

TOWN OF AMHERST  
Planning Board

September 21, 2022

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In attendance at Amherst Town Hall: Bill Stoughton – Board of Selectmen Ex-Officio, Chris Yates, Tom Quinn, Tracie Adams, Tim Kachmar (alternate), and Pam Coughlin (alternate).

In attendance via Zoom: Cynthia Dokmo

Staff present: Nic Strong, Community Development Director; and Kristan Patenaude, Recording Secretary (via Zoom)

Tracie Adams, Acting Chair, opened the meeting at 7:00pm. She introduced all Board members and noted that a number of Board members are not present.

*Pam Coughlin sat for Tom Silvia and Tim Kachmar sat for Arnie Rosenblatt.*

**PUBLIC HEARINGS:**

- 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 August 3, 2022**

*Cynthia Dokmo is recused from this item.*

Tracie Adams read and opened the case.

Ken Clinton, Meridian Land Services; Erol Duymazler, Clearview Subdivision; and Attorney Jim Callahan addressed the Board.

Ken Clinton explained that the applicant has been working on this application for quite some time and that he anticipated addressing the proposed wetland crossing and buffer impacts relative to this subdivision and, additionally, the primary application for the subdivision itself at the meeting tonight. He stated that he hopes the Board will issue a vote for conditional approval tonight, as the applicant is facing the closing of the building season for this year and there are some commitments he is hopeful to move towards. The intent for this evening is to identify and clarify any key topics that might remain so that some conditions of approval could be established.

Ken Clinton stated that, regarding the Conditional Use Permit application for the wetland impact and buffers which he noted had been opened concurrently with the subdivision, he recently went before the Amherst Conservation Commission (ACC) to give a more detailed explanation regarding the one proposed wetland crossing and handful of buffer impacts associated with the project. He presented the ACC with information showing the current wetland impact areas. He noted that this information was forwarded to the Board a couple of weeks ago. He noted that, as a result of the meeting with the ACC, Rob Clemens, Chair of the ACC, forwarded comments relative to the ACC's opinions to the Board as well. Board members noted that they did not

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recall seeing either of these items. Nic Strong stated that they were included in the Board's Dropbox packet.

Ken Clinton explained that an entrance is proposed to the east village coming in from New Boston Road. This area and the associated units are part of buffer impact area B & C. He explained that, originally, there were two shared wells proposed at the end of the turnaround area, however, due to requirements that the well radius does not encroach upon stormwater features, these have now been placed on the plan in the buffer impact A area. In order to get to that well area, a 12'-15' wide access strip will be cut. There is no need for a fully maintained gravel surface because future maintenance could be handled simply via a pickup truck or perhaps a ¾-ton truck. Thus, this access way does not need to be a road and it does not need to be maintained year-round. Another item addressed with the ACC deals with the entrance from Boston Post Road on the west side of the property. Impact area D involves the wetland on site, which will also impact adjacent wetland buffers. This is the only crossing required for the entire project. Ken Clinton stated that he also discussed road drainage and grading with the ACC, proposed to be located in areas G and F on the plan. These areas deal with stormwater management areas but do not impact wetlands themselves. He stated that the total areas of impact equate to approximately 14,000 s.f., or less than half of 1% of the overall property. Ken Clinton stated that he shared with the ACC that, for direct wetland impacts, the approach is always to avoid or minimize, if avoidance is not possible. Aside from the well, most of these impacts are associated with stormwater management and proper placement of the road system. He stated that the applicant is committed to marking the buffer within areas of the development with the proper signage. This will help anyone in or adjacent to the development to identify the wetland buffer area and acknowledge that there may be certain restrictions that go along with it. Buffer signage is proposed to be installed within 50' of any disturbance area.

Bill Stoughton read an email from Steve Lutz, ACC member, to Nic Strong, dated September 13, 2022. "The ACC received a presentation at our 8/24/22 meeting from Ken Clinton and Spencer Tate of Meridian Land Services, for a Conditional Use Permit (CUP) application for the Clearview development (PZ14920-101321). The presentation focused on one wetland crossing on the west property and wetland buffer encroachments at various locations in the development. Regarding wetland buffer impacts, the ACC recommended adding signage near buffer areas to alert residents and contractors of the location of the buffer boundaries. Additionally, the ACC recommended that the Planning Board consider requiring the developer to add wetland buffer documentation/guidance in the Homeowner Association documents for current and future residences at the time of sale and resale, in order to avoid further encroachment. Regarding the proposed wetland crossing, the ACC questioned how the culvert design considered future increases in stormwater flow due to the effects of climate change, and recommended consideration be given to possible design features to slow water flow during large stormwater events and future increases in precipitation. The ACC has no additional comments to offer at this time."

Ken Clinton stated that the applicant is in agreement with the buffer signage. Relative to the potential increase in precipitation rates, he and Spencer Tate shared that the proposed design

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criteria come largely from DES, which publishes and relies upon precipitation rates based on historical patterns. DES does not have a future forecast for the applicant to utilize. Ken Clinton stated that he is comfortable and confident with the stormwater modeling because culverts are designed to the minimum standards of the 25-year storm, but also checked against the 50 year-storm. The applicant still needs to complete the Alteration of Terrain (AoT) permit process. This application is currently pending with the State. Between the Town's stormwater requirements and the State's requirements, he believes the project is covered. He noted that Tom Carr, Meridian Land Services, prepared a narrative for the CUP application criteria, which was included in the Board's packet. He also noted that there may be a few housekeeping type waivers the applicant will seek. He asked the Board's preference as to if it would like to hear the entire presentation before making comments and questions or if the Board would be agreeable to having a discussion regarding only the waivers at first.

Tracie Adams polled the Board, and they agreed to move forward one topic at a time, beginning with the waivers.

Ken Clinton explained that the applicant submitted a waiver regarding proposed hammerheads on the site two weeks ago. The first waiver is relative to Section 302.4 Design Requirements for Cul-de-sac Streets. He explained that there is a bit of an issue with this requirement. The proposed roads are not public roads. For a condominium subdivision, such as this, there are no right of way limits, and no lots in the traditional sense. In a condominium development, all of the land is either common area, limited common area, or the unit itself. As there is no right of way, there cannot be a cul-de-sac. Similar condominium developments in Town, such as the Summerfields development, The Fells, and Peacock Brook were completed under the Planned Residential Development (PRD) ordinance and have hammerhead turnarounds without waivers and without consideration to comply with the public road requirements. This proposal is no different, and he had considered the issue of hammerheads versus cul-de-sacs as not applicable due to the history he has of completing similar projects in Town. The Town has always treated private roads in condominium developments as that they do not have to adhere to 100% of the requirements because they are simply not applicable. That being said, this is still identified as a potential waiver item for the Board to consider. This waiver is to provide hammerhead-style turnarounds on some private roads on site, in lieu of the cul-de-sac design for public roads as required by the regulations. The hammerhead turnarounds will accommodate traveler needs and provide reliable access and turnaround areas for emergency vehicles. Ken Clinton stated that he has spoken a few times with Fire Chief Conley. He most recently provided Fire Chief Conley with an update on the proposal for the east village at the terminus of the cul-de-sac in front of units 15 and 16. Chief Conley was still concerned with the driveway connections of units 15 and 16, relative to the use of the hammerhead itself. He met again with Chief Conley on September 1<sup>st</sup>, explained the improvements to the design, and Chief Conley agreed that it met his approval. Realizing that the Board may not have received written comment from Chief Conley, he reached out this morning to make sure that something was in process. Ken Clinton read an email from Chief Conley into the record and stated that he would send a copy along to the Board. "Nic [Strong] is aware. I informed her that we had two meetings regarding the developments and the

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ability to turn Amherst Fire and Rescue apparatus around. The first being that it needed to be adjusted, and the second being that the design and size are good with Amherst Fire and Rescue.”

Ken Clinton explained that he has spoken with DPW Director Eric Slosek numerous times regarding the hammerhead issue. Ken Clinton stated that Eric Slosek has previously opined on this matter, stating that these are not proposed to be public roads, he will have no maintenance of them, and, therefore, this is not in his jurisdiction. Eric Slosek did also say he does not like hammerheads because they are difficult to maintain, but as this is a private road, it would not be maintained by the Town. This waiver will properly carry out the spirit and intent of the regulations.

The Board agreed to discuss the waivers one by one. The Board had no questions regarding the hammerhead waiver at this time.

Ken Clinton stated that the next waiver items are stormwater related. On the west side of the proposed subdivision, there is a proposed entrance off Boston Post Road. Heading into the site, the area slopes upward, and there is a singular wetland crossing. The area then flows downhill from there towards the Town road. Currently any stormwater falling on the property in this vicinity flows to Boston Post Road, if not previously absorbed into the ground. As it hits the road, it enters existing culverts, which go under Boston Post Road and continue to the west. Most of the stormwater is proposed to run into the large stormwater management area to the south of the entrance of the site. However, some of the runoff has to be collected in a smaller basin to the north of the proposed road. That particular location does not have all of the characteristics needed to address 100% of the runoff. He handed off the presentation to Trevor Yandow, of his office.

Trevor Yandow, Meridian Land Services, addressed the Board via Zoom. He stated that this proposed waiver is regarding Section 4 Item A.7. of the Stormwater Regulations. This request is for relief for a small increase in volume of stormwater to the basin. The proposed wetland crossing provides a conduit for runoff rather than the runoff moving over the surface of the ground. This increase is not anticipated to impact the downstream patterns in any appreciable way. The increase in volume is not anticipated to negatively impact the drainage features in any appreciable way. An additional waiver from Section 5 Item A.6. regarding the treatment requirements for total suspended solids (TSS), nitrogen, and phosphorus, is also being requested. The Town requirements specify a 90% removal of TSS and 60% for nitrogen and phosphorus. The proposed detention pond does not provide removal rates to this degree. He explained that, for the impervious area being treated on the west village, only 4.5% of that is flowing, meaning 95.5% is conveyed to either a gravel wetland or an infiltration basin. Each of those meets or exceeds the treatment requirements. Additionally, a waiver from Section 5 Item A.7. is being requested to allow for an increase in the post development runoff rates during the 1” storm event. This request is due to the design requirements of the wetland system opposite the detention pond.

As Trevor Yandow’s audio was spotty, Ken Clinton continued by reading from the submitted waiver letter. This waiver is to allow for an increase in the post development runoff rates when

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compared to the predevelopment rates. Increases were noted during the 1" storm event at two observation points along Boston Post Road. The increases are due to design requirements of the gravel wetland, which requires the slow and steady release of stormwater over a 24-hour period for treatment purposes. The increases are insignificant in nature and will not have an appreciable impact to downstream drainage patterns. The second part of this request is that increases are also noted during the 2- and 50-year storm events at points which flow to Beaver Brook. These increases can primarily be attributed to the reduced drainage areas, shorter travel paths and developed conditions, given the expansive drainage area which flows to Beaver Brook. For each one of these stormwater-related waiver requests, the justification is that the specific circumstances relative to the subdivision or conditions of the land are key, and that the waiver will fulfill the spirit and intent of the regulations. The identification of some of these deficiencies, particularly regarding the stormwater basin, mostly came from conversations with the Board regarding the suitability of that particular basin. Ken Clinton stated that, at the last meeting, he gave the Board a simplified explanation of these items and then provided that to staff. Most of these requests are specific to the detention basin; for the rest of the project this proposal either meets or exceeds design requirements. He noted that the applicant will still need to satisfy the AoT permit requirements and will do so by explaining that, given the constraints of the location of the entrance to the site and the stormwater basin situated next to it, the applicant is managing this with negligible impacts on the overall project.

Bill Stoughton asked about the exact number for the proposed increase in runoff volume to the culvert under Boston Post Road. Trevor Yandow stated that these numbers are listed in the stormwater report. These numbers are 0.09-acre feet, for an increase at the location during the 2-year storm. Ken Clinton stated that this runoff was allowed to reach the Town system because it is going there anyway, this is just affecting the timing or route to get there. He felt the request was reasonable and appropriate. Bill Stoughton asked if there are also increases in runoff volume pre-development to post-development in the longer storms as well. Trevor Yandow stated that increases are seen in the 2-year and 10-year storm events. The increases for these are about the same in each event. Bill Stoughton stated that he is a little uncomfortable not submitting this to the DPW Director for his approval.

Bill Stoughton stated that he does not have any questions regarding the proposed cleanup in the detention pond. The proposal seems okay for sedimentation removal and might fall short for the nitrogen and phosphorus rates.

In response to a question from Bill Stoughton regarding why an increase in runoff rates is seen for the 1" storm, Trevor Yandow explained that the observation points where increases are seen are places which receive outflow from the two gravel wetlands. The gravel wetland design criteria from the AoT Bureau states that there needs to be a 24-hour retention time for a certain quality volume to provide adequate treatment. Thus, the outlet structures are designed to allow for an orifice that is always saturated. Regardless of the storm event, there will always be a small outflow from the pond.

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Ken Clinton agreed that the applicant would consider it acceptable to have a condition that DPW review the culvert item.

Chris Yates had no questions or comments at this time.

Pam Coughlin asked how the increase of water would affect animals in the area. Ken Clinton stated that the waiver request deals with the design requirements for stormwater for the Town. This proposal is for extremely minute amounts of stormwater, which will have very negligible to no effect on any wildlife or their habitat.

Tim Kachmar had no questions or comments at this time.

In response to a question from Tom Quinn, Ken Clinton stated that the culverts shown on Boston Post Road are existing Town culverts.

Tom Quinn expressed concern regarding the increase in post development runoff, due to the fact that Beaver Brook is already impaired. Ken Clinton explained that the increases discussed are from an engineering standpoint, but they are not noticeable whatsoever on the ground. That increase is a result of outflow that the applicant is required to collect and treat. These increases are imperceptible amounts to the human eye, yet mathematically they result in an increase.

In response to a question from Tom Quinn regarding the new well location area, Ken Clinton explained that the area is proposed to be left mostly natural. Some trees will have to be cut in order to get the well rig to the site, but there is no stumping or grubbing proposed. No finished gravel is proposed because future access is only for periodic inspection and maintenance. Tom Quinn asked how it was proposed to get a truck to this area without stumping and grubbing. Ken Clinton stated that the terrain is extremely gentle.

The Board agreed to have further discussion regarding whether to accept the waivers with a condition that the culvert item be reviewed by the DPW Director or to wait for that review to occur before addressing the waivers. It was noted that if the DPW Director did not agree with the waiver requests, the applicant would have to come back to the Board with a modified design.

Attorney Callahan addressed the legal documents. He explained that specific water quality and quantity language has been embedded within the condominium declaration. He noted that the applicant received staff comments on Monday and within those comments was an e-mail from DES to Nic Strong dated August 12, 2022.

Ken Clinton stated that the email from Thomas Willis, DES, responded to some questions from Nic Strong and the Community Development Office. This had to do with the testing requirements that had been proposed and were incorporated into the legal documents. This language was inserted into the condominium documents, which are currently before Town Counsel for review. The email from DES also discusses who might review and oversee the testing protocol. The applicant and Board previously had a long discussion regarding the

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proposed two shared wells versus a formal community water system. At that time, the Board said it would not require a community water system but would instead make sure there was very rigorous and thorough testing for water quality and quantity. DES stated that, alternatively, the Board could require the same testing regime that is required of a new community water system. Ken Clinton stated that, as that type of system is not proposed, this should not be required. The DES email stated that the proposed testing seems appropriate, and that the applicant could alternatively consider the community water system standards, but as a community water system is not proposed, some of those standards might contradict and conflict with a non-community water system.

Attorney Callahan stated that he appreciated the Board's comments on the legal documents and thought it a better project for having the water testing requirements added. He noted that the provisions for Housing for Older Persons have been expanded to include some protocols on verification. One provision states that neither the declarant, which is the developer, subsequent homeowners' association, or anyone else can amend these provisions to do away with these protocols. This document will be recorded at the Registry of Deeds.

Attorney Callahan stated that, included in the development agreement, is a performance guarantee. The applicant previously tried to convince the Board that this was covered through the Attorney General's oversight process, but this did not satisfy the Board. Thus, language has been added to the development agreement stating that the applicant will work with the Town's consulting engineer, developer's legal counsel, and Town Counsel to develop appropriate third-party guarantees. This could be a letter of credit, an actual bond, or a cash security. Ken Clinton noted that this type of bonding is typically done prior to the pre-construction meeting, so that all involved know what is expected.

Attorney Callahan stated that bedroom counts are also addressed in the development agreement document. The maximum bedroom count proposed for the west village is 82 bedrooms. In order to create a protocol and processes to make sure this is adhered to, the intention is to create and update a spreadsheet to show how many bedrooms are left as each unit is built. The applicant then bears the risk if the number of bedrooms run out and there are still lots left to be built. This would be part of the permitting process. Once the bedroom count has run out, nothing else will be built.

Attorney Callahan stated that, regarding architectural design patterns, the declaration of covenants document has been amended to reference, in Section 3.14.2, the establishment of an Architectural Review Committee. The declarant or the Architectural Review Committee will ensure that there is a diversity of patterns and colors among units within the west village. Also, in Section 3.14.1, there is language that units in the west village would emulate the aesthetics of Amherst village, including orientation, massing, and spacing, while requiring unit owners to pick from a detached dwelling design pattern that embraces the character of historic Colonial, Greek Revival, New England farmhouse, Cape cottage, and ranch styles commonly seen in Amherst village. Language was added to discuss elevation plans as previously approved by the Planning Board, a historic color palette, windows with simulated divided light grid patterns, and trims,

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roof shingles, etc. to match the Village. This is another legal document which will be recorded at the Registry of Deeds.

Attorney Callahan stated that the development agreement also addressed the Board's concern that roads be built to Town standards. A bullet point was added to this document stating that roads and utilities will be constructed to Town standards, except for any such condition that was specifically waived.

Attorney Callahan stated that he will work with Town Counsel regarding language for stormwater easements for the benefit of the Town, as appropriate. Appropriate medallions will be added near sensitive areas of the site, and language to this effect was added to the development agreement. A document drafted by legal counsel for the Amherst Land Trust (ALT) was added to the packet which discusses trail maintenance, signage, etc. The applicant is willing to work with the ALT to place some of this language directly into the conservation easement, if needed.

Attorney Callahan stated that the applicant previously proposed a two-year phasing schedule, but the Board mentioned that it might prefer a four-year schedule. The applicant has some concern regarding long-term phasing. This is a discretionary requirement within the regulations and is not the clearest standard. Section 3.19 discussing phasing at the Board's discretion. Section 3.19 B.1. states that phasing will be based on the number of units, but it also states that other large subdivisions shall have phasing as determined by the Board. One statement previously made by the Board was that there could be an adverse impact on school enrollments from this project. It was assumed that the age-restricted units in the east village would not produce any school children. Using data provided by the Town's impact fee consultant, it appears there could be a total of approximately nine students placed into the school system. This could have an impact of three students for each school in Town. A long, drawn-out construction process could have more of an adverse impact than potential impact on the school system. Stating that there could be an impact on the elementary school based on space needs, is anecdotal in his opinion. The applicant is requesting a shorter phasing schedule. Market conditions dictate the phasing and market conditions are not the best right now.

Ken Clinton noted that there are some resident trails proposed which are not in the open space and will not be subject to the conservation easement. These are for the connectivity of the residents. These residential trails will coincide with the construction of the ALT trails. Ken Clinton stated that the 22 staff comments in the staff report are all agreeable to the applicant, subject to any directives made tonight. He confirmed that there are no cross easements for the trails. These are not necessary. There is a note provided which states that no further subdivision of the property will occur. If this was a conventional subdivision or a PRD with many owners, that would make sense, but the proposed project is not that same type of ownership due to it being a condominium development. There are limited common areas and units on site, therefore no one individual could propose a subdivision and come before the Board with an application because every unit owner has a share of the common area. All residents from both villages would have to come before the Board, in agreement, to change anything. Technically this is required as



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a note on the plan. Ken Clinton stated that it is unnecessary, as it is not applicable, however, he is willing to put a note on the plan. The staff memo has asked to identify and add a reference that there is only one ADU allowed in this development, this will be added to the legal documents. Attorney Callahan stated that this reference is already included.

Ken Clinton reviewed the proposed active and substantial development definitions which deal with active and substantial development, and substantial completion of improvements. The threshold proposed for active and substantial development is that the road is constructed to subgrade which means that the road will have been cleared, stumped, grubbed, and the gravel materials brought in which would certainly have the project well underway. For development relative to substantial completion, the proposal is installation of the binder course of pavement. Ken Clinton noted that meant that the road box would be complete, the utilities would be in, the gravels would be completed and the first coat of pavement down.

Ken Clinton stated that the applicant has no issue with any of the precedent conditions set forth in the staff report. Regarding the subsequent conditions, the applicant is in agreement with items 1 and 2. Items 3, 4, and 5 deal with the water supply quantity and quality. To the extent that these items match the language in the August 3<sup>rd</sup> documentation previously agreed to by the applicant, these items are also agreeable. Item 6 discusses phasing, and the applicant has been clear that he believes phasing is not required for this project at all. This is reflected in the phasing notes on the plan. Ken Clinton noted that the Board has the ability to decide this, regardless of the applicant's opinion. Regarding item number 7, this is also subject to the Board's directive, but the Board has received the applicant's request regarding bedroom counts, which was included in the current legal documents. The applicant is in agreement with items 8 and 9. Item 10 mentions a final as-built plan, which he assumes to be in regard to the road and not the individual units. The applicant has agreed that there are certain milestones for third-party inspection of the road during construction. It is also recognized that the Fire Department, in particular, will be reviewing the cistern details and performing on-site inspections of the cistern installation. Thus, the applicant feels that an as-built plan of a non-public road is unnecessary. Ken Clinton stated that he believes it would be more beneficial for the Town to have third-party inspections of the road construction. There is a statutory requirement under the Condominium Act to have as-builts of the units, but for other items, such as roads, the applicant must show there is suitable infrastructure to support the unit itself. Regarding item 11, the applicant understands and acknowledges that the Board will identify how impact fees will be assessed for this particular project. The final item on the staff report identifies the formality of the active and substantial development, and the substantial completion improvement language. The applicant has made suggestions for these items and believes that the logical place to place this language would be in the development agreement.

Tracie Adams thanked the applicant and his team for the presentation. She asked the Board for comments and questions.

Chris Yates stated that he had no questions or comments at this time.

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Bill Stoughton stated that, regarding the well capacity language, he asked that the applicant amend the condominium documents to reflect the regulatory citation change, per DES. He stated that the Board did not intend any substantive changes regarding the water quality or quantity testing items from what was last proposed. He stated that he does not personally foresee the need for an ongoing oversight role, as suggested by DES in the email. He believes it is adequate to provide information to the residents on an annual basis and trust them, as all other homeowners in this Town must do, to do whatever is necessary based on the results. Regarding bedroom counts, he noted that he does not believe as great a diversity of housing could be achieved with the applicant's proposed spreadsheet process, as with the original process proposed by the Board to have "x" number of bedroom units, such as 12 1-bedrooms, 13 2-bedrooms, etc. He believes diversity of housing bedrooms styles, ranches versus two story units, adds value to the Town. Erol Duymazler stated that he agrees with this proposal and added that was his intent.

Regarding the draft development agreement, mitigation paragraph 4, Bill Stoughton suggested that the section could be amended to state that, "the applicant's position is as follows..." A paragraph could then be added to state that, "the Board acknowledges these factors. While the Board does not conclude that all development impacts are fully mitigated, it accepts these factors together with the phasing required on this project as an adequate basis for approval of this application." Erol Duymazler agreed with the suggested language.

Bill Stoughton stated that the ACC suggested adding language to the deeds regarding locations of the wetland buffers. Ken Clinton stated that he does not have a problem putting this in one of the legal documents for the contractors and residents. Bill Stoughton suggested that key portions from the purpose and intent of the wetland buffers section could be added and then reference the rest of the citation in the ordinance and regulations. Ken Clinton stated that he believes this is acceptable, he does not agree with adding ordinance language verbatim on the face of a plan.

Bill Stoughton stated that he has a draft condition regarding trails and the trailhead parking area. He noted that the e-mail which addresses trail maintenance envisions a role for the ACC and for the Town. He is a bit uncomfortable committing the Town to expend public funds on maintenance of private property and is not sure this is allowed. The DPW does plow and maintain the trailheads for ACC-managed, Town-owned conservation property, but he does not believe the DPW does so for any private properties. He would like to include a condition stating that this will be in agreement between all parties involved. Ken Clinton noted that this might include some level of easement to the Town to encompass the trailhead parking area. Erol Duymazler stated that this could be worked out with Town Counsel.

Bill Stoughton stated that he believes phasing is important for this project, as it is not the only proposed development in Town at this time. Also, on the Board's agenda this evening is a proposed building moratorium for one year due to concerns regarding development in Town. Phasing helps to control the impacts of development and this Board has the responsibility to review that. He has prepared some proposed findings of fact, which includes the following statement, "The Board has examined the impact of the proposed development on Town Services. Applicant has relied on data from the town's impact fee study to suggest that the schools have

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adequate and unused capacity. The Board finds that in 2022 the Amherst School District proposed an \$83 million bond authorization warrant article to allow extensive rebuilding/renovation to existing elementary and middle schools. The warrant article did not pass, but the publicly available school board and associated committee meeting minutes and recordings show that the schools are discussing additional initiatives to be presented to the voters to address the school facility issues. The publicly available record states, and the Board therefore finds, that the school board's 2022 request was predicated, in part, on inadequate classroom space in certain grades/classes for current and projected student census, and on the disfavored long-term use of temporary school buildings to handle current student population (for example, the temporary buildings do not include all of the security measures available in the main building and have inadequate ventilation based on CO 2 measurements). The Board finds this information to be more than anecdotal evidence of school facility issues tied to student population. The Board also finds that, in addition to the applicant's proposal, several other proposed large housing developments are moving forward in town, in addition to the "normal" long-term growth in housing experienced in Town over the past years. The Board acknowledges that other developments may or may not proceed at the originally suggested densities but, in its judgment, concludes additional housing development in the town, beyond long term averages, is likely. The Board has carefully weighed all of the information on school capacity and finds that, while the schools may not yet be at the theoretical maximum capacity for students, the schools would be impacted by the student influx from this proposed development coupled with other planned and potential developments and normal housing stock growth." Bill Stoughton stated that he did not know if his colleagues agreed but he believes four-year phasing is appropriate for this project.

Tom Quinn stated that he had seen a plan set of architectural designs for the west village but asked if there were any plans for the east village. Ken Clinton stated that the designs were intermingled in five sheets of the most recent plans. He stated that there were two or three ranch styles which were highly desired for 55+ housing. Erol Duymazler stated that the plans are for elevation purposes, not necessary plan purposes. Each one will need to be named before the plan set is signed. These are ranch-style plans for ranch-style duplexes. Tom Quinn asked if there are architectural renderings for the proposed duplexes. Erol Duymazler stated that the plans include an example called the Stratford Duplex. Tom Quinn asked if the intention was to have all the duplexes be the same model in the 55+ area. Erol Duymazler stated that this is the intention. This has been done in other developments, with this duplex style-built side-by-side and separated by a single unit, and this looked quite nice. Tom Quinn stated that his concern is that the duplexes seem to be planned on the most visible part of the development to the main road, but do not have much diversity. Ken Clinton stated that the plan clearly shows four single units closest to New Boston Road. These units would have the greatest likelihood for variety. The public would likely see four different housing types for seniors. The duplex units would not be visible from the public way whatsoever.

Tom Quinn stated that he believes the applicant's proposals for active and substantial and substantial completion seem reasonable. It is typical in developments to not complete the topcoat until construction is pretty much done. He echoed Bill Stoughton's comments regarding four-year phasing. Even a five- or six-year phasing could be appropriate. He noted that the ordinance

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states that it does not want more than 25% built in any one year. Thus, for a 43-unit subdivision, that would be 10 or 11 units per year maximum. He stated that he believes it will be important to have a diversity in bedroom numbers, as part of the IIHO was to have a diversity of housing. Tom Quinn stated that he does not have an issue with the hammerhead waiver but has a concern making a decision on any of the other waivers, as they were only introduced to the Board this evening. However, he would like to hear from the DPW Director on these items.

Pam Coughlin stated that her main concern is still the proposed stormwater change and how it will affect the quality of the water and what people will be drinking.

Tim Kachmar stated that he believes the phasing proposed by Bill Stoughton is reasonable. Regarding bedroom counts, he prefers the applicant's proposal because it could cause them to run out of bedrooms before building all of the proposed units, leaving one less unit to be built in Town, for a type of development the Town did not want in the first place. He would also like to hear from the DPW Director regarding the culvert item. He noted that he believes it would be irresponsible for the Board to make a decision on the waiver items, as they were being seen for the first time this evening.

Tracie Adams asked for public comment at this time.

Cindy Siragusa, 39 New Boston Road, stated that she has concerns regarding the placement of the condos in the east village. She stated that three of the single condo units are rear facing so no one will see the front of the house. She does not believe this fits aesthetically with the neighborhood to be looking into someone's backyard.

Sally Harrington, 5 Brookwood Drive, expressed concern regarding the quality and quantity of the water in this area, as her well abuts this land.

Ken Clinton explained that, early in the process, the applicant was required to provide studies to the Board relative to water quantity at first, and then quality. The studies were performed both from a hydrogeological and water supply standpoint. These indicated that there was enough quantity of water to supply development, while not adversely affecting area wells. Area wells are subject to many different conditions, whether it be depth, or age, which is why one may not have great quantity versus another. The studies clearly showed, and the peer review concurred, that there was adequate quantity. Regarding the quality of water, certain guidelines and testing protocol have been discussed. The development of this land should not whatsoever affect the drinking water aquifer of the neighbors. If a landowner has any concerns prior to construction, the owner should have a test done both for quality and quantity, so that if there are substantial differences noticed during or post construction, there will be a baseline to register some level of complaint. Ken Clinton noted that there had been an unprecedented level of inquiry into the wells for this property.

Mary Albina, 3 Brookwood Drive, explained that the recent development of Dorothy Drive off Brookwood Drive was supposed to contain communal wells, but each unit has its own well.

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There were also supposed to be community areas on the property, but instead there is only a gazebo with no common area. There are no hiking trails as proposed. She has concerns regarding this proposal and making sure certain items are completed, such as hiking trails. Ken Clinton explained that he was not involved with the design, approvals, or client management of Dorothy Drive. He stated that this project has been very consistent in showing a trail connecting to the Town of Amherst owned lot at the end of Brookwood Drive, as a potential connection point. The ALT has stated that there could be some level of trail further from that Town lot, which could connect to the public road. It is the Town's responsibility if it wishes to pursue further development of a trailhead or more.

Erol Duymazler addressed Ms. Siragusa's concerns. He stated that he can face the units in question toward the main road, allowing for back entry off the common area. He will have to change the floor plan in order to do so but is willing to make the change. Tracie Adams thanked Erol Duymazler for his responsiveness to the comments.

There was no further public comment at this time. Tracie Adams went back to the Board for comment.

Bill Stoughton stated that he believes the Board can craft appropriate conditions for the subsequent review needed. He supplied the Board with his proposed conditions. Additional Conditions Precedent include:

11. Completion, signature, Town Counsel review, and recording of a Development Agreement with the Community Development Office consistent with the Board's action, including these conditions of approval.

12. Deletion of Note 19 regarding future changes to architectural styles. Additions of styles or significant changes to approved styles will require Planning Board agreement.

13. No lots may be further subdivided. A note to this effect shall be placed on the plans.

14. Consistent with the applicant's agreement, the condominium documents and site plan shall incorporate a limit of one Accessory Dwelling Unit for the development and shall prohibit any additional Accessory Dwelling Units. The documents and site plan shall further provide that the allowed Accessory Dwelling Unit, if constructed, shall be in a West Village dwelling.

15. The roads within the development shall be private in perpetuity. Winter Road maintenance shall conform to the state's Green SnoPro program, as it may be amended or replaced in the future. The site plan and condominium documents shall note these restrictions.

16. Agreements regarding construction and maintenance of trails and trailhead parking areas shall be finalized and signed by all parties with responsibilities for same. Such

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agreements must be reviewed and found to be acceptable by Town Counsel, at applicant's expense, to the extent any Town entity is proposed to be responsible for any such construction or maintenance.

17. The Stormwater Management System Inspection and Maintenance Manual section addressing gravel wetlands shall be reconciled with the requirements of Note 11 on Sheet 18 of the site plan regarding periodic cutting and removal of vegetation. Both documents shall incorporate the appropriate requirements.

18. The stormwater runoff volume increases discharging to the Boston Post Road culvert are judged to be acceptable by the Town DPW Director.

Additional Conditions Subsequent include:

12. Irrigation systems shall sense rainfall amounts and reduce irrigation when rainfall is adequate. Irrigation systems shall also be capable of reducing or stopping irrigation during drought conditions.

13. To ensure a diversity of housing types and styles, in the West Village no directly adjacent dwellings may be of the same architectural style.

14. No building or construction shall take place in the conservation easement area except as is consistent with the conservation status of that area. No building or construction shall take place in the other open space area. Harvesting of trees in the conservation easement area or other open space area is permitted if it is done according to good forestry practice and with the express permission of the Planning Board.

Ken Clinton stated that the applicant has no concern with any of the additional conditions proposed.

Tracie Adams reviewed the remaining number of comments made in the staff report. Regarding the items on page 5, Ken Clinton stated that the applicant agreed to all 22 of those comments, except that no cross easements are necessary, and the applicant has also agreed to add the note for no further subdivision.

Tracie Adams stated that the road-related items on page 6 have already been addressed. Page 7 deals with the compliance Conditional Use Permit (CUP) for the IIHO approval. These items are addressed or covered by the conditions precedent or subsequent in the staff report and added by Bill Stoughton. Related to item #9, she asked about where in the process this project is with addressing potential off-site improvements to alleviate traffic delay capacity and queuing issues. Ken Clinton stated that he believed this conversation was paused to see what came from the Town study. He stated that he believes, while this development will cause impacts, they are not significant adverse impacts that would require additional contributions for off-site improvements, beyond what the impact fees would cover.

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Bill Stoughton noted that the Planning Board asked the Board of Selectmen to have a traffic study performed. That traffic study had a couple of recommendations for things that could be done to alleviate traffic, mainly at the Moulton's Market intersection. The primary recommendation was to remove two stop signs at that intersection, which would virtually have no cost. The traffic study was unable to include all of the pedestrian count information, the Board of Selectmen asked NRPC to include pedestrian movements, but he is unsure on the status of this update. He does not see anything on the horizon that would preclude this project from moving forward based on this item.

Tracie Adams stated that page 8 deals with the proposed architectural designs as a condition of the final approval. The Board must approve external architectural designs to ensure compliance with the goals of harmonious existence with the neighborhood and the environment from Section 4.17 H. The Board has discussed the proposed variety in different housing shapes and colors. To make sure this is accomplished, additional conditions subsequent #13 is proposed.

Regarding page 9, Tracie Adams stated that the Zoning Ordinance specifies that phasing is under the Planning Board's discretion. The ordinance states that phasing should be over a minimum of four years for subdivisions with 10-20 dwelling units. This proposal has 25 units, and so, is well above that. It also implies that no more than 25% of the dwelling units should receive building permits in a one-year period. Plan sheet #1 contains a note with the applicant's proposed phasing. Bill Stoughton explained that he is proposing that the 25 west village dwelling units shall be phased over a minimum of four years, with not more than 25% of the dwelling units receiving building permits in a one-year period. Also, the east village is not subject to phasing requirements, due to the fact that there are less likely to be school aged children in those units. He stated that the Town has expressed on a number of occasions its desire to increase the stock of housing for the 55+ age group. The Board agreed with this proposal.

Tracie Adams stated that, on page 10, regarding the Wetland and Watershed Conservation District (WWCD) CUP, the Board has heard that there is one direct impact to the entrance of the west village from Boston Post Road. She stated that the purpose of the WWCD CUP is to review the permit criteria. The Board had no concerns regarding this item. The Board agreed to vote on this item during the full approval decision.

Tracie Adams stated that page 12 deals with bonding. A bond would allow the Town to restore the site as near as possible to its former condition. Language was included in the staff report on page 15 related to bonding submission. "Submission of security required for full and final completion of public and private infrastructure improvements and common area amenities specified on the final project plans, installation and maintenance of erosion and sedimentation controls throughout the construction period and for site restoration and landscaping as specified in the Town's Regulations and acceptable to the Planning Board based on an estimate to be provided by the applicant and reviewed and approved by KNA at the applicant's expense." The Board agreed that it was comfortable with this language as proposed.

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Regarding road construction on page 12, Tracie Adams stated that a letter from Attorney Callahan mentioned some possible milestones. The Board seemed to agree with proceeding with a pre-construction meeting with Keach Nordstrom and the developer to agree on those milestones. The Board agreed with this proposal.

Tracie Adams stated that the legal items at the bottom of page 12 have been discussed and there are some conditions precedent to cover the concerns mentioned in this section, specifically condition precedent #11. The Board agreed with this item.

Tracie Adams stated that the engineer item on page 13 looks to be covered under condition precedent #7. The Board agreed with this item.

Tracie Adams stated that the final section deals with department comments. This includes the discussion regarding hammerheads and she believes the Board is in agreement on this item. She stated that the Board received an e-mail on 9/19 from DPW Director Eric Slosek which stated that he had no issues with the hammerheads. The Board also received an e-mail on 9/20 from Fire Chief Conley in which he said the changes to the hammerhead and turnarounds on the plan allowed his apparatuses to turn around.

**Bill Stoughton moved to waive the provisions of Section 302.4 of the Roadway and Utility Standards regulations, which normally require dead-end streets to terminate in a cul-de-sac, in order to permit two street terminations in hammerhead designs as depicted in the site plan revisions dated July 20, 2022. This motion is based on the opinion of the Fire Chief that adequate room is provided by the proposed hammerhead design to permit safe emergency vehicle operations, and the fact that the proposed streets will be privately maintained and not the operational or financial responsibility of the Town. Seconded by Chris Yates.**  
**Motion carried unanimously 6-0-0.**

Tracie Adams asked if anyone had any issues with the proposed trails and trailhead onsite. It was noted that condition precedent #16 helps to cover this item in stating that negotiations will be ongoing and ironed out with the appropriate parties in time.

In response to a question from Tom Quinn regarding if substantial completion should include mention of utilities and drainage being installed, Ken Clinton noted that, if binder coat is down, these would already be completed.

The Board discussed impact fees. Tracie Adams suggested that the 25 single family homes in the west village and the 4 units standalone in the east village should be assessed at the single-family detached rate, and then the 14-duplex side-by-side units in the east village should be assessed at the two-family structure rate. The Board agreed.

The Board discussed the waivers. Bill Stoughton suggested that the Board could set up a condition regarding the culvert item, so that if the DPW Director has concerns, the applicant



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would need to come back before the Board. Tom Quinn stated that he believes the Board needs to receive a fully revised set of plans anyway and so the applicant would need to come back. Bill Stoughton stated that he believes this would be checked by Community Development, as long as it was specified clearly in the conditions. He noted that Arnie Rosenblatt is the only Board member that signs the actual plans, and all of the conditions precedent first have to be satisfied.

Tracie Adams asked to hear a draft motion.

In response to a question from Tom Quinn regarding if the culvert items require ACC review, Bill Stoughton stated that the regulations do not require it. Bill Stoughton stated that he does not believe the Board will be in a different position whether this is approved tonight with conditions or continued.

**Bill Stoughton moved to waiver the specific requirements of section 4, Item A.7., section 5, Item A.6., and section 5, Item A.7. of the Town Stormwater Regulations, as requested in Meridian's letter dated 9/21/2022, on the grounds that the specific circumstances relative to the subdivision and conditions of the land indicate the waiver will properly carry out the spirit and intent of the regulations, subject to the DPW Director's agreement that these waivers do not create any significant adverse impact on town drainage systems. Seconded by Chris Yates.  
Motion carried 5-1-0 [T. Quinn against].**

Tim Kachmar stated that the Board still needs to review the issue regarding the number of bedrooms. The applicant is proposing a tracking system to track the limit of the bedroom count, versus the Board's suggestion to set hard numbers for each type of unit. Some Board members discussed there being more potential diversity through exact bedroom counts in case all buyers request 4-bedroom units through the tracking option. Erol Duymazler stated that, though not proposed, he would be okay with the Board's proposed option. Houses will be sold based on the market, so he is not concerned regarding housing diversity.

**Bill Stoughton moved to approve Case #PZ14920-101321 for Clearview Development Group, LLC, for the above-cited Final Subdivision of Map 7 Lot 72 and Map 5 Lot 159-1, 38 New Boston Road and Boston Post Road, and further, that the Board finds the application satisfies the criteria of Section 4.11 H.2. of the Zoning Ordinance, addressing the findings required for approval of a Conditional Use Permit in the Wetlands and Watershed Conservation District; and, further, to approve a Conditional Use Permit for site improvements in the WWCD, as shown on the plan dated October 4, 2021, most recently revised July 20, 2022, with the conditions set forth in the staff report and the additional proposed conditions for the 9/21/22 meeting, as circulated earlier, and the additional condition precedent #18 reading as follows: the stormwater runoff volume increases discharging to the Boston Post Road culvert are judged to be acceptable by the Town DPW Director; and further, assessing impact fees at the residential, single-family detached or two-family structure rate, as appropriate for the building type, and with active and**

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substantial development defined as the establishment of the road subgrade and substantial completion defined as completion of the paving binder coat. Seconded by Chris Yates.

**Discussion:**

In response to a question from Nic Strong, Bill Stoughton stated that the Board's Findings of Fact will be addressed separately from this motion.

Tom Quinn stated that, as he was not comfortable voting in favor of the waivers, he will also not be voting in favor of this motion, as the waivers are an integral part of the wetlands CUP.

Tim Kachmar stated that he would be comfortable voting for this motion, if the Board amends item #7 of the subsequent conditions to use the method proposed in the applicant's development plan, regarding bedroom counts for the west village.

Tracie Adams, Bill Stoughton, and Chris Yates stated that they preferred the Board's proposed method. Chris Yates noted that he believes this will allow for additional diversity of housing. Tim Kachmar stated that item #13 as proposed in the additional conditions addresses diversity. Attorney Callahan stated that these two concepts are not mutually exclusive. The applicant could propose a bedroom countdown option and a diversity of styles.

In response to a question from Tom Quinn, it was noted that the number of bedrooms proposed is listed under #7 on page 17 of the staff report.

Pam Coughlin stated that she is a little uncomfortable voting on this item because she was not on the Board from the beginning of this application's process. She believes that she needs more time to review some of the documents, including the legal items.

**Motion failed 3-3-0 [T. Quinn, T. Kachmar, and Pam Coughlin against].**

Attorney Callahan asked, if this application is continued, if the Board will have a focused deliberation on the culvert item or open up the entire project for public comment again. Bill Stoughton stated that, if new information is received from the DPW Director, the Board will need to reopen the public hearing.

Attorney Callahan noted that the legal documents have been available to the Board for months. He noted that, with no offense to Pam Coughlin, these should have been reviewed by the Board prior to this hearing. He expressed dissatisfaction in the ruling and noted that the applicant has been very accommodating and patient.

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Bill Stoughton noted that, if continued, the applicant would have to agree to an extension of all deadlines. If the applicant does not agree, he is unclear where that leaves the Board.

Attorney Callahan asked if the Board would consider a special meeting to deal with this item. He noted that this process has been going on for over 3 years. The applicant has been extremely patient, but patience is growing thin. Bill Stoughton stated that he believes the Board has also been very accommodating. Attorney Callahan stated that this is the longest single project he has ever been involved with. He noted that the genesis of Erol Duymazler's involvement in this project came because former Community Development Director, Gordon Leedy put this land on Mr. Duymazler's radar, due to track record. This was seen as an invitation, and it does not feel good for the process to be heading in the direction it is now.

Pam Coughlin asked how quickly the DPW Director can submit his report for the culvert back to the Board. She stated that she would feel more comfortable voting affirmatively, once that is received. Tracie Adams stated a positive report from the DPW Director was already made a condition of approval. If issues arise in this report, the applicant will have to come back before the Board.

Attorney Callahan noted that, if Pam Coughlin's concern is regarding the legal documents, these have been submitted to Town Counsel and are fairly technical in nature. He is unsure if this is a fair concern to express for delaying approval.

Bill Stoughton asked for a date for continuance. He noted that all involved would like to be done with this process. He suggested that the applicant hear the proposed date and weigh continuance versus other avenues. Attorney Callahan stated that the applicant would rather avoid the other options but is close to considering them at this time.

Attorney Callahan asked if the Board would consider a revote. The applicant is frustrated with this outcome. He would like to see if Pam Coughlin's true concerns are with regard to reviewing the legal documents.

Bill Stoughton stated that he is uncomfortable with Attorney Callahan seemingly pressuring a Board member. Attorney Callahan stated that this was not his intention, but that Pam Coughlin's vote seemed to include an element of confusion.

Pam Coughlin stated that her basic concern is regarding stormwater. She asked if the DPW Director's report would be sent to the Board as quickly as possible, or if this could be a condition of the motion. She stated that maybe she had not understood what was proposed. Tracie Adams explained that this item was already included in the motion. She asked if the motion language could be reiterated.

Bill Stoughton reiterated the waiver language included previously, "... to waive the specific requirements of section 4, Item A.7., section 5, Item A.6., and section 5, Item A.7. of the town Stormwater Regulations, as requested in Meridian's letter dated 9/21/2022, on the grounds that

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the specific circumstances relative to the subdivision and conditions of the land indicate the waiver will properly carry out the spirit and intent of the regulations, subject to the DPW Director's agreement that these waivers do not create any significant adverse impact on town drainage systems." He noted that the waivers were already approved by the Board.

Bill Stoughton reiterated proposed condition precedent #18, "the stormwater runoff volume increases discharging to the Boston Post Road culvert are judged to be acceptable by the Town DPW Director." Pam Coughlin asked if Beaver Brook can be added into this condition. Bill Stoughton stated that the DPW Director does not comment regarding discharge to waterways. Pam Coughlin asked about the culvert that Beaver Brook runs through. Bill Stoughton stated that, in his personal opinion, the additional amounts of water proposed from this site will not be noticeable.

Pam Coughlin noted that she did not hear the motion clearly the first time. She asked what the Board's original vote on the motion was, as she thought she was the only member against it. It was noted that the vote failed, 3-3-0. Bill Stoughton noted that Pam Coughlin would have to ask for reconsideration, as she voted against the item and seems to be reconsidering her vote.

**Pam Coughlin moved to reconsider the previous vote. Seconded by Chris Yates.  
Motion carried unanimously 6-0-0.**

**Bill Stoughton moved to approve Case #PZ14920-101321 for Clearview Development Group, LLC, for the above-cited Final Subdivision of Map 7 Lot 72 and Map 5 Lot 159-1, 38 New Boston Road and Boston Post Road, and further, that the Board finds the application satisfies the criteria of Section 4.11 H.2. of the Zoning Ordinance, addressing the findings required for approval of a Conditional Use Permit in the Wetlands and Watershed Conservation District; and, further, to approve a Conditional Use Permit for site improvements in the WWCD, as shown on the plan dated October 4, 2021, most recently revised July 20, 2022, with the conditions set forth in the staff report and the additional proposed conditions for the 9/21/22 meeting, as circulated earlier, and the additional condition precedent #18 reading as follows: the stormwater runoff volume increases discharging to the Boston Post Road culvert are judged to be acceptable by the Town DPW Director; and further, assessing impact fees at the residential, single-family detached or two-family structure rate, as appropriate for the building type, and with active and substantial development defined as the establishment of the road subgrade and substantial completion defined as completion of the paving binder coat. Seconded by Chris Yates.  
Motion carried 4-2-0 [T. Quinn and T. Kachmar against].**

Attorney Callahan apologized for coming on a bit strongly regarding the previous vote.

Bill Stoughton circulated the proposed draft Findings of Fact. The first 16 items review the background and chronology from the staff report. Item 17 deals with the well water quantity

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testing, item 18 deals with the well water quality testing. Items 19, 20, and 21 deal with phasing. Item 22 deals with bonding, and item 23 deals with bedroom numbers and housing styles. The Board reviewed the draft proposed Findings of Fact.

**Bill Stoughton moved to adopt the Clearview proposed Findings of Fact, dated 9/21/2022, as the Findings of Fact supporting the application just approved.**

**Seconded by Chris Yates.**

**Motion carried 4-0-2 [T. Quinn and T. Kachmar abstaining].**

The Board took a brief recess.

**OTHER BUSINESS**

**2. Discussion regarding letter dated May 26, 2022, re: Recommendation for Temporary Moratoria pursuant to RSA 674:23**

Tracie Adams explained that the proposed moratorium would hold the issuance of building permits for new single-family or multifamily housing and hold the granting of site plan and subdivision approvals for a period of one year. RSA 674:23 states that, upon recommendation of the Planning Board, the local legislative body may adopt or amend an ordinance establishing a moratorium or limitation of building permits or the granting of subdivision or site plan approvals for a definite time. The Board received a letter supported by the signatures of 27 Amherst residents, expressing these concerns and stating that there may be some warning signs that the Town's school administrative management teams would be unable to thoroughly estimate and accommodate the growing Town and school population.

Darla Vaughn, 42 Thornton Ferry Road I, stated that she agrees with Selectman Grella regarding the DPW Director's competent ability to manage the Town's operating and capital budgets. However, she disagrees that the Board so easily dismissed the propensity of escalating costs in current inflation times, and the impact of potential changes. Regarding the school concerns, at a June 6<sup>th</sup> SAU board meeting, the minutes address the Business Administrator search. Per the minutes, Interim Superintendent Mr. Chamberlin stated that there were three candidates. The schools were hopeful to have a new Business Administrator in June, but there still is not a new Business Administrator. Ms. Facey is still acting as the Business Administrator and Mr. Chamberlin is the Interim Superintendent. Mr. Chamberlin has agreed to a one-year term as a Superintendent. From the Superintendent's report, dated September 29<sup>th</sup>, Mr. Chamberlin stated that he remains "fascinated by the complexity of the multidistrict SAU. When taking on the role of Interim Superintendent, I had hoped to maintain a voice in the learning part of the school. In the Interim Superintendent role, I have found it challenging to maintain the voice as the financial part of the school budget negotiations. The Facility project has assumed much of my time. I appreciate my colleagues filling the gap. Next month's Interim Superintendent report will review the impact of inflation in our schools." This is precisely what the petition is about. The intention is to manage and make decisions appropriately. In summation, Darla Vaughn stated that her points are that the Interim Superintendent is working hard at his new position. He is learning a job with different requirements, which he will manage for one year. The incoming

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Superintendent will be starting over from there. The Business Administrator is exiting and continues to look for a replacement. The budget and cost implications of the 2022 and 2023 school administration and further fiscal years are unknown, given rising costs.

Bill Stoughton noted that, if the Planning Board entertains this moratorium, it is required to do two things. It is required to make specific Findings of Fact as to why it thinks a moratorium is necessary. The proponents have pointed to personnel issues both at the Town and at the school level. The Board then also has to present a plan for what would be done in that year to improve the situation. He asked Ms. Vaughn what she would propose for a plan to fix these problems. Darla Vaughn stated that building a plan is absolutely the right direction. She proposed that the plan would include work with the school boards and the Planning Board to create a situation where the budget financial process, as well as the operational processes, are well defined and understood.

Bill Stoughton asked how a building moratorium for a year helps that situation. Darla Vaughn stated that it slows down the potential number of students coming into the school system. Bill Stoughton asked if it does anything with respect to hiring. Darla Vaughn stated that it gives the Town an opportunity to work on some of the deficiencies in the school system. This would allow all involved to take a breath, fix what's needed through a manageable approach.

There were no other Board comments or questions at this time.

Stephanie Grund, Chair of the Souhegan Cooperative School Board, and Dan Veilleux, Souhegan Cooperative School Board member, addressed the Board. Stephanie Grund explained that the schools work with an outside organization which provides the schools with a report to estimate the school population. The schools are not really showing huge growth at this point. Growth is currently fairly stable over time. The schools have a forward-looking document every year regarding staff turnover. Unfortunately, the district lost its Superintendent this past year, but has been very fortunate that one of the Assistant Superintendents has stepped in to provide a smooth transition. There is already a committee going through a Superintendent search. This is usually approximately a yearlong process. There was a recent turnover for the middle school principal position, but this is not unusual. The principal and vice principal for the elementary schools actually swapped places. The proposed building project will hopefully alleviate space concerns. The Amherst School Board is beginning to discuss the next proposal for this building project. She noted that Amy Facey, Business Administrator, had previously given her resignation but has since rescinded this and will be staying on. The school boards are looking to provide her with adequate support by making sure that work is aligned appropriately. While cost increases are a concern for everyone, the schools are lucky that the Building and Grounds Director locked in the school's utility rates until 2025. If there were other budget items of concern, the schools could freeze their budgets. She stated that the items of concern for the moratorium are not items that leave her overly concerned about the ability to deliver a proper education to all of the students.

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Dan Veilleux stated that it is normal for schools to evolve in how they work and operate. There is likely to be some turnover and schools continue to function because there are good people in place. There really is no gap in management from the school board's perspective.

Chris Yates stated that he has been working on the Master Plan and highly encouraged the school boards and SAU 39 to provide more input to the Planning Board when new applications are received because understanding if the schools are at or below capacity can make a difference in how an application is reviewed. He noted that the Board does not often hear anything back from the schools regarding application materials. He encouraged the school districts to start playing a more transparent role within the community.

In response to a question from Chris Yates regarding if the schools would do anything differently with respect to filling personnel positions if the Board adopted a one-year moratorium, Stephanie Grund stated that there would likely be no change, because the only open position currently is the Superintendent and that is already a priority. This would also not have any appreciable effect on the schools' budgeting or how they dealt with inflationary pressures, because the number of students would not change significantly in a year. Dan Veilleux stated that the high school has been expecting more students this year than have actually entered, so there is capacity there. Stephanie Grund stated that this may not be the case in the elementary schools.

In response to a question from Bill Stoughton regarding phasing of larger developments over a period of years, Stephanie Grund stated that this likely would be helpful in planning purposes for the schools.

Tom Quinn, Pam Coughlin, and Tim Kachmar had no comments at this time.

Bill Stoughton explained that the Board of Selectmen discussed the moratorium petition at its August 22<sup>nd</sup> meeting. In particular, the Board discussed if the relatively new DPW Director was in some way impairing the Town's ability to deal with growth. The minutes of that meeting are available on the Town's website. The majority of the Board agreed that the DPW Director previously served as the Deputy Director and has worked for various towns for the past 18 years prior to coming to Amherst. The Board agreed that the DPW Director was fully capable of handling the job, including whatever additional things might happen as a result of a planned development. This is not to minimize concerns of anyone in Town regarding development and how the Town handles it.

There was no public comment at this time.

Tracie Adams asked Board members if the information provided rises to the level of requiring a moratorium on building for a year.

Chris Yates stated that he does not believe that putting a moratorium into effect would help the Town. If anything, it could put the Town under more scrutiny with the State.

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Bill Stoughton agreed with Chris Yates. He noted that the statute requires that, in order to have an ordinance to this effect, the Board has to find that there are unusual circumstances that affect the ability of a Town to provide adequate services. While he appreciates the concerns, he does not believe these rise to that standard. With respect to both the personnel issues and the ability to handle inflation, a moratorium is not going to affect the Town's ability to deal with either of those. He does not believe these meet the statutory conditions.

Tom Quinn agreed that if the reasons given are not completely defensible, this could put the Town at tremendous legal risk. Every landowner that wishes to develop their land or start the process over the next year, would be denied that right. He is not sure that the potential personnel issues in the school and DPW would be reason enough for this.

Pam Coughlin agreed that, with the facts presented and the information from the SAU Chair, she does not see these items as a crisis at this time.

Tim Kachmar agreed that the points brought up do not rise to the concern level to create a yearlong moratorium.

Tracie Adams noted that, per the comments of the Board, it does not appear that a moratorium will be moved forward with at this time. She thanked the public for their consideration and proposal. The moratorium concept is one that could be available to the Board in the future if things rose to that level.

### **3. Lot Consolidation Approval –1 Winding Hollow Road, Map 5-90-12 & 13**

Tracie Adams noted that this is a voluntary merger. Both lots are currently below the size and frontage requirements. If consolidated, these lots will become more conforming.

In response to a question from Chris Yates regarding the mortgage holding situation, Nic Strong stated that she has not heard more information, but the law specifically states that if this item is unknown, it will not cloud what the Town does.

**Chris Yates moved to approve the lot consolidation of 1 Winding Hollow Road, Map 5-90-12 & 13. Seconded by Tim Kachmar.**

#### **Discussion:**

**Nic Strong asked that language be added to the motion that the merged parcels shall hereafter not be separately transferred without subdivision approval.**

**Chris Yates moved the amended motion. Seconded by Tim Kachmar.  
Motion carried unanimously 6-0-0.**

### **4. Boundary Plan –Tax Map 5 Lot 56 –124 Amherst Street –Land of the Anthony and Jean Desany Joint Revocable Trust, for the Board's information**



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1052  
1053 Tracie Adams stated that the Board formally acknowledges receipt of the Boundary Plan for Tax  
1054 Map 5 Lot 56 –124 Amherst Street, Land of the Anthony, and Jean Desany Joint Revocable  
1055 Trust.

1056  
1057 **5. CIP Project Request Forms 2024-2029**

1058  
1059 Tracie Adams thanked everyone for participating in the CIP process. CIP request forms are being  
1060 presented to the Board this evening solely for the purpose of determining if the requests are  
1061 consistent with the Master Plan. She asked for questions or comments from the Board and there  
1062 were none.

1063  
1064 **Chris Yates moved that the CIP project request forms for 2024-2029 are consistent**  
1065 **with the Master Plan. Seconded by Bill Stoughton.**  
1066 **Motion carried 5-1-0 [T. Kachmar against].**  
1067

1068 **6. Minutes: August 17, 2022; non-public minutes of July 6, August 3, & August 17,**  
1069 **2022; and September 7, 2022**

1070  
1071 The Board postponed this item due to the lateness of the hour.  
1072

1073 **7. Any other business that may come before the Board**

1074  
1075 **Tim Kachmar moved to adjourn at 10:35pm. Seconded by Tom Quinn.**  
1076 **Motion carried unanimously 6-0-0.**  
1077

1078  
1079 Respectfully submitted,  
1080 Kristan Patenaude  
1081

1082 Minutes approved: November 2, 2022