

TOWN OF AMHERST
Planning Board

May 4, 2022

APPROVED

In attendance at Amherst Town Hall: Arnie Rosenblatt, Bill Stoughton – Board of Selectmen Ex-Officio, Chris Yates, Tom Silvia, Cynthia Dokmo, Tracie Adams, Tom Quinn, Tim Kachmar (alternate), Daniel LeClerc (alternate), and Pam Coughlin (alternate)
Staff present: Nic Strong, Community Development Director (in attendance at Amherst Town Hall); Nicole Stevens, Town Planner (via Zoom); and Kristan Patenaude, Recording Secretary (via Zoom)

Arnie Rosenblatt, Chair, called the meeting to order at 7:00 pm at Town Hall. He welcomed the three new alternates to the Board.

PUBLIC HEARING:

1. 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 April 6, 2022.

Arnie Rosenblatt read and opened the hearing.

Cynthia Dokmo recused herself.

Ken Clinton, Meridian Land Services, and Erol Duymazler, Clearview Subdivision, addressed the Board. Ken Clinton stated that the applicant was previously before the Board seeking possible determination regarding potential conditions of approval for items including a public water supply system and pretreatment septic systems. The Board and applicant also discussed potential offsite items such as traffic impacts and blasting.

The applicant was asked to follow up on two items: one being more detailed information on a public water supply system, including information regarding the potential cost of such a system. The applicant previously explained to the Board that he does not believe a public water supply system is necessary for this project and does not know of any special circumstances of this property that would make this a required item, especially as it is not a required item of the Town. The applicant previously shared a rough estimate of \$700,000 for design and construction of a public water supply system, thus making the project financially unfeasible without including more units on the project. This would have been more appropriate for the Board to discuss as an option during the IIHO Conditional Use Permit (CUP) phase of this project, when the number of 43 units was derived. The applicant consulted with well drilling experts and Bruce Lewis Engineering, known throughout the State as a public water supply system consultant and designer. This data, provided to the Board last week, yielded two formal estimates, averaging \$860,000, for a public water system on this property. The data provided verifies this to be a substantial cost to the applicant, especially at this phase of the design and approval of the project. This cannot be installed at this cost without a substantial increase of units in the project; Ken Clinton stated that he would think it would require 15 additional units at this time. This number

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is largely unknown though, due to ever changing costs of materials and labor. The facts do not demonstrate any need to justify a public water supply for this project. If required to go this direction, the applicant will need additional units to justify the cost, and, likely, a substantial redesign of the entire project. This water system would require a through road for construction and maintenance between the two villages on the property. The applicant is requesting a determination on this item from the Board this evening.

Secondly, regarding the pretreatment septic systems, Ken Clinton explained that the notion for this item came out of the StoneHill Environmental third-party review of the applicant's initial water supply study as part of the previous IIHO CUP. The applicant has previously stated that he believes this item is unnecessary and that there are no facts or circumstances of this property that would require it. The facts do not yield any demonstrated need for this item. Ken Clinton stated that he tried several times via phone and email to reach Tim Stone, StoneHill Environmental, to follow up on this item, to no avail, until last Friday. Upon further discussion, regarding Tim Stone's original comments that the applicant could consider pretreatment septic systems due to some concerns about nitrate setbacks in the west village of 25 wells being located in close proximity to 25 septic systems, Ken Clinton asked that the conversation be continued until someone in his office with more technical knowledge about this item could be present. Tim Stone agreed but was unavailable to talk until this morning to continue the conversation. An email was provided from Tim Stone to Nic Strong and Ken Clinton detailing this conversation.

Nic Strong stated that she did not receive this email. Ken Clinton stated that she is clearly copied on the email he has. He asked to read the email into the record. Arnie Rosenblatt agreed but noted that no one on the Board has seen or read this email.

The contents of these emails are as follows:

From: Tim Stone <tstone1061@gmail.com>
Sent: Wednesday, May 4, 2022 10:25 AM
To: Kenneth Clinton <KCClinton@meridianlandservices.com>
Cc: nstrong@amherstnh.com
Subject: Re: Prew Purchase, Amherst, NH

Ken,
Your email accurately reflects our discussion earlier this morning. As discussed, the mention in my March 9, 2021 letter to Nic Strong regarding the possible use of advanced treatment septic systems was not intended to be interpreted as a requirement, but instead a suggestion for consideration by the developer. Indeed, the implementation of a requirement for advanced though out and treatment systems by the Planning Board needs to be thoroughly developed and thought out on a town-wide basis.
I hope our discussion and this email assists in resolving this issue.
Regards,
Tim

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On Wed, May 4, 2022 at 9:50 AM Kenneth Clinton
<KCClinton@meridianlandservices.com> wrote:

Tim,

Thank you for making the time for a call this morning to discuss your suggestion that Clearview Development consider pre-treatment septic systems for the 25 units in their proposed West Village.

My understanding of the key points of our conversation are as follows:

1. There is no specific data or resource which indicates a need for pre-treatment septic systems for this particular site
2. Your suggestion was for the developer to consider the use of pre-treatment septic systems if they were agreeable – you are not ‘married’ to them as a requirement for this project.
3. You feel that should the town wish to review nitrate impacts from septic systems in the future, then they should review the issue in a more holistic approach... to be considered broadly and applied to new applications and designs.

Please review and comment/concur as you feel appropriate.

Regards,

Ken

Ken Clinton noted that the Town hired this third-party consultant, not the applicant. This person is difficult to get ahold of, as he lives off a boat in the Caribbean. He noted that the consultant addressed the email to himself and Nic Strong, nstrong@amherstnh.com. The Board noted that the correct email address is nstrong@amherstnh.gov. Ken Clinton stated that he is not the one who addressed the email incorrectly. Arnie Rosenblatt stated that the Board is not faulting him for this. Ken Clinton provided a copy of the email to Nic Strong. The consultant concurred that pretreatment systems are not necessary for this project and the applicant has fulfilled his obligation on this item.

Ken Clinton asked that the Board share its comments thus far. Arnie Rosenblatt stated that the Board would wait for Ken Clinton to finish his full presentation for this evening before commenting. Ken Clinton stated that some of the rest of the presentation depends on decisions the Board makes. He noted that a third-party review was received from Keach Nordstrom, and the applicant does not see anything troublesome in the review, only minor housekeeping items. The applicant cannot revise the plans until he knows the Board’s determination regarding items such as the community water system. Similarly, the WWCD CUP phase cannot be moved forward with until the Board makes its decision regarding the public water supply, as this would create additional wetland impacts on the property. Arnie Rosenblatt stated that those presentations would be made after this evening; he is asking for additional items to be presented this evening. The applicant is looking for a decision from the Board on a couple of items, as these will have material impacts on where the applicant goes from here. Ken Clinton agreed.

Ken Clinton stated that he received traffic analysis information from NRPC today. The intersection capacity analysis, specifically for the existing conditions of Main Street/Boston Post Road, recommends a slight change to the stop sign arrangement. The report continues that, with

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these recommendations in place, the Amherst Village area is forecasted to operate at low congestion conditions well into the future. Secondly, NRPC concluded that future projected land use growth, specific to proposed new developments nearby, will not degrade traffic operational conditions in the Village area, provided that the Town address the one intersection stop arrangement mentioned previously. The scope of this project requested that Clearview and additional proposed applications all be included in this analysis.

Ken Clinton stated that, regarding potential PFAS occurrence in the proposed wells on this site, he noticed a PFAS PowerPoint information slideshow on the Town's website. The information stated that over 450 private wells were sampled in Town, with over 200 wells exceeding capacity. There is a map included that shows the contaminated wells, substantially concentrated in the southern portion of Town. The citizens near the Clearview site that have had their wells tested show significantly diminished amounts. This appears to be a private matter if any future residents wish to have their wells tested, and not something that should be a requirement for this project.

Ken Clinton reiterated that there are no specific circumstances of the site that would require a public water supply system or pretreatment septic systems for this project.

Arnie Rosenblatt explained that the procedure will be for the Board to ask questions/make comments, the public will then be able to ask questions/make comments specific to the issues at hand tonight. There will be no decisions made regarding the overall proposal tonight and additional hearings will be held.

Tracie Adams asked if the applicant would consider testing for quantity and quality of neighbors' wells surrounding the project parcel. Ken Clinton stated that, in the past, the Board has always held that these are private/civil matters, to be handled accordingly. He would encourage private citizens to test their wells in order to receive a baseline reading that could be tested again at a future point, if needed. He does not believe this is a developer's responsibility. Erol Duymazler stated that he is not opposed to this consideration for abutters.

Tracie Adams stated that the cost of a community well system, as presented in the data, does seem to be financially prohibitive, unless there is some demonstrated need. The number of wells proposed are not necessarily at the statutory requirement for such a system to be required.

Tom Silvia stated that the report from Cushing & Sons put forth the concept of abutters having a baseline test completed on their wells for quality and quantity. Erol Duymazler explained that this was suggested in the context of being for the applicant's protection.

In response to a question from Tom Silvia regarding if the cost for the public water supply system includes the savings there would be from not having to drill individual wells, Erol Duymazler stated that the information provided to the Board did not subtract that out, but he has calculated the net cost, and this was previously mentioned by Ken Clinton. The data from Cushing & Sons suggested that a well costs approximately \$12,500 to drill. Erol Duymazler

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176 stated that he has found, historically, that wells cost between \$9,000 - \$15,000 to drill. The
177 estimate for drilling wells from Cushing & Sons would equate to a total of \$337,500, for the
178 number of proposed wells on the property. Subtracted from the estimated \$1.8M for a public
179 water supply system, this equates to approximately \$800,000.

180
181 Bill Stoughton explained that his objective is ensuring that the developer provide adequate water
182 quantity and quality. As previously mentioned, this is of particular concern in the community
183 now because we are finding a relatively large number of private wells contaminated by PFAS
184 compounds in widely varied locations around Town. The State map is not up-to-date, and the
185 Town continues to receive reports from residents, bracketing the Clearview site, that have tested
186 their wells and found elevated PFAS levels. The presentation mentioned by Ken Clinton was
187 made by DES to the Board of Selectmen and several grant programs were suggested that the
188 Town will be taking advantage of. He respectfully disagreed with Ken Clinton's statement that
189 PFAS is not an issue around the Clearview site. This is a problem throughout Town and is not
190 predictable as to where it will occur. He believes all developers should be required to test for
191 PFAS under the requirement that they provide potable water to homes.

192
193 Bill Stoughton stated that three potential methods of supplying adequate quantities of safe water
194 have been suggested. One being a connection to Pennichuck Water; this approach would satisfy
195 quantity and quality concerns but is costly. A second being the use of a State-regulated
196 community water system. This approach would satisfy quantity and quality concerns but is also
197 costly, although far less expensive than a connection to Pennichuck and partially offset by
198 avoiding the cost of drilling individual wells. In connection with work being done by the ACC to
199 address water issues as a part of the Master Plan, he had the opportunity to discuss the use and
200 cost of community water systems with the Chief Operating Officer of Pennichuck. One of the
201 Pennichuck companies operates and maintains a large number of community water systems in
202 the State. The cost estimates provided by the applicant tonight are in line with the general
203 cost estimates suggested by Pennichuck. A final option is private wells. The engineering analysis
204 suggests there is adequate recharge for the use of private wells, which is one element of ensuring
205 water quantity. However, to meet the separate concerns the Board and StoneHill Engineering
206 have expressed, private wells should have well capacity testing of the actual wells drilled and
207 water quality testing. Bill Stoughton stated that he believes that for future developments it will
208 make sense to require community water systems in developments of this size, and he will support
209 efforts to do so. The discussions by our Community Development Office with the State DES
210 personnel most familiar with community water systems support the view that this is a responsible
211 planning approach for the Town. He is sympathetic, however, to the applicant's concern that this
212 possibility has been raised by the Board at a stage of planning that is disruptive in terms of cost
213 and schedule, although he also believes buyers would willingly pay a premium for professionally
214 maintained and treated water.

215
216 Bill Stoughton stated that he is willing to proceed with the applicant's suggested use of private
217 wells, but only if and when satisfactory testing protocols are agreed upon. The Board has
218 addressed the need for the quantity testing protocols several times in recent meetings, but he does
219 not believe the Board has yet seen the proposed "hybrid" approach for the west village. The

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applicant proposes to use the StoneHill protocol for the east village, although each of the two proposed wells there appears to serve nine dwelling units, so the Board will need to see how StoneHill's protocol, designed for a well serving only a single dwelling, will be adapted for the multi-unit east side wells. These must be resolved satisfactorily for him to support the use of private wells.

Bill Stoughton stated that, finally, at the last meeting the applicant appeared willing to consider water quality testing. Rather than spend several more meetings discussing this conceptually, he offered the following proposed condition with respect to water quality:

1. Applicant shall provide potable drinking water for each dwelling unit. Potable drinking water is defined as water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming to the standards established by the more stringent of (a) the New Hampshire Department of Environmental Services or (b) U.S. EPA; based on test results from a laboratory accredited under the New Hampshire Environmental Laboratory Accreditation Program and provided to the Town's building inspector, for the following contaminants: arsenic, bacteria, copper, fluoride, lead, nitrate, nitrite, uranium, manganese, and the four PFAS compounds for which New Hampshire has established standards: Perfluorohexane sulfonic acid (PFHxS), total of all isomers, Perfluorononanoic acid (PFNA), total of all isomers, Perfluorooctane sulfonic acid (PFOS), total of all isomers, Perfluorooctanoic Acid (PFOA), total of all isomers

2. Applicant shall include in its condominium documents requirements for annual testing of water supplied to east village units for the contaminants above and reporting of results to all residents of east village units.

Bill Stoughton noted that these tests are recommended by NH DES. He has added manganese and the PFAS compounds to the State's list. These conditions will require the developer to test and, if necessary, treat the water supplied to each dwelling unit. These water quality issues must also be resolved satisfactorily for him to support the use of private wells.

Chris Yates asked if there was an estimated depth for the proposed wells associated with the \$12,500 figure given by StoneHill. Erol Duymazler stated that the base contract is generally for 500' deep wells, with additional charges per extra foot of depth. Wells in the same neighborhood have ranged from 200'-700' in the past. Chris Yates stated that the 500' depth is consistent with surrounding wells in the area. Erol Duymazler stated that deeper wells will be drilled in order to meet State protocol for well yields, if necessary.

Tom Quinn stated that he does not believe the PFAS issue in Amherst is related to Saint Gobain, but TCI, which is located near Wal-Mart. This is where most of the contamination in Town comes from. Ken Clinton stated that the Saint Gobain contamination area is also located close to the Town line. This could be considered the main source in the area.

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Tom Quinn noted that this is an Integrated Innovative Housing Ordinance (IIHO) application. Thus, the Board has been dealing with an up-to number of proposed units which could be increased/decreased by the Board for a number of reasons. Arnie Rosenblatt stated that this is his view, but it may not be others' viewpoint. This is an IIHO application that is grandfathered in, with an up-to number of 43 units.

In response to a question from Tom Quinn, as to why a community well type system is being considered only for the east village, Ken Clinton stated that this is strictly per the regulations from DES which controls the bedroom count within a building. The number of units being allowed by the Town and the topography of the land thus led the applicant to look at a this type of system versus individual wells for each side of the property. It is not necessary to place individual wells in the east village, but it is for the west village. The systems cannot be split further than what is being proposed. Tom Quinn asked why two nine-unit wells are proposed for the east village, but not for the west village. Ken Clinton stated that it would require a greater number of units in the west village, in order to support the cost of a community system on that portion of the property. Tom Quinn asked if it is less expensive to place two wells in the east village, instead of individual wells. Ken Clinton stated that he believes this to be true. Tom Quinn asked if Ken Clinton believes the two nine-unit wells proposed for the east village are less expensive than individual wells. Ken Clinton stated that he believes this to be true. Tom Quinn noted that one of the reports mentioned the possibility of only needing two community wells for the entire development, east and west villages. Ken Clinton stated that the wells proposed for both sides are entirely different in how they are serviced. Erol Duymazler stated that experts were sought on this matter and that a typical well might be drilled to be 6" diameter. Community wells need to be drilled to 8"- 9" in diameter, which requires a different, more substantial process with different equipment. The two wells proposed for the east village are not community wells, per say, but common wells. The quotes obtained included a 4" main line to feed the houses via a community well, which would be a substantial increase in cost that will not be borne through the common wells, as proposed.

Tom Quinn asked if the common wells proposed will not require water testing. Ken Clinton stated that water testing is still required, simply to a different level. Tom Quinn asked if this water would be untreated. Ken Clinton noted that community wells do not necessarily require the water to be treated either; this is determined by the quality of the water. Tom Quinn stated that over 10 units being serviced by a community well would require oversight and testing by NH DES. Ken Clinton stated that this does not mean the water would need to be treated, though. This still depends on the water quality. Water does not have to be treated if there is no reason to do so. Ken Clinton noted that this also is the case for an individual well.

Tom Quinn stated that there is approximately a \$200,000 difference between the common wells proposed and a community well. Erol Duymazler stated that this is incorrect. He previously gave an estimate of a \$700,000 difference. After speaking with experts, it appears that the average cost difference would be closer to \$850,000. Tom Quinn asked if drilling the same diameter well on the east village as the west village well will allow for enough water to service the nine proposed units. Erol Duymazler stated that he believes this to be true. This will be proven when the wells

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are drilled and tested. Ken Clinton stated that this is not new to the Town. Tom Quinn stated that, though he is not an expert, he has difficulty believing that a \$12,500 common well on the east village will be able to service the nine proposed units.

Arnie Rosenblatt noted that the new Board alternates have not sat through any of the previous meetings on this item. He asked if any of the alternates had comments/questions; none did at this time.

Arnie Rosenblatt asked for public comment.

Ken Miller, 2 Old Coach Lane, stated that his four wells were recently tested for PFAS, and results have not yet come back. There is a well on the corner of Jones Road and New Boston Road which is 25'-30' deep that he believes is contaminated. The traffic situation at Wilkins School is currently terrible. He is concerned with adding more cars from this proposed development dropping off children each day. He would be okay if the developer cut down the number of proposed units, mostly due to the traffic issue. He asked if the Town has ever considered that this proposal might be an ancient burial ground.

Arnie Rosenblatt asked that the public keep its comments to the items at hand this evening.

There was no further public comment at this time.

Arnie Rosenblatt noted that the Board is being asked by the applicant to make decisions on two items.

Tom Quinn stated that he understands the need to move things along, however, certain pieces of information were submitted to the Board by the applicant only this evening. He is not comfortable making any decisions this evening, until he has time to review the new information.

Bill Stoughton stated that, if the Board and applicant can agree on testing protocol for both villages, he will not insist on a community water system. He is not necessarily ready to make a motion this evening completely ruling out a community water system though, because there is work to do on the details regarding quality and quantity testing. This might allow the applicant a way forward for the meantime.

A Board member stated that she is in favor of moving forward without the community well but noted that she has not yet had time to review Bill Stoughton's proposed conditions or considerations for quality controls.

Arnie Rosenblatt noted that the applicant has stated that he needs to know if a community well will be required by the Board. He is unsure if this request is inconsistent with Bill Stoughton's proposal. The Board could assert that, based on the evidence at hand, it will not require a community well. This does not mean that the Board will not have requirements with respect to the proposed individual wells; the applicant would be alerted to these. The question is, based on

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the two studies including one from the Town's third-party consultant if there is enough information to require a community well. The Board could conclude that there is not enough evidence, but still have concerns regarding the quality and quantity of the proposed individual wells that could require testing elements. Those could be considered as separate issues by the Board if it so chooses.

Ken Clinton stated that the applicant has already committed to quantity testing in two different aspects for the east and west villages. The list read previously by Bill Stoughton seems to include the same considerations already put forth by the State for testing, with a couple of additions, which he does not believe are insurmountable. He believes the applicant can pledge to reach common ground with the Board on these items. Regardless of the public water supply issue, he acknowledged that the Board is able to enforce any conditions and/or requirements that it sees fit whether the applicant likes it or not. He believes any additional items in question can be addressed by the Board at its next meeting on this item, with submittals of plans in advance by the applicant.

Bill Stoughton stated that, if there is a consensus of the Board, he believes this item can be moved forward, possibly without an actual motion. Arnie Rosenblatt stated that he believes the applicant would like to see a formal action taken by the Board. He is sympathetic to this. Bill Stoughton stated that the Board has been asking for the quantity testing protocol for some time. This is an important item, along with the quality testing protocol. If it takes the proposal of a community water system held over the head of the applicant in order to get these pieces of information, he believes this should be done until the protocols are in the Board's hands. Then the proposal of a community water system can be removed from the conversation.

Ken Clinton stated that the applicant has already committed to well quantity testing. The east village is proposed to be completed per the Town's third-party consultant, StoneHill's, protocol. This is already written and has been agreed to. The west village is proposed to be completed using a hybrid method with the State's requirements and StoneHill's well requirements table, which is even more stringent than the State's requirements. The quality testing protocol item was only raised by the Board last month, and the proposed list of contaminants from Bill Stoughton was presented earlier this evening.

Arnie Rosenblatt stated that the Board can have a discussion at the Board level now. The Board is being asked by the applicant to formally indicate that it will not require a community well going forward. A number of bases have been identified regarding this topic, the applicant cannot move forward with its plan without knowing this, and the Board is being clear that testing will be required in terms of quality and quantity for the individual wells.

Bill Stoughton moved that, based on the expectation that the Board and applicant will come to an agreement on private well quantity and quality testing requirements, the Board determines it will not require a State-regulated community water system in the Clearview development . Seconded by Tracie Adams.

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Discussion:

Arnie Rosenblatt stated that he was not expecting a motion for an agreement with the applicant, but instead one that notes the Board will not impose this requirement on the applicant. If the applicant does not agree, the Board will require it. He will only support this if the Board is going to require quantity and quality testing requirements.

Bill Stoughton amended his motion that the Board determines it will not require a State-regulated community water system in the Clearview development but will require quantity and quality testing. Seconded by Tracie Adams.

Discussion:

Tom Quinn stated the overlapping well radii on a number of these parcels could be a large problem that would be solved with a community water system. He believes this would be the best solution for this larger, high-density development.

Arnie Rosenblatt stated that a number of concerns have been raised by members of the Board and public regarding the water supply for this development. He noted that there has not been evidence presented, in his view, to support the requirement for a community well. Two studies, one of which was paid for by the applicant and one of which was completed by a consultant chosen by the Town, did not provide empirical evidence to support requiring a community well. People can disagree, but this is his reason to support the motion.

Tom Quinn noted that community wells will draw the same amount of water as 42 individual wells, however, they could be located further from existing abutters to this project and thus, may have less of an impact on them.

Voting: 4-1-0 motion carried (T. Quinn against).

Arnie Rosenblatt noted that the second item for the Board to consider was the pretreatment septic systems.

Bill Stoughton stated that StoneHill originally suggested the nitrate reducing septic systems, but now appears to not believe them necessary. This is not an issue for the applicant, but for StoneHill. He will not continue to insist on this item further.

Tom Quinn stated that this item goes back to the compact nature of this development and where its located. Pretreatment systems were an original recommendation of the consultant, and he is unclear what the consultant most recently recommended to the applicant. This is a large development in a compact area and there is a reason these systems were suggested in the first place. The official letter to the Board recommended this and it is unclear as to why the recommendation would change.

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Tracie Adams stated that the original StoneHill report mentions having “some concerns” regarding potential impacts. It later states that Clearview should “consider” use of these systems. This appears to be a recommendation, not a requirement.

Tom Silvia stated that, due to the contradictory information presented tonight by the applicant regarding his conversation with StoneHill, he believes this needs to be reviewed by the Board in written form. He is uncomfortable moving forward without verifying this in writing.

Tracie Adams moved that the Board will not require pretreatment septic systems for the Clearview development, and that the septic systems will be moved forward with as discussed.

Bill Stoughton suggested that the motion should simply read, that the septic systems shall comply with all applicable State and local requirements.

Tracie Adams retracted her previous motion.

Tom Silvia noted that this is always the case and asked if a motion to this effect truly needs to be made. Bill Stoughton stated that the inference of the motion is that nothing more shall be required by the Board. Arnie Rosenblatt stated that he believes the proposed motion is more than just an inference but is a true statement to this end. Bill Stoughton noted that he is also concerned regarding the contradictory statements made by StoneHill, but that this is more of a concern for StoneHill than for the applicant.

Bill Stoughton moved that the Board require the applicant to construct septic systems that comply with all applicable State and local requirements. Seconded by Chris Yates.

Discussion:

Arnie Rosenblatt clarified that this motion effectively means that the Board will not be requiring pretreatment septic systems as suggested by the third-party consultant.

Tom Quinn stated that it is unlikely that a consultant’s letter would ever specifically “require” something of this nature. A recommendation is made for a reason. This is being recommended due to the proximity of neighbors. He is against the motion for this fact and for the fact that the Board has not yet reviewed the contradictory statement made by the consultant.

Bill Stoughton stated that he does not disagree with Tom Quinn, however, the consultant appears to have recanted all the points the Board was relying on in order to require nitrogen reducing septic systems. He does not believe any amount of study of the consultant’s most recent email will change that, as it was fairly direct.

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Ken Clinton stated that he understands the issue of the late receipt of the email from the consultant and the inappropriateness of asking the Board to make a determination on this at this time. He asked that the applicant's request that the Board make a determination on the pretreatment systems this evening be withdrawn. He believes a satisfactory agreement on this item can be reached.

Arnie Rosenblatt accepted the applicant's request to withdraw the request for determination at this time.

The Board discussed possible dates to continue this hearing until. Nic Strong noted that the June 1, 2022, meeting agenda already has four large items on it. She is unsure if the meeting will be able to be held at Souhegan High School. Arnie Rosenblatt noted that the May 18, 2022, meeting is a work session for the Board, and he would like to keep it as such. He suggested continuing this hearing to June 15, 2022.

**Bill Stoughton moved to continue this hearing to June 15, 2022, at 7pm, at Town Hall. Seconded by Chris Yates.
Voting: 5-0-0 motion carried.**

Cynthia Dokmo retook her seat.

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

2. CASE #: PZ15622-040822 – Brian Scanlan (Owner & Applicant); 17 Thornton Ferry Road I, PIN #: 005-006-000 – Conditional Use Permit. To delineate the proposed pool & patio installation with associated drainage improvements. Zoned Residential/Rural

Arnie Rosenblatt read and opened the case.

**Tracie Adams moved to accept this application as complete. Seconded by Chris Yates.
Voting: 6-0-0 motion carried.**

Arnie Rosenblatt explained that the procedure will be for the applicant to make a presentation. The Board will then ask questions/make comments, the public will then be able to ask questions/make comments, and the Board will then make any decisions it deems appropriate.

Sam Foisie, Meridian Land Services, addressed the Board. The proposal is for a pool and patio to be installed in the side yard of the Scanlan's residence. The Scanlan residence is located off Thornton Ferry Road I in the Residential/Rural Zone. It is located in the Wetland Conservation District, the Aquifer Conservation and Wellhead Protection District, and the Flood Plain Conservation District. The lot is approximately 7 acres, with the disturbance area for the project

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estimated to be 8,500-9,000 s.f. The lot currently consists of a single-family residence, with a garage and barn, associated driveway, and manicured lawn. There is no stormwater management currently on site. The house was built in the late 1800s, and the garage and barn were built prior to zoning and wetland ordinances.

Sam Foisie stated that the proposal is to allow the Scanlans to use the pool and patio with landscape improvements. Also included in the proposal is an underground infiltration basin. This will be used to meet the Town's stormwater requirements and mitigate from the increased impervious area. A waiver has been submitted regarding stormwater improvements associated with water quality volumes. A CUP is being requested for work proposed inside of the buffer. A stormwater permit and CUP for the Aquifer Protection District are also being sought. He does not believe that the latter permit is required, per Section 4.13E: *Permitted Uses: All uses permitted in the underlying district are permitted in the Aquifer Conservation and Wellhead Protection District unless identified as a prohibited use or a conditional use under this ordinance.* The prohibited uses do not specifically include pools or patios. Exempted uses include single-family/two-family housing; the pool/patio is an accessory to this. This permit was applied for in an abundance of caution.

Sam Foisie stated that the main wetland on this site is associated with Beaver Brook and lies adjacent to the barn and garage. The secondary/tributary wetland sits on the western area of the property and leads to Beaver Brook. These both have associated 100' setbacks and combine with the buffer. This buffer essentially covers most of the property, including the house, barn, lawn, and a portion of where the pool is proposed to sit. The existing house sits on an island in the flood plain, so the flow sheets down into the flood plain and toward the wetlands. This area where the pool is proposed is the only real possible location available on the property, due to the flood plain. A floodway exists on the east side, wrapping around to the west portion of the property. In order to construct within this floodway, the process would need to move through FEMA, at a larger expense which is unreasonable due to the size of the proposed project. Additionally, the configuration of the property and its elevations make it difficult to get the existing impervious areas to flow toward the infiltration basin.

Sam Foisie stated that the wetland buffer is meant to protect the water quality and existing environment. There is no existing stormwater management on this site to provide water quality. This project proposes to treat 100% of the proposed impervious area and 20% of the existing impervious area. A report from the Natural Heritage Bureau (NHB) found no threatened or endangered species habitat. The habitat proposed to be impacted is manicured lawn and it does not provide the habitat benefit that the wetland buffer has been put in place to protect.

The Conservation Commission has reviewed this project and its comments mostly centered around concerns regarding the pool chemicals to be used. Sam Foisie stated that he has spoken with the pool installer and the water treatment will be through an ultraviolet light and ozone with a chlorine emergent feeder. This system has the lowest level of chemicals of any system, 60% less than a pool without the UV and ozone process. The amount of chlorine proposed in the pool is 0.5-0.75 ppm, which is similar to public water supply concentrations. The Pennichuck water in

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this area has chlorine levels of 0.7 and 0.76 ppm, per a 2020 report. The Conservation Commission also had concerns about impacts if the pool overflows. Typically, pools do not overflow. This would require a large storm event or repeated storm events. However, the amount of chlorine in this pool is equivalent to that of the local public water supply, which could be used for irrigation. The protocol for winterizing a pool includes letting it sit untreated for a couple of weeks to let the chlorine level reach zero, before draining it.

Sam Foisie stated that this is a manicured lawn which does not provide the same benefit as a typical wetland buffer. This home was constructed before the zoning and wetland ordinances were in place. The pool is proposed on the opposite side of the house from where the wetland is located, and the flow is away from the wetland into the infiltration basin.

Sam Foisie stated that there is a requested stormwater waiver because the proposal is required to treat 100% of the new impervious area and 30% of the existing impervious area. Due to the existing conditions, grades, and floodway, it is not possible for the proposal to treat 30% of the existing impervious area. The three requirements for granting the waiver are:

(1) that granting the waiver will not impair achieving the spirit and intent of these regulations;

The overall goal of the regulation is to minimize stormwater runoff from development to reduce flooding and erosion, and to protect the quality of the surface and groundwaters.

The proposed project reduces the runoff volume and rate. It also provides water quality for the proposed impervious and a portion of the existing impervious area. This project creates a net positive in water quality for the surrounding area.

(2) that compliance with these regulations is not reasonably possible given the specific circumstances relative to the subdivision, site plan, or CUP, or the conditions of the land in such subdivision, site plan, or CUP; and

The existing site was constructed in 1870 prior to any stormwater or wetland regulations.

Due to the nature of the existing site to capture the required impervious would create additional disturbance in the wetland buffer. This disturbance would occur immediately adjacent to the wetland. Strict compliance with these regulations will likely do more harm than good.

(3) that the proposed substitute solution is consistent with the goals of these regulations and is in the best interest of the Town;

The proposed project reduces the runoff volume and rate. It also provides water quality for the proposed impervious and a portion of the existing impervious area. This project creates a net positive in water quality for the surrounding area. The applicant is providing yard drains around the house and will direct house gutters into these drains.

Sam Foisie stated that, in conclusion, this proposal will not impact an area that is associated with a wetland buffer, water quality in the area will be improved, and this is a reasonable use of an existing backyard area.

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In response to a question from Tom Quinn regarding the pool elevation, Sam Foisie stated that the pool is proposed at an elevation of 234, roughly that of the existing ground. The 100-year flood elevation is 232, so the pool will sit 2' above it.

In response to a question from Chris Yates regarding if the applicant looked at a saltwater system versus chlorine due to there being a reduction in the chlorine generated, Sam Foisie stated he is unaware if the applicant looked into a saltwater system.

Bill Stoughton stated that, in the stormwater report under the precipitation values, the 12-hour storm values are highlighted. He asked Sam Foisie if he used the 12 hour or 24-hour values. The 2-year storm event analysis says it is the 24-hour event but uses 2.35 inches of rainfall, which is the 12-hour precipitation value. Sam Foisie stated that he would need to double check this information. Bill Stoughton stated that he would like this information before he is ready to vote on this item.

In response to a question from Bill Stoughton regarding the infiltration basin, Sam Foisie stated that the proposal is for an infiltration basin, with three 12" pipes wrapped in stone with a collection swale and inlets on each side. This is essentially three trenches lined up next to each other. Bill Stoughton asked if this meets the State BMP requirement to be called a basin. Sam Foisie stated that it does.

In response to a question from Bill Stoughton, Sam Foisie stated that the proposed system does not have a pretreatment area. Bill Stoughton stated that the State BMP requires a pretreatment area when using an infiltration trench. This may be important in this case due to the lawn drains, as there will be silting and lawn clippings entering the system. He would like more information on this item.

In response to a question from Bill Stoughton regarding if the patio surface is impervious, Sam Foisie stated that the surface is proposed to be pavers, which are mostly impervious.

Bill Stoughton stated that, in regard to the ACC comments, he would like to know which additional chemicals are to be used, where will they be stored, and how they will filter media. He noted that algaecides are often used in pools, copper-based or otherwise, which would be detrimental to the wetlands. He asked how the backflush, and pool draining will be handled. Sam Foisie stated that the pool is graded to drain toward the infiltration basin. Any discharge from the pool will go into the basin. There won't be any backwash discharge, per the pool installer, as this pool system has a removable and interchangeable filter. The media is removed and replaced.

Bill Stoughton noted that the stormwater regulations do prohibit the discharge of pool water as stormwater if chemicals are present in concentrations that would be detrimental. Thus, he would like to have more information about the potential additional chemicals, including algaecides. He stated that he believes this is a large incursion into the buffer and he wonders if the Board should insist on a less intrusive design. He believes additional design work for a less intrusive pool and patio into the buffer area might be warranted.

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Cynthia Dokmo agreed that this seems like a very large proposal. She stated that, with the wetlands surrounding this area, the design should possibly be scaled down.

In response to a question from Tom Silvia regarding a note in the Staff Report about snow removal near the pool, Sam Foisie stated that he addressed all the comments in the Staff Report in a plan submitted Monday night. The yard drains are adjacent to the driveway, but the topography slopes away from the yard drains. The concern with snow removal is salt running into the water supply. He does not believe snow will be stored adjacent to the drains but may be stored near there. Due to the topography of the site, it should slope away from the drains.

Tom Silvia stated that many of the maintenance items on site require confirmation from the applicant. Sam Foisie stated that enforcement of rules versus imposition of rules has been brought up at past meetings. There does not seem to be much enforcement on part of the Town and instead it generally seems left up to applicants to follow the rules.

Tracie Adams noted that this does seem to be a large project for the space and the incursion into the wetland buffer could be reduced. The ACC mentioned concerns with storing chemicals, and she agrees that there could be more information on this item. Sam Foisie stated that comparing this pool design with the topography of the land, it does not feel like an overly large design.

Arnie Rosenblatt asked for comments from the alternates.

Tim Kachmar echoed Chris Yates suggestions regarding looking into a saltwater system, as chemicals will likely not be as necessary. He noted that reducing the footprint of the pavers could help to reduce the impervious area and aid with drainage.

Arnie Rosenblatt asked for comments from the public. There were none at this time.

Bill Stoughton stated that he is not willing to take action on this item until more information on the stormwater report is available. He also noted that some of the Board have suggested the applicant look at a project that has less impact on the buffer. Sam Foisie stated that he believes his client will likely push to keep the same proposed layout.

**Bill Stoughton moved to continue this hearing to May 18, 2022, at 7pm, at Town Hall. Seconded by Chris Yates.
Voting: 6-0-0 motion carried.**

CONCEPTUAL DISCUSSION:

3. CASE #: PZ15623-040822 – 24 BR Partners, LLC c/o Ron DeCola (Owner & Applicant); 24 Brook Road, PIN #: 010-026-000 – Conceptual Discussion. Proposed subdivision for one 5-acre lot along Brook Road and a 17-lot Planned Residential Development (PRD) over the remainder of Tax Map 010-026-000. Zoned Northern Rural.

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Arnie Rosenblatt read and opened the conceptual hearing. He explained that this is a conceptual design only. No comments made this evening on behalf of the Board or applicant are binding.

Ron DeCola, 24 BR Partners, LLC, addressed the Board. He noted that this parcel has history before the Board, originally for 42 single-family houses, which was reduced to 38. He was most recently before the Board at the end of September for a 3-lot subdivision, with one individual lot of record to be located at the location of an existing old camp on 5-6 acres.

Arnie Rosenblatt asked Tracie Adams to chair the meeting for 5-minutes and excused himself.

Ron DeCola explained that a second portion of that proposed project was for a 37-unit 55+ housing clustered on one lot. Finally, there was an approximately 100-acre conservation lot proposed, that he is hoping to re-enter into negotiations with the Town about. That plan proposes a community water system. A well was drilled on the property in December. The existing plan is still an option but would need to be pursued under the elderly housing ordinance. He believes this plan was previously well received by the Board in September, aside from some concerns about density. There were no density calculations completed at the time.

Ron DeCola explained that the new plan for this property includes a subdivided 5–6-acre lot of record at the camp site, a Planned Residential Development (PRD) for 18 lots of record, and a conservation lot of approximately 100 acres. He explained that the density calculation has been run for the site and comes out to 15 lots, with a proposed 25% bonus, which equates to 18 units in total. This proposal includes individual wells for each lot and five community leach fields. There are no encroachments on the wetlands as part of this plan. The road for the property will be built to Town standards, and he hopes that the Town will take ownership of it eventually.

Jon Rokeh stated that the new plan simplifies the road design and leads to two standard cul-de-sacs. The road coming in is approximately 1,150 linear feet to the cul-de-sac, with an offshoot of 990 linear feet. These are both less than the maximum standard allowed by the Town. The cul de sacs also include full-sized turnarounds for emergency vehicle access. Individual houses are proposed on each lot, and five of the septic systems are proposed to be shared, with the rest servicing individual lots. Fieldstone Land Consultants has done some preliminary work on this site to look at a closed drainage system leading to an area for detention and treatment. This proposal does consider individual wells on each lot. He noted that similar numbers to those presented by the first applicant this evening were received in regard to a community water system for this site, but only 18 units would be serviced by it, thus making it financially prohibitive. There is some well radii overlap in a couple of areas. He has previously used a hydrologist on similar cluster subdivisions to aid in this design. The front lot, on the camp site, counts as the 18th lot and will sit individually.

Arnie Rosenblatt retook his seat.

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Ron DeCola stated that this plan represents a 53% reduction in density from the previous plan, while still protecting conservation area and clustering the units. Jon Rokeh stated that all of the units are clustered in one area, aside from the individual separate lot, sectioning off the conservation lot to the back.

Tom Quinn stated that he likes the new, less dense design. His concern is that the proposal looks to sell the conservation lot, but also wants it to be considered as part of the development plan.

Ron DeCola stated that the conservation lot was not included in the density calculation for the PRD. The land included in this calculation is only surrounding the units. Tom Quinn asked if this proposal would meet the base density calculation, plus a 25% bonus, if the conservation lot was sold off today and removed from the plan. Ron DeCola stated that the plan would not meet the calculation with that stipulation.

Arnie Rosenblatt noted that the 25% is a maximum and not a given.

Tom Quinn stated that he has a concern with using the conservation lot for purposes of the application and then selling it off. If the back acreage was going to be put into an easement, he would more closely understand that, but this is not the case.

Ron DeCola stated that this parcel is surrounded by Town land. The intent is to negotiate with the Town and make it one large property for the Town.

Tom Quinn asked what the well drilled on the property was planned to be used for. Ron DeCola stated that the plan was, and still could be, to use that for a community water supply, if the previous plan is pursued through the elderly housing ordinance. This well was drilled in December, down to 325' achieving 30 gallons/minute, and cost, with a pump, approximately \$10,500. The other well on the property gets 50 gallons/minute but is artesian and located too closely to the brook and wouldn't be able to get a permit from DES. Either well could serve the whole development. A community well is cost prohibitive.

In response to a question from Tom Quinn, Ron DeCola stated that he would prefer if the proposed road became a Town-owned road, but this is not a dealbreaker. The residents of these lots will pay taxes to the Town, although there could be a homeowner's association formed. Tom Quinn noted that the existing bridge may need to be replaced. Ron DeCola stated that it would be costly to do so.

Chris Yates stated that he leans toward having a community water system and nitrate reducing septic systems due to the natural resources and water located near this property. If this is going to be a 55+ community, he would also consider placing the units more closely together. Ron DeCola stated that the previous plan was for 55+ clustered housing units. The new plan shown tonight is for market-rate housing lots.

Bill Stoughton stated that the PRD ordinance looks for a diversity of housing types and asked how this proposal will achieve that. Ron DeCola stated that he believes the placement of units is

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the most critical thing and this conceptual design considers staggering the houses. These will not all be gambrel houses. These will be +\$1M houses, not starter houses. The cost of fees and studies filters down to the buyer. The cost of a community water system would also filter down to the buyer. This is a balancing act.

Bill Stoughton stated that he would prefer fewer houses on this property, which is why he was not in favor of the previously shown plans. His concern is that, per the regulations, the conservation parcel cannot be used to calculate the density only to be sold. It must then become part of the open space that is protected under the PRD regulations. Ron DeCola stated that he has looked into this.

Bill Stoughton stated that he is not in favor of a subdivision that carves out the front lot. The PRD ordinance states that it does not favor combining frontage and cluster lots. This plan carves off the frontage lot on Brook Road. He is also concerned if this front lot is buildable as it is very close to the 100' buffer. The plan shows a 100-year floodplain, but the storm events seen now suggest using a 500-year floodplain, especially in this area. He is unsure if this lot is suitable for subdivision.

Bill Stoughton stated that the bridge across Joe English should allow for wildlife passage, using either a shelf or abutments further from stream bed. The proposed leach fields and stormwater infiltration BMPs should not encroach into wetland buffers, which some of them on the current plan seem to do. The 100' buffers are used as a maximum to the most valuable streams, which Joe English is. He noted that he will do everything he can, going forward, to require community water systems for developments of more than 15 units or 25 residents in order to control water quality and quantity over time. He understands the cost impacts, but if these are million-dollar homes, he believes this could be built into that cost. He is not in favor of the proposed second wetland crossing to reach the single Lot 18. One wetland crossing to reach the majority of the lot is enough. The "baseline development" calculation will be closely reviewed for frontage requirements, feasible roads, etc. if an application is brought forward. He stated that he would expect a traffic study for this project, including potential impacts to the intersection of Horace Greeley and Route 101, particularly the left turn from Horace Greeley onto Route 101. This is a horrible intersection and there have been many crashes, with some fatalities nearby over the years. He believes an environmental study should be required, as this is a sensitive ecological area. The Board should look at stormwater and wastewater impact on Joe English and wetlands, and nitrogen concerns for the stream. He urged the applicant to consult with the Conservation Commission and receive their comments given the potential impact of development on adjoining and nearby conservation land and potential impact on water resources.

Cynthia Dokmo stated that the area trying to be developed on is approximately 23.44 acres. She asked how much of that area is actually buildable. Jon Rokeh stated that the yield plan takes into account wetlands and steep slopes. This area proposed to build in is relatively buildable. He does not know the exact number, but this plan matches closely the Board's previously approved plan.

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Cynthia Dokmo asked how much of the 127-acre conservation lot is buildable. Jon Rokeh stated that he does not know this calculation at this time.

Cynthia Dokmo echoed the comments that conservation land cannot be used for the calculations if it will not then be included in the PRD.

Tom Silvia echoed his fellow Board members comments.

Tracie Adams echoed the concerns about the individual front being sectioned off and the wetland crossing needed to access the proposed back lot. She noted that, while the community water supply is expensive, she believes the Board would like to hear more comments about it as a possibility.

Arnie Rosenblatt asked the alternates for comments. There were none at this time.

Arnie Rosenblatt noted that, just because comments regarding certain items were not raised this evening, does not mean that comments about them will not be made in the future. He also stated that he has the same concern as other Board members. The ordinance unequivocally does not contemplate an applicant counting 100 acres toward the PRD density calculation and then selling it off for money. He would not support this notion in any way. This is the antithesis of the intention of the PRD and is not a gray area.

OTHER BUSINESS:

4. Minutes: April 6, 2022 & April 20, 2022

Cynthia Dokmo moved to approve the meeting minutes of April 6, 2022, as amended [Line 239: change to "...no questions..."]. Seconded by Chris Yates.

Voting: 6-0-0 motion carried.

Tracie Adams moved to approve the meeting minutes of April 20, 2022, as amended [Lines 53-54: change to "was on the Board at this time but was not involved; Line 179: delete the word "illustrious"]. Seconded by Chris Yates.

Voting: 6-0-0 motion carried.

6. Any other business to come before the Board

Cynthia Dokmo moved to adjourn at 9:18pm. Seconded by Tom Silvia.

Voting: 6-0-0 motion carried unanimously.

Respectfully submitted,
Kristan Patenaude

Minutes approved: May 18, 2022