed by GZA GeoEnvironmental, Inc., proposed a number of conservation measures. The applicant is in agreement with these measures, most notably the timing of the study regarding threatened or endangered plant species. A follow-up inspection, prior to construction, was proposed by GZA, in order to re-review for threatened and endangered species on the property, specifically with the east village. The applicant has agreed to this item. The last recommendation dealt with forest management. Ken Clinton previously suggested that the open space and management of it be handled by a third party, at this time identified as the Amherst Land Trust. The applicant will encourage the Amherst Land Trust to implement a forest management program, per the GZA recommendation.

Ken Clinton stated that he was surprised that Bill Stoughton made a comment regarding a potential community water system at the last meeting. He asked what the justification for such a requirement would be. If a community water system, for both villages, is required for this application, it should have been part of the Conditional Use Process (CUP) process, as it is a fairly comprehensive, design-intensive item. At this point, this would require a cost to redesign the overall project by the applicant. The installation, equipment, and maintenance of this type of system are extensive. This would likely, fiscally, require more units for the project, as the 43 units cannot support it. It would also not be fiscally possible to extend Pennichuck Water to the site at this time. It does not seem to be fair or reasonable to the applicant to make a community

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water system a condition of the approval. This actually could not be made a condition of approval, as it would require a redesign of the project.

Ken Clinton noted that Stephen J. Pernaw completed an original traffic study for the project, which then went through a third-party review by VHB. VHB generally concurred with the study, with some minor discrepancies regarding traffic volume. An overarching comment made by Steve Pernaw was that, in the traffic engineering world, traffic studies are not generally conducted for 43-unit developments as the impact is so minimal. This study is considered an exception to the rule, as it was required by the Board. Ken Clinton stated that his understanding is that NRPC is completing some level of traffic analysis. He asked if that study would be complete in time to be considered as part of this project.

Ken Clinton reviewed his questions to the Board: does the Board accept Mark Fougere as qualified to complete the fiscal impact study and accept the amended values he determined for tax impact? Is the hydrogeological study completed by Sanborn Head sufficient? The applicant is willing to conduct the well test protocol and environmental studies as previously discussed. There is no need or justification for the community well system. Are there any follow-up issues regarding the traffic studies completed? The applicant hopes to move into the technical and legal document review phase. The full engineering review of the design will still be completed by Keach Nordstrom. He reminded the Board that Keach Nordstrom previously reviewed and supported the proposed waiver requests.

Arnie Rosenblatt explained that the applicant is addressing comments from several reports and is requesting conclusion from the Board regarding those studies. Ken Clinton acknowledged that more meetings are needed. Answers and supplemental data have been provided for this meeting, and he is hoping that the Board is ready to move on from these studies to the next phase.

Tom Quinn stated that, in the future, he would like individual Board members not to be called out for comments previously made. He found this to be disturbing. Regarding the hydrogeological items, the StoneHill report notes that there are concerns regarding the possible density of supply wells proposed to be installed within the single-family home portion of the site and potential interference between them. There were also concerns noted regarding wells potentially not yielding enough supply for domestic demands due to failure of the boreholes to find sufficient water. StoneHill has concerns regarding groundwater quality impact by nitrates of up to 25 domestic septic systems, possibly close to the domestic supply wells. Tom Quinn stated that he would be more comfortable with this proposal if a community well or public water were proposed. He thanked the applicant for providing background information on Mark Fougere. As long as the net impact is above \$0, he is comfortable with this item. Tom Quinn stated that he is glad that the site will be revisited in the spring for the environmental report. He does not have further comments, other than those previously made, regarding traffic.

Tracie Adams thanked Ken Clinton for bringing forward Mark Fougere's background information. She would like to wait and see if other Board member's questions are answered with the new data presented for the fiscal impact study before she decides if she has additional

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questions on it. She echoed the concerns raised by Tom Quinn regarding the StoneHill report. She would like to see more information regarding the density of the wells. The hybrid approach for well testing seems adequate. She would like to examine Bill Stoughton's suggestion for further nitrate systems. She asked about running the water use numbers using more than 70 gal/day/person, as she has seen USGS data at 80-100 gal/day/person, and EPA data at 81 gal/day/person.

Lilly Corenthal explained that she did look at a low drought recharge rate to the site of 27,700 gal/day. If this is divided by 49 proposed units, which is a higher number of units than currently planned for, the calculation equates to approximately 173 gal/day/resident. There is a comfortable margin for water usage of the site, whether looking at 70, 81, or 80 gal/day.

Tracie Adams noted that she is glad the environmental study will be followed up on in the spring. She does not believe this needs additional review at this time.

Christy Houpis stated that he would like to see more direct responses regarding questions on the studies and referencing back to the data. He would like to have seen some of these specific questions answered directly, instead of answered through the studies. He still has questions regarding the fiscal impact study and if there are additional forecasted costs that may not be included in the fiscal impact data. He views his responsibility as a Planning Board member to balance the needs of the landowner and the safety and welfare of the community. The Board has repeatedly asked for information and been told, specifically by this applicant, that these requests are not common or standard. While an application might meet certain Town and State requirements, the Planning Board is tasked to look at this particular application on this particular lot with this particular set of circumstances and evaluate it as such. His concern continues to be that certain items were asked, and these questions remain, as they have not been answered. This is a substantive project, and the Planning Board is looking at the entire responsibility, not simply these 43 proposed lots in this location. He is glad Bill Stoughton brought up the proposal for community wells. While the applicant acknowledges that blasting is not likely for this site, Christy Houpis stated that it is still his responsibility to the community to be concerned about that possibility. The Board has the right and responsibility to ask for certain reports to be completed and to consider placing certain conditions on the project.

Dwight Brew stated that there are multiple ways to assess economic impact. He believes a report can be accepted without necessarily agreeing with all of the numbers and methodology. He asked if the Town or State requires water capacity testing for wells.

Ken Clinton stated that, in addition to the previous fact sheet cited, there is an additional DES fact sheet DWGB-1-8 - recommended minimum water supply capacity for private wells. He will supply this to Nic Strong. Every well has to be tested for capacity requirements to a certain degree.

Dwight Brew noted that there are over 200 instances of wells in Amherst with PFOA over the State limits. He asked if there is a requirement for these proposed wells to be tested for PFOA.



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Ken Clinton stated that he does not believe there is a requirement for the wells to be tested for PFOA. Dwight Brew stated that this is an item that the Town and State may not require, but the Board may want to make sure that residents to this new development are not exposed to PFOA through these new wells.

Dwight Brew stated that a number of verbal commitments are made during these meetings, such as Ken Clinton stating that certain guidelines will be followed. He asked if these need to all be restated during a motion for approval. Ken Clinton explained that he has been documenting everything the applicant has committed to throughout the process. If this application is allowed to move to the next phase, he will be submitting a plan that deals with any editorial comments listed in the Staff Report and includes notes listing all the things agreed to, along with a letter that details all of these commitments made by the applicant. Dwight Brew stated that he wants to make sure that none of these items slip through the cracks and asked how best to make that happen.

Bill Stoughton stated that he does not agree with all of the methodology used in the fiscal impact study. He has concerns regarding which capital reserve funds were used and the additional school costs, as he believes those affect the result. However, those disagreements only go to how persuasive the report is to him, and he does not believe it is fruitful to continue to cycle this report. He stated that he looks forward to seeing the proposal for capacity testing, in terms of the hydrogeological study. Meeting the minimums is not necessarily in the best interest of the Town; this will need to be further reviewed by the Board. He still has concerns regarding a number of wells on the west side that are paired up and located close to each other. This was identified as a concern by StoneHill, and Bill Stoughton stated that he believes it may be inadequate to run a capacity test on each well separately. It is likely that these paired wells will have a high potential of interaction. He stated that he suggested community wells as part of this project to address many of the concerns that have arisen. This would potentially involve fewer wells, a more detailed analysis of the locations of the wells, it would take away the proximity of water supply wells from septic systems, it would deliver water that was tested for quality and treated if needed (such as for PFOAs). He is unclear as to the cost, but there would also be a cost savings in not drilling each individual well. He is sensitive to the cost of proposing community wells and if this would be cost prohibitive to the project. He would like to address this as part of this application, and it will need to continue to be addressed into the future.

Bill Stoughton stated that he did not hear anything mentioned regarding the nitrate reducing septic systems that he previously brought up, and that was also noted by StoneHill. He also did not hear the bedroom counts mentioned for this project. The ordinance does not allow limits to be set for the square footage, but it does require limits to be set for the bedroom counts. The report submitted by the applicant does seem to indicate that the proposed units will be smaller in terms of square footage. He is not comfortable with letting the bedroom counts be fully market driven.

Arnie Rosenblatt asked for public comment. He noted that this hearing is on relatively discrete topics: comments regarding the provided reports. A decision will not be made to accept/reject

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this application this evening. There will be future meetings to speak to the merits of this application in full.

Chuck Siragusa, 39 New Boston Road, stated that he has concerns regarding PFOAs. He lives directly across from the east village proposed entry/exit location. He also has concerns with the proposed entry/exit location for the east village, and the 100' proposed setback. He does not believe relocating these items would be a large cost to the developer. The setback for each abutter located near the rest of the project is between 200-250' and he does not understand why the setback on New Boston Road is only 100'. He noted that the Board has not addressed these concerns.

Lydia Greene, owner of 37 New Boston Road and resident of 21 New Boston Road, asked that the Board consider traffic to this area. She requested a traffic counter be placed at the end of Brookwood Drive. She believes the increased traffic will be an impact.

Kris Pierce, 40 Boston Post Road, asked about the cost per student used in the fiscal impact study. This was estimated at \$11,000/student. She believes this is low. She has submitted the numbers she found via the SAU, including bus costs, which leads to approximately \$20,000/student. She also has concerns regarding the number of proposed wells and septic systems. She also asked about the power grid, as this area tends to lose power with every storm.

Arnie Rosenblatt stated that the Board needs to address the reports discussed this evening and act accordingly, as it sees fit. His view is that any Board member can determine the weight it finds for each report.

Bill Stoughton stated that he does not see the need for further third-party reviews of any of the reports. There are some action items committed to by the applicant. There are still some issues in his mind regarding water capacity and community water systems. He is not looking for a detailed report on this but would like to see some data on how much this would cost the applicant. NRPC is continuing its traffic study and there were issues regarding traffic identified during the CUP process. Traffic issues in this area are not wholly borne by this applicant, but the Town does need to handle these issues and the Board may request certain items from this applicant to help with this.

Bill Stoughton asked if the applicant would accept nitrate reducing septic systems. He asked what is the nature of the water quantity protocol proposed per use in the west village? Finally, he asked why the applicant believes a community water system is inappropriate as part of this project? He does not believe that these questions need to be answered by an expert.

**Christy Houpis moved to accept the studies received as sufficient, and to note that the Board has open issues it will consider as a result of the application and of these studies that would relate to 5 outstanding issues (water capacity, nitrate reducing systems, environmental studies/agreements made by the applicant, potential blasting impact, and traffic).**

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***This motion was not seconded.***

Arnie Rosenblatt suggested that there be a motion for the studies, and then Board members can identify specific issues still open.

Tom Quinn stated that he does not believe the studies need to be approved/disapproved. These are data points that will be considered as part of the larger application. The applicant is aware of issues that certain Board members still have with the application and can choose to address those or not.

Arnie Rosenblatt stated that the concern of the applicant is that the Board does not continue to request additional studies.

**Tracie Adams moved to accept the studies for fiscal impact, hydrogeological, and environmental as presented, with the intention of not asking for any additional third-party review in relation to them.**

**Discussion:**

**Arnie Rosenblatt suggested that the motion contains the notion that acceptance of these studies does not mean that Board members also accept their findings as gospel.**

**Bill Stoughton moved to consider the studies for fiscal impact, hydrogeological, and environmental as presented, without asking for additional third-party reviews or additional studies, and without commenting on the validity of the studies as accepted. Seconded by Dwight Brew.**

**Voting: Dwight Brew - aye, Bill Stoughton - aye, Tracie Adams - aye, Tom Quinn - aye, and Christy Houpis – aye, 5-0-0 motion carried unanimously.**

In response to a question from Bill Stoughton, Ken Clinton requested a continuance to April 6, 2022. Ken Clinton stated that, at that meeting, he plans to present on the technical nature of the plan, along with legal documents, edits to the plan (per the Staff Report), a committed list of conditions the applicant has voluntarily agreed to, and a list of responses to comments regarding items such as community water systems, nitrate reducing systems, traffic, and setbacks. Ken Clinton noted that these comments were made, but were not made in the form of questions, and so he has not had a chance to yet respond to them. The applicant is willing to extend all deadlines on this application.

Nic Strong noted that the Souhegan High School was not previously available as a location to hold a meeting on April 6<sup>th</sup>. The hearing must be continued to a date certain.

Dwight Brew suggested continuing this item to the Board's next meeting in two weeks, to allow for time to find a suitable location to hold the April meeting.

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Ken Clinton stated that there are 40 participants currently on the Zoom meeting. He is comfortable asking for this to be continued to April 6, 2022, at Town Hall, as he does not believe there will be too many people to hold it at that location.

**Bill Stoughton moved to continue this hearing to April 6, 2022, at 7pm, at Town Hall, with the understanding that the applicant has agreed to extend the statutory deadlines to that date. Seconded by Tom Quinn.**

**Voting: Dwight Brew - aye, Bill Stoughton - aye, Tracie Adams - aye, Tom Quinn - aye, and Christy Houpis – aye, 5-0-0 motion carried unanimously.**

With regard to Ken Clinton's statement about the inability to comment on Planning Board comments, Arnie Rosenblatt stated that the applicant has had many hours to present his position and will continue to have many hours to do so. He does not believe the applicant has been precluded from making comments. The applicant will have the chance to respond to any comments made tonight at a future meeting.

*Mike Akillian and Cynthia Dokmo retook their seats.*

**CONCEPTUAL DISCUSSION:**

**3. CASE #: PZ15393-020822 – William, Charles & Richard Hazen (Owners) & Brett Vaughn (Applicant); 2 Upham Road, PIN #: 006-102-000, 004-116, 118, 119, 121, 122 & 145. Subdivision Application. Proposed conventional residential subdivision discussion. Zoned Residential Rural.**

Arnie Rosenblatt noted the time and said that the Board's policy is to not begin new applications after 10pm, which may affect the next application.

Chris Guida, soils and wetlands scientist for Fieldstone Land Consultants, explained that the property was previously presented to the Board at several meetings with Chad Branon, PE. He noted that comments have been received from the Heritage Commission and Conservation Commission. The proposal is for 50 oversized frontage lots along Upham Road, Spring Road, County Road, and Cricket Corner Road. A previously proposed subdivision showed through a buildout that this land acreage supports approximately 112 lots. The current applicant is trying to work with the area and the Town to preserve much of the area. The proposal follows the Town's subdivision objectives, including providing protection of watersheds and endangered species, and looks to develop the land in an environmentally responsible way. All of the proposed lots meet the regulations and there is a large, proposed conservation piece that abuts existing conservation parcels. The applicant is hoping to receive comments from the Board to include during the application process.

Chris Guida noted that the DPW mentioned possibly paving County Road as part of this proposal. The applicant is not opposed to this, but additional lots may be required to meet the cost.

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Arnie Rosenblatt noted that, at a Conceptual Consultation such as this, individual Board comments are not binding in any way. There are three Board members that will no longer be on the Board when the formal application for this subdivision is submitted. The views expressed do not indicate a consensus or majority or reflect on any other Board member's views.

Dwight Brew expressed concern regarding paving County Road, as it is a scenic road. Paving County Road may also increase the traffic on it, as some may use it to directly access Merrimack. Something would likely need to happen on the road, as this proposal would probably bring new school aged children into the development and bus drivers are already uncomfortable accessing County Road.

Mike Akillian stated that 50 units versus 112 units seems more reasonable and asked how many driveways would be entering onto main roads, with the proposed oversized lots. Brett Vaughn stated that shared driveways would be explored as part of this project. Mike Akillian asked if the applicant would consider creating another road for the driveways to exit onto, before entering County Road, or if 30-40 driveways will all exit directly onto County Road. Brett Vaughn stated that the number of units proposed on County Road itself are approximately 20. In many cases, at least a shared curb cut would make sense, if not a shared driveway.

Tracie Adams echoed Dwight Brew's concerns regarding County Road. She noted that comments from other departments and boards will be taken into consideration by the Board. She explained that the Bicycle & Pedestrian Advisory Committee also has great interest in this proposal, and she would like the applicant to work with them on this.

Bill Stoughton stated that he appreciates the effort to include conservation land as part of this project, and he will appreciate it even more if this comes at no cost to the Town. Oversized lots and greater than required frontage could also be good for conservation and maintaining rural character, although this depends partly on locations on the lots for home placements. He has concerns regarding potential wetland impacts in the areas of certain lots, 4-121-1, 4-116-1, 3-145-5. There are also concerns regarding protecting the aquifer and maintaining a quality water supply. This location is close to an important aquifer, so nitrate reducing septic systems will likely be considered, along with community water systems. Large developments, such as this, will likely trigger the Town's stormwater regulations, nitrogen and phosphorus reduction and systems that cannot be located in wetland/wetland buffers, and the State's Alteration of Terrain (AoT) requirements. Bill Stoughton stated that he has concerns regarding County Road. If the unpaved section needs to be paved, this will include additional stormwater controls that comply with the Town's MS4 permit. County Road will also likely require safety improvements. He spoke with SAU39's Business Administrator Amy Facey, on this item and read her comments into the record, *"None of the policies speak directly to traveling on gravel roads. However, we have had some issues specifically with County Road this year. The bus company determined that certain sections of that road were deemed unsafe to traverse due to the narrowness of the road and the limited visibility of oncoming vehicles. Roads such as County are difficult because there is no shoulder for the bus or an oncoming car to pull over to let the other vehicle pass. This road is also challenging because there are sections where students walking to a bus stop is not safe."*

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**APPROVED**

*The one stop that we have on this road is at the corner of Beechtree, a private way. Previously, this stop was at the corner of Upham and County. This year, it was determined that the walk for the students from Beechtree to Upham was not safe to travel and it was also determined that it was not safe for the bus to travel on County past Beechtree. The solution was to have the bus enter County from the Upham Road side, go past Beechtree, back into Beechtree, and then go back towards Upham."*

Cynthia Dokmo expressed concern regarding County Road. She noted that these 50 units will likely be large and may trigger issues with school capacity. She would suggest the applicant consider phasing the project.

Tom Quinn stated that this is a much-improved plan and echoed comments regarding County Road. He stated that he would be sad to see County Road paved. He would like to see this maintained in its gravel state, and if this includes limiting traffic or construction along the road, he will ask the applicant to consider this. The applicant could consider placing construction at either end of the road and leaving the rest as-is.

Christy Houpis stated that he appreciates the reduction in unit numbers. Rural character will be a focus for this large project. He explained that all studies, fiscal, hydrogeological, environmental, etc., will be key to this project, and that the applicant should expect to complete these without being asked.

Arnie Rosenblatt stated that he will accept public comments, though this is not a public hearing. There were no public comments at this time.

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

**4. CASE #: PZ15394-020822 – Amherst Crossing AMA Realty Ventures, LLC (Owner) & Charles River Realty Group (Applicant); 123 Route 101A, PIN #: 002-038-000 – Non-Residential Site Plan Application. To propose the addition of a drive-up ATM to the existing retail plaza parking area. Zoned Commercial.**

Arnie Rosenblatt read and opened the case.

**Bill Stoughton moved there is no regional impact on this application. Seconded by Christy Houpis.**

**Voting: Dwight Brew - aye, Bill Stoughton - aye, Tracie Adams - aye, Tom Quinn - aye, and Cynthia Dokmo – aye, Christy Houpis – aye, 6-0-0 motion carried unanimously.**

Nic Strong stated that all required items have been submitted for this application.

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**APPROVED**

**Christy Houpis moved to accept this application as complete. Seconded by Tracie Adams.**

**Voting: Dwight Brew - aye, Bill Stoughton - aye, Tracie Adams - aye, Tom Quinn - aye, and Cynthia Dokmo – aye, Christy Houpis – aye, 6-0-0 motion carried unanimously.**

Tom Burns, senior project manager with TF Moran, explained that the proposal is for an ATM unit to be placed on one of the lots at 123 Route 101A. This plaza houses Michael's, Harbor Freight, and Petco. This site is located in the Commercial Zone and the Aquifer Protection and Wellhead Overlay District. A freestanding ATM unit is proposed to be installed in the existing parking area. The ATM will be located in the front area, adjacent to Route 101A. It will replace 8 existing parking spaces, to accommodate the drive lane. A waiver to request a reduction in onsite parking has been submitted. The proposed ATM includes brand paneling for Chase Bank. This would be considered signage per the Town's Non-Residential Site Plan Review Regulations. In 2007, the site plan approval allotted 1,379 s.f. of signage permitted without further Planning Board approval. Currently, including signage for a future tenant, 1,227 s.f. of signage is accounted for on the plaza site. These panels on the ATM would add approximately 16 s.f., leaving the total signage under that currently allowed. A traffic engineer has reviewed if the addition of the ATM would require an application to NHDOT for an updated drive permit. As the proposed ATM is a standalone unit, it is not typically a traffic generator and does not generally require an updated permit. This is an amenity tied to the plaza but does not create its own trips. The ATM island will be in place within existing pavement, so no landscaping will be altered on site. Site lighting will remain as it currently exists. No additional light poles are needed. The unit itself will have low-level downcast lighting that shines down onto the kiosk itself. Regarding stormwater runoff, as this is an existing paved site, some of it with porous pavement, and the fact that there is also a series of detention swales along the right of way with Route 101A, there are no additional stormwater management features proposed. There is an additional 120 s.f. of surface proposed to sit on the existing pavement, but this will not impact the infiltration rate of the site. There will also be a reduced sediment load to the site, as some of the existing pavement that is generally treated during the winter is being removed as part of this project.

Mr. Burns explained that there is a waiver requested for parking as part of this project. In 2007, the Planning Board approved a site plan for the overall plaza. 791 parking spaces were determined to be required in the plaza at that time. At the time of approval, the Planning Board granted a waiver to reduce this number to 629 spaces, with the condition that any changes or changes to the site that would change this number would need to be reviewed by the Board. This request is to remove 8 parking spaces to accommodate the drive lane of the ATM, reducing the total number to 621 spaces. The existing tenants were polled when seeking a new tenant for the Sport's Authority store area and all indicated that 4 spaces/1,000 s.f. was more than adequate for what's currently being used. Thus, the parking on site is currently underutilized, and the reduction of 8 spaces should not cause a negative impact.

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Cynthia Dokmo stated that she had no questions, and she has no issues with granting the waiver, as she has never seen the parking lot full before.

Christy Houpis had no questions or comments or concerns with the waiver.

Tom Quinn asked who the new tenant will be for the Sport's Authority space. Mr. Burns stated that a site plan was approved in September for Mendel. Renovations are ongoing for that unit. He is not at liberty to further discuss the business moving into that unit. Tom Quinn stated that his only concern is that the new tenant will increase traffic to the plaza.

Tom Quinn asked why the ATM would not be considered to be placed down near the new tenant entrance. Mr. Burns explained that Chase Bank examined the site for an ATM location with visibility from roadways; that is how the choice was made for the proposed location.

In response to a question from Bill Stoughton regarding the stormwater management, Mr. Burns stated that the 120 s.f. will drain directly onto the pervious surface area and recharge as it currently does. Bill Stoughton noted that there was a condition of approval for the original site plan that the porous pavement be vacuumed four times a year and asked if the logs were available. Tom Burns stated that he has not seen those logs, however, he did note how well it has been kept up and it was obvious that the owner does maintain it. Bill Stoughton stated that the approval also required that salt not be used as a deicing agent. Mr. Burns stated that he asked about that and believes this has been followed by the owner.

Bill Stoughton stated that he is considering a condition that the owner supply two years' worth of maintenance logs for the pervious pavement.

Tracie Adams also does not believe parking will be an issue on site. The ACC and DPW had no comments on the plan. She explained that several items are noted on the Staff Report; Mr. Burns stated that he has no issue updating those items.

Mike Akillian had no questions or comments at this time.

Dwight Brew stated that he is okay with reducing the parking spaces. He asked if the ATM would look like a backlit sign. Mr. Burns stated that proposed lighting is within the canopy above the ATM that is downcast onto the unit.

Arnie Rosenblatt asked for public comment.

Justin Ferris, property manager, confirmed that the parking lot is swept weekly and vacuumed quarterly. There is no salt used as a deicing agent.

There was no other public comment at this time.



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**APPROVED**

In response to a question from Arnie Rosenblatt regarding who was going into the old Sports Authority space, Nic Strong stated that the item came into the Community Development office as an administrative change of tenant, which did not require Planning Board approval. The ultimate tenant is not yet known.

Arnie Rosenblatt agreed that the parking lot for the plaza has always seemed empty. However, it is strange to agree to a waiver to reduce parking, without knowing the end tenant for the unoccupied space and how much parking might be needed. Tom Quinn stated that he believes the new tenant will be a large, well-known business.

**Bill Stoughton moved to grant the waiver requested to the Parking Section 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 given the number of existing parking spaces 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, and Cynthia Dokmo – aye, Christy Houpis – aye, 6-0-0 motion carried unanimously.**

**Bill Stoughton moved to approve Case # PZ15394-020822 for Amherst Crossing AMA Realty Ventures, LLC, & Charles River Realty Group, for a Non-Residential Site Plan for a drive-up bank kiosk, at 123 N.H. Route 101A, Map 2 Lot 38 with the conditions set forth in the Staff Report and the additional condition precedent #4: that the applicant shall provide two years' worth of logs demonstrating maintenance of the pervious parking surface. Seconded by Christy Houpis.**

**Bill Stoughton AMENDED his motion to include impact fees to be assessed at the Retail rate. Seconded by Christy Houpis. Voting: Dwight Brew - aye, Bill Stoughton - aye, Tracie Adams - aye, Tom Quinn - aye, and Cynthia Dokmo – aye, Christy Houpis – aye, 6-0-0 motion carried unanimously.**

**OTHER BUSINESS:**

**5. Lot consolidation/Voluntary Merger: Map 2 Lot 23 and Map 2 Lot 26-3, Hertzka Drive & Bon Terrain Drive**

Nic Strong explained that this merger was a condition of the approval for the recently approved Eversource substation expansion.

**Christy Houpis moved to approve the Lot Consolidation/Voluntary Lot Merger application for Public Service Company of New Hampshire d/b/a Eversource Energy, to merge Tax Map 2 Lots 23 & 26-3 into one lot: Tax Map 2 Lot 23, for municipal regulation and taxation purposes. No such merged parcel shall hereafter be separately transferred without subdivision approval. Payment for recording**

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**APPROVED**

**the Lot Consolidation/Voluntary Lot Merger Forms at the Hillsborough County Registry of Deeds shall be made by the applicant. Seconded by Bill Stoughton. Voting: Dwight Brew - aye, Bill Stoughton - aye, Tracie Adams - aye, Tom Quinn - aye, and Cynthia Dokmo – aye, Christy Houpis – aye, 6-0-0 motion carried unanimously.**

**6. Minutes: February 16, 2022 & February 22, 2022**

**Christy Houpis moved to approve the meeting minutes of February 16, 2022, as amended [to change line 189 from “on/off for approximately 20 years” to “for 26 years”.] Seconded by Tracie Adams.**

**Voting: Dwight Brew - aye, Bill Stoughton - aye, Tracie Adams - aye, Tom Quinn - aye, and Cynthia Dokmo – abstain, Christy Houpis – aye, 5-0-1 motion carried unanimously.**

**Bill Stoughton moved to approve the meeting minutes of February 22, 2022, as submitted. Seconded by Tracie Adams.**

**Voting: Dwight Brew - aye, Bill Stoughton - aye, Tracie Adams - aye, Tom Quinn - aye, and Cynthia Dokmo – abstain, Christy Houpis – aye, 5-0-1 motion carried unanimously.**

**7. Any other business to come before the Board**

**Christy Houpis moved to adjourn at 9:58pm. Seconded by Tracie Adams.**

**Voting: Dwight Brew - aye, Bill Stoughton - aye, Tracie Adams - aye, Tom Quinn - aye, and Cynthia Dokmo – aye, Christy Houpis – aye, 6-0-0 motion carried unanimously.**

Arnie Rosenblatt noted that the next meeting will likely be held in-person.

Respectfully submitted,  
Kristan Patenaude

Minutes approved: March 16, 2022