

TOWN OF AMHERST
Planning Board

August 2, 2023

APPROVED

In attendance at Souhegan High School: Arnie Rosenblatt – Chair, Tracie Adams, Cynthia Dokmo, Bill Stoughton – Board of Selectmen Ex-Officio, Tom Quinn, Tom Silvia, Pam Coughlin (alternate), and Rob Clemens (alternate)

Staff present: Nic Strong (Community Development Director)

Arnie Rosenblatt called the meeting to order at 7:00pm.

Pam Coughlin sat for Chris Yates.

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

1. **CASE #: PZ16932-020723 – Kevin & Claudine Curran (Owners & Applicants); Pond Parish Road, Baboosic Lake Road & Grater Roads, PIN #s: 006-002-000, 006-007-000 & 006-009-000 – Subdivision Application – Final Approval.** To depict the consolidation and conventional subdivision of Tax Map 6 Lots 2, 7 & 9. *Zoned Residential Rural. Continued from April 19, 2023.*

Bill Stoughton explained that this item involves what was once the proposed development of the Curran properties, three lots on Baboosic Lake, Pond Parish and Grater Roads totaling almost 160 acres. The Town, in order to comply with bonding limitations, split this land purchase into three separate purchases. Two out of those three purchases have been completed and the Town now owns 2/3 of that land. The final land purchase is scheduled for next July, as new bonding allowances open up in the new fiscal year. This item is on the agenda tonight because the Currans have filed an application to subdivide the property, and if for any reason the Town was unable to complete the purchase of the last piece of land, the Currans would amend that application while being able to use the ordinances and regulations that are in effect today. Essentially, if the Town does not follow through on the purchase, the Currans want to be able to use today's ordinances and regulations at that future time. The proposal is to continue the application the Currans have on file until next August, with the hope that the Town will fulfill the purchase and the Currans will withdraw the application.

Bill Stoughton moved that the Board continue this application to August 7, 2024, at 7:00 PM at Town Hall, per the applicants' request, acknowledging that the applicants recognize that the application has not yet been accepted as complete within the 30-day time frame required under RSA 676:4.I.C.1. and that the applicant waives the Planning Board's obligation to render a decision within the 65-day time frame as required under RSA 676:4.I.C.1. Seconded by Tracie Adams. Motion carried unanimously 5-0-0.

Joint Meeting with the Heritage Commission to review the proposed acquisition of land by the Town

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Rob Clemens, representing the Conservation Commission, presented information regarding the proposed acquisition of a portion of the Clearview property. The Town, Conservation Commission, and the Amherst Land Trust are proposing to acquire Lot 159-1 for conservation of open space and public access acquisition. This will conserve 60 acres of forest and wetland habitat and avoid the proposed development of 25 residential lots. This property extends between Boston Post Road and New Boston Road. This particular area includes ecological habitats that are highly ranked on a local, State, and regional basis. This area contains undeveloped and unfragmented forest habitat and is located just north of a significant aquifer for the Town of Amherst. The Planning Board previously approved an east village development off New Boston Road and a west village off Boston Post Road. These developments were associated with 18 acres of conserved land via easement. This proposal is to acquire the west village property.

The process is that the Town will execute a purchase and sale agreement with Clearview Development to acquire the referenced property in two phases. Half of the currently approved west village development will be acquired in the first phase and the remainder of the west village development, minus a four-acre parcel to be retained by the developer, would be acquired in the second phase. The Conservation Commission is funding the first phase of the acquisition with \$470,000 from its Conservation Fund. The Town will fund the second phase with \$600,000 of remaining open space bond funds. The Conservation Commission will also return \$110,000 of Land Use Change Tax funds which will be received from sales of units in the east village. The Amherst Land Trust is in the midst of a fundraising campaign which will fund the conservation easement with approximately \$635,000. The purchase and sale agreement was executed today. Phase 1 is intended to close by early October, following a completed 36-A and 41:14 review process. Phase 2 is scheduled to close by late August 2024. The Land Trust will complete its purchase of the conservation easement by the time the first phase has closed.

Arnie Rosenblatt explained that this is a joint meeting with the Heritage Commission, but the Board will not be deliberating with the Heritage Commission at this time. The Heritage Commission will deliberate separately but were here to listen to the presentation. Rob Clemens noted that part of the 41:14 process is to receive the recommendation of both the Planning Board and the Heritage Commission.

Bill Stoughton explained that the requests are for the Planning Board to give its recommendation to the Board of Selectmen on whether to proceed with this deal, review of additional applications by the Clearview owner to adjust the approved plans and waiving the application and renoticing fees that apply, and authorizing Nic Strong, Community Development Director, to approve administratively item changes to the condominium documents that have been filed for the west village development following approval by Town Counsel.

Tom Quinn asked what the changes to the condominium documents will be. Bill Stoughton explained that this is a fairly intricate plan that involves already approved developments and lot lines. This proposal involves the west village area, Lot 159-1, with the Town purchasing 12 of the condominium unit blocks initially until the remainder of that bonding authority opens up next year. Then the remaining 13 lots will be purchased. Part of the deal includes that the developer

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wants to subdivide off one building lot of about four acres along Boston Post Road. Tom Quinn stated that he believes it makes sense to protect the critical habitat in this area and that the proposal will also be helpful in reducing the traffic from the Village and maintaining the rural nature of the Town which is what was decided as an intention of the Master Plan.

Cynthia Dokmo stated that she believes this proposal will be helpful for the Town in many ways.

Tom Silvia asked the cost per acre for this project. Rob Clemens stated that he believes it was less than the appraised cost of \$3.1M. Bill Stoughton noted that the deal will be approximately \$2.1M for the property.

Tom Silvia asked about the private fundraising that needs to occur. Bill Stoughton explained that the Conservation Commission put down a deposit on this land acquisition and Amherst Land Trust is going to put down a deposit on the easement position. If the private funds are not raised by a date certain, September 14, 2023, the Town has until September 15th to notify the sellers that the fundraising has not occurred, and the Town will back out of the deal and get the deposit back. He stated that he cannot speak specifically to the fundraising goal at this time.

In response to a question from Tom Silvia, Bill Stoughton explained that the RSA envisions a process in which the Conservation Commission, Planning Board, and Heritage Commission hear the plan before the Board of Selectmen can approve the deal. There is a contingency on the deal until this approval process is complete. The Board of Selectmen must then hold two public hearings, two weeks apart, and then wait another week before voting on this item. The purchase and sale agreement was executed this morning.

Tracie Adams had no questions at this time. She expressed her support for the proposal.

Pam Coughlin had no questions at this time.

Bill Stoughton explained that the Town is getting a fair deal on the land and the Conservation Commission, with its Conservation Fund, is funding a very large chunk of the Town's share. The actual taxpayer share is only \$600,000 which will come out of the remaining open space bonding authority that was approved several years ago. This seems to be a good model to acquire an important piece of property that has concerned a lot of residents in Town.

There were no questions from the Heritage Commission at this time.

Tom Silvia moved that the Planning Board recommends that the Board of Selectmen proceed with the deal as described. Seconded by Tracie Adams. Motion carried 5-0-1 [B. Stoughton abstaining].

Bill Stoughton moved to waive Planning Board application fees and renoticing fees for the applicant filings contemplated by the deal as described. Seconded by Tom Silvia.

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Motion carried unanimously 6-0-0.

Bill Stoughton moved to authorize Nic Strong to approve as administrative items the changes to the condominium documents contemplated by the proposed agreement following the approval of such changes by Town Counsel. Seconded by Tom Quinn. Motion carried unanimously 6-0-0.

Arnie Rosenblatt thanked the Conservation Commission, Board of Selectmen, and others involved for their work on this item. He urged the Board of Selectmen and Conservation Commission to frame a new warrant article regarding funding for the purchase of additional open space. It is clear that the townspeople want open space, and this is the way to do it. This particular transaction shows that not all funding for these acquisitions needs to come only from the warrant article.

PUBLIC HEARINGS:

2. **CASE #: PZ17123-032323 – Robert H. Jacobson Revocable Trust, Laurie Stevens, Trustee (Owner) & TransFormations, Inc. (Applicant), 17 Christian Hill Road, PIN #s: Tax Map 005-148-000 & 005-100-000 – Conditional Use Permit.** To depict a 60-unit Planned Residential Development per the Integrated Innovative Housing Ordinance (IIHO). *Zoned Residential Rural. Continued from June 7, 2023.*

Arnie Rosenblatt read and opened this and the following case.

Tom Quinn and Tracie Adams recused themselves from these items.

Arnie Rosenblatt gave a short history of these applications. Both applications are being addressed under the Integrated Innovative Housing Ordinance (IIHO), which was previously repealed by the Town. A Conditional Use Permit (CUP) application was filed by this applicant during the time that the IIHO was still in effect. The Planning Board denied that application and the applicant appealed that decision to the Superior Court. While that appeal was pending, the applicant submitted a new application. That application was also denied based on the fact that it was not sufficiently different from the first application. The applicant also appealed that decision to the Superior Court. The Superior Court upheld the Planning Board's decisions. The applicant then appealed those decisions to the Supreme Court which reversed and remanded the decision by the Superior Court and instructed the Superior Court and the Planning Board to address the applications by the applicant. The applicant has since made the decision to proceed with two distinct applications for CUPs under the IIHO. Town Counsel has stated that, while it is unusual to submit parallel applications, it is not technically prohibited. Thus, the Planning Board is proceeding with both applications until the applicant withdraws one of those applications. The applicant agreed with the brief history provided.

Arnie Rosenblatt stated that the purpose of the hearing tonight is to address the CUPs, determine whether or not the applicant satisfies the requirements of the IIHO, and, if so, up to how many

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units would be allowed under that CUP. This determination will provide the applicant the ability to proceed with up-to so many units, but this would not mean that the rest of the application is addressed. Arnie Rosenblatt suggested that the Board proceed with a presentation by the applicant, the Planning Board will then make comments, and hear from the public. The Planning Board will then make any further comments and determine if it is prepared to make a decision or defer this further. There are two separate applications but there may be some overlap in terms of studies and concerns and questions that people may have. He noted that there will be additional times for the public to ask questions or make comments about these items. He suggested that the applicant present on the first application and then allow the Board to decide if it wants to comment or defer commenting until hearing the second presentation. Arnie Rosenblatt explained that a key issue is to satisfy the requirements of the IIHO and asked that the applicant address these criteria during the presentation. He also asked that the applicant make clear which bonuses it is requesting and why it is entitled to these, along with the basis for those density bonus calculations.

Sam Foisie, Meridian Land Services, explained that his intention is to receive enough information from the Board and from the public tonight to be able to move forward with one application at the next meeting. The applicant believes that both applications are at a point where the applicant will be able to get a sense of what is the best fit for the Town based off the public input. He will touch on new information provided and the key focal points of the applications, which is density. Arnie Rosenblatt noted that there will likely not be a formal vote tonight on which application the Board wants to continue with. Board members may say something about one application or the other, but this is not the Board telling the applicant which of the two to proceed with.

Arnie Rosenblatt asked if there are any materials missing from the applications. Sam Foisie stated that he believes all materials have been provided. Arnie Rosenblatt asked the applicant to continue with the presentation.

Sam Foisie stated that the first application has been referred to as CUP 2, or the 60-unit application. One item that was requested since the last meeting was an open space exhibit to compare this with the other application. He displayed an exhibit which demonstrates that this project has 70% open space proposed, which is above and beyond the 40% required. Another item requested was the breakdown of the open space calculation. The exhibit thus shows steep slopes, floodplain, and wetland areas that help get that net tract calculation. A table is provided to break down the land use coverages of the site so that the Board can understand what area is being conserved in open space. There were previous comments made about public open space versus steep slopes. This application shows that the majority of this property, 70%, is being conserved. There are some large area wetlands, which are established as being critical areas, some areas where the aquifer is located, and other areas that are steep slopes on the site that have will have a walking trail through them to the more up upland areas located at the back of the lot. Additional requests were to provide bonus density information, to respond to the traffic study peer review comments, and to provide a hydrogeological study. The hydrogeological study was provided last week, and it is unclear if a third-party review will be sought for that. As similar

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studies have been provided to the Town which say the same thing, it is believed that the study provided would be sufficient.

Sam Foisie reviewed why this application meets the IIHO regulations for the increased density. Within the proposed open space there are some existing trail networks that would be maintained and connected to. The open space to the right of the plan is mostly wetlands so trails cannot be located in this area. The bonus density calculation table has been provided to the Town within the project narrative document. This shows which units are associated with which requested bonus density, with those listed as “W” as the workforce housing, “S” as the senior housing, and “R” as redevelopment. Previous comments from Board members noted to locate the senior housing units in a centralized area. This has been shown on the plan. A triangle is used to represent the bonuses for one-bedroom units, and a bold dot is used for two-bedroom units.

Arnie Rosenblatt asked Sam Foisie to review the density calculations for this application. Sam Foisie stated that the baseline unit total is 30.9 units. There are eight senior housing units proposed, resulting in a 15% bonus of 1.2 extra units. There are workforce housing units proposed but the applicant is not seeking a bonus for those. There are 30 attached units proposed for a 10% bonus density of three extra units. There are 13 single floor units at 10%, which is 1.3 bonus units. The applicant is not seeking any handicap accessible or studio apartment units and thus no bonuses. There are three one-bedroom units proposed, with a 0.45 bonus density. There are 23 two-bedroom units proposed, at a 10% bonus density, for an additional 2.3 units. For walkability the applicant is proposing footpaths/sidewalks for internal walkability, for a 10% bonus of the base density, for an additional 3.09 units. The applicant is not proposing any improved accessibility to public places. The applicant will have community space open to the public, which is a 25% bonus for 7.73 units. Regarding open space under restrictive covenants, there is a 20% bonus sought for 6.18 units. This proposal will approximately double the minimum open space requirement for the site. The application does not seek any bonuses for rental units, as none are proposed. There are four units that will be associated with redevelopment on the site, for a 100% bonus density of an additional four units. There are no utilities in public ways or betterments, and no bonuses sought for those items.

Arnie Rosenblatt asked for Board comments at this time.

Cynthia Dokmo asked about the bonuses requested for open space. Sam Foisie stated that these might be related to CUP 3, or the 33 single-family unit application. Cynthia Dokmo noted that some of the proposed open space is quite steep. Sam Foisie stated that there are some areas of steep slope that have to be walked up to get to the flatter upland area. There is an existing trail already in that area. This area will be open to the public. Sam Foisie showed that there is an existing trail network already on parts of the lot which will be located within the open space proposed. Cynthia Dokmo asked the Bicycle and Pedestrian Advisory Committee’s suggestions for about a potential pathway on the north side of Christian Hill Road as part of the project. Sam Foisie stated that it is unclear if this is possible with how tight the area is and the existing stonewalls. The applicant can look into this item.

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Cynthia Dokmo explained that the Heritage Commission mentioned an old foundation on the property. Sam Foisie stated that this cellar hole structure is located on the site and is proposed to be removed as it is likely a safety hazard. Cynthia Dokmo noted that the Heritage Commission would like this structure recorded before it is removed. Sam Foisie stated that the applicant has no issue with this item. There is also an existing house on the property that is proposed to be redeveloped as part of the project.

Bill Stoughton stated that, regarding the elderly units, there are now eight units proposed, which is a reduction from 13 units proposed in previous plans. There is a sense in the community that these elderly units are good for the Town and will increase the diversity of housing opportunities on the site. He asked if the number can be increased. Sam Foisie noted that the number is limited based on the requirement to centralize them in one spot of the site. Bill Stoughton noted that this is a regulatory requirement, not a requirement of the Planning Board.

Bill Stoughton asked about a number of units marked as single-floor units on the east side of the property. Carter Scott, TransFormations, explained that these are part of the over/under duplexes proposed. The second-floor units would be internal walk ups.

Tom Silvia asked how many units are actually receiving density bonuses. If the baseline count is 30.9 units and more than that are being proposed, this is likely double counting some of the units. Sam Foisie explained that the applicant is requesting approximately an additional thirty units, based off the bonuses as calculated. Tom Silvia stated that it appears the applicant is using more than 31 units to get more bonus units. Sam Foisie stated that, for example, unit #2 is proposed as senior housing and also attached housing. There is not anything in the regulations that prohibits this. Tom Silvia stated that allowing bonus after bonus could lead to an infinite number of units. The applicant should start with 31 properties and determine from those 31 properties how many bonus units can be sought. He believes the applicant is counting bonuses on bonus units, which is against the regulations. Sam Foisie stated that he would need to look further into this. Tom Silvia stated that he calculated 34 units in total.

Tom Silvia asked about the proposed community space and open space areas. Carter Scott explained that the community space open to the public includes the first floor of the barn. A different interpretation of this is that the open space area is open to the communities on this site. The open space has restricted covenants on it that allow it to be accessed by the community and eight bonus units are being sought for use of the first floor of the barn by the residents of this area. Regarding walkability, Sam Foisie stated that some of the trails that run through the open space would be used for walkability. The road that branches through the site will allow for access to Christian Hill Road, and across to the remainder of the development. There is a proposed trail to loop around one area of the site. Tom Silvia asked if walkability includes sidewalks. Sam Foisie confirmed that it does not.

Tom Silvia asked about setbacks on scenic roads. The setback on Christian Hill Road is 100'. Sam Foisie stated that the only unit located within the scenic setback is the existing structure. Per

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the IIHO, there should be a 100' setback on the farm side of the property but if there are wetlands that setback is reduced to 50'.

Rob Clemens asked about the nature of the restrictive covenants proposed on open space use. He asked if public access was anticipated in this format. Carter Scott explained that public access is anticipated. Regarding any other restrictions on the open space, he is happy to work with the Conservation Commission, such as restricting all-terrain vehicles (ATVs).

Rob Clemens asked about the community space proposed on the first floor of the barn. Carter Scott explained that a Community Supported Agriculture (CSA) pickup/drop-off location is anticipated. Part of the area is planned for a meeting space. There is other flexibility for the space over time.

Pam Coughlin asked about proposed fire apparatuses, such as fire hydrants, fire ponds, etc. Sam Foisie stated that this item has not yet been engineered for the site, but the applicant will do what it needs to meet the fire regulations, such as installing a fire cistern. These items will be addressed during the definitive plans.

Arnie Rosenblatt asked about the proposed four-unit bonus with respect to redeveloping the existing house. He asked if there is anything particular about this house that impacts the Town. Carter Scott stated that this is one of the original farm structures in Town. It is historic. This seems to be what the Planning Board created the regulation for. The first IIHO application included a 1950s structure and there was discussion on the Board at the time as to this not being what the regulation was for. This proposal seems to be exactly what the regulations are for. Arnie Rosenblatt asked how old the structure is. Carter Scott stated that it is from approximately 1800. Arnie Rosenblatt asked if it is the age that militates in favor of the bonus. Carter Scott stated that it is the age, history of the farm, and the fact that this history seems to want to be preserved by the Town.

Arnie Rosenblatt asked for public comment at this time.

Frank Montesanto, 55 Christian Hill Road, asked about the calculation for open space. He noted that the applicant previously discussed selling a parcel to an abutter and asked if this acreage is included in the open space calculation. Arnie Rosenblatt stated that he does not believe that item is pertinent to this application.

Jim Hendrix, 44 Christian Hill Road, stated that the applicant was previously attempting to get bonuses for the ski hill and swampland of the site. He would like to make sure this is addressed. He stated that he recently spoke to Robert Tourigny, Executive Director of NeighborWorks, whose job it is to help address the housing crisis in the State. Mr. Tourigny stated that he generally enters a town and looks for water, sewer, reasonable topography, and then tries to work with Planning Boards to get affordable housing. None of these items are present on this site. Jim Hendrix noted that Rich Hart voted back on this plan in December 2019 and explained that this is a great plan, but it does not work on this site. Jim Hendrix asked if the applicant would

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consider a compromise and do standard zoning for this site only. He suggested that the applicant get his money out of this Town and go find an appropriate piece of land.

Kelly Mullin, Christian Hill Road, asked about the incline that people will have to climb to access the open space areas. Sam Foisie explained that there is an area that is close to being considered by the Town as steep slopes. The applicant is proposing a path through that area. There is an existing trail entrance which works up the hill and connects it to the rest of the space. Kelly Mullin asked if this is where ATV use is proposed. Sam Foisie explained that the proposal is to restrict ATV use. The intention is to allow the open space for walking accessibility, while restricting motor vehicles access.

Kelly Mullin stated that she read the traffic study and the response from Nashua Regional Planning Commission (NRPC). It was suggested in the response that police oversee traffic during peak periods from 7:00-9:00AM and 2:00-6:00PM. She stated that she cannot contemplate the Village having so much traffic that for six hours a day police will be needed to manage traffic. She stated that she runs up and down Christian Hill Road everyday into the Village and believes this proposal will significantly change her lifestyle. She passes lots of people and animals on her run every day and believes this will be impacted from the proposal. She stated that the applicant has the right to develop this land, but the proposal is too much.

Sam Foisie explained that the traffic study mentioned a crossing guard that already exists today. The traffic engineer was unable to place that crossing guard into the traffic calculations but noted that the existing crossing guard would allow for the intersection in question to function.

Doug Chabinsky, 89 Boston Post Road, stated that he has a concern regarding traffic. There is already traffic coming from the north that drives through the Village, including commercial trucks. This proposal looks to add another 100+ vehicles that will likely go through the Village. A proposed 60 units at potentially two vehicles per unit will add a lot of new vehicle traffic into the Village each day. He noted that the existing crossing guard is not there for the length of the school day. This proposal could create a traffic nightmare and impact safety for the residents of the Village. He suggested that the applicant consider ways to reduce these items.

Tom Quinn, 30 Christian Hill Road, explained that he is commenting as a citizen and not as a member of the Planning Board. The Board is being tasked with determining if this application and the next one meet certain criteria set forth in the ordinances. Regarding if these applications satisfy the requirements of both the IIHO and Planned Residential Development (PRD), this application would allow for diversity of housing but it is also supposed to protect and preserve the rural aesthetic that the Town values. He questioned if this is the case, given the proposed scale. He explained that the PRD allows for somewhat greater density. This is a judgment call, however with approximately 30 base units and a request for an additional 60 units, he does not believe this would qualify as "somewhat greater." The proposal is not supposed to have significant adverse impacts on the Town or the neighborhood. It would be hard to argue that the traffic in the Village will not be made worse from this project. The schools have started to comment on these large, proposed developments, and commented that there is a particular

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concern regarding capacity issues at Clark Wilkins Elementary School with respect to this application. He echoed comments regarding pedestrian safety along Christian Hill Road and that more traffic and houses will make this worse. The ordinance envisions a PRD to be clustered, while this proposal looks pretty spread out. He would not call this a cluster subdivision as there is quite a bit of frontage development proposed. In his opinion, this does not qualify as clustered housing. The housing is supposed to be harmonious with the neighborhood and natural surroundings, and he does not believe this would qualify for that either. He asked the Board to strongly consider denying this CUP for this application. If it does not, he requested the Board make a reasonable decision as to what “somewhat greater” density is, which he does not believe is 60 units.

Roberta Doucette, Bloody Brook Road, stated that the proposed entrance to the senior section of this property is placed on an already unsafe corner. She asked why it is proposed in that location. She also asked how many of the units are proposed to be rental units. Sam Foisie stated that no units in this application are rental units.

Seeing no further public comment at this time, Arnie Rosenblatt moved back to the Board for additional comments.

Arnie Rosenblatt stated that he believes the applicant is not looking for a determination tonight but is welcoming discussion by the Board in hopes of moving forward. With the understanding that the applicant will extend any associated application deadlines, he noted that the Board will be tabling these items. Sam Foisie agreed. Arnie Rosenblatt asked for further Board comments at this time.

Cynthia Dokmo stated that her biggest concern is the number of bonuses requested for the open space. There are other concerns as with any development proposed such as water and traffic. Fewer requested bonuses for the open space areas may alleviate some concerns.

Bill Stoughton stated that his main consideration is what is the degree of benefit to the Town provided by any of the bonus categories. Simply because there is a proposed item in a density category does not mean that the benefit to the Town entitles the applicant to the maximum bonus. This is perhaps most clear in the open space categories, where there is a substantial overlap in the benefit provided to the Town. The benefit provided to the Town from the open space under restrictive covenants largely overlaps with the benefit provided by walkability with footpaths through that open space. Regarding community space open to the public, the applicant is proposing to provide the lower floor of the barn and requesting four bonus units. The applicant is requested 7 $\frac{3}{4}$ bonus units for that space with living units above it. He stated that he does not believe the space will be open all the time to the public, as there is living space proposed above. He asked if the benefit to the Town from this space equates to 7 $\frac{3}{4}$ bonus units. He stated that he will be reviewing each bonus category closely to determine the benefit to the Town. This is relatively easy for the proposed senior housing and attached housing units. However, some of the single floor units, and one- and two-bedroom units also overlap with some of the senior and attached housing categories. If the Town wants one-bedroom units because there are young

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people moving into Town that need them, but the one-bedroom units are part of the senior housing units, they will not be available to younger people. This is not the same benefit as an unrestricted one-bedroom unit. While there is no specific formula, these are the factors he will be taking into account. Similarly, for redevelopment of existing structures, simply because the applicant is redeveloping a structure does not entitle the applicant to a full four bonus units. He suggested the applicant review the nature of the structure proposed to be redeveloped. This is different than if the applicant was redeveloping Town Hall or the Congregational Church, or another structure that critically factors into the Town's history. Regarding open space, as proposed for example on the east side of the site, most of this area could not be built on anyway as it is wetland or floodplain areas, and so providing it as open space does not have the same benefit to the Town as providing upland space. Bill Stoughton stated that he will factor all of this into his judgment regarding bonus units.

Bill Stoughton stated that he anticipates, if the Board moves forward with this, it will give the applicant an up-to number of units. The ship does not sail for density at that time. There will be many reasons in the final design phase why the Board may choose to reduce that number. In this design, the applicant proposes a shared driveway at the top of the hill which serves quite a number of houses. He stated that he does not believe it is appropriate to have a driveway in this area. This should be a road and should need to be built to the road standards of the Town, providing access and turnarounds for emergency vehicles. He stated that he is unclear if there is room to do so. The proposed way is bordered by steep slopes on either side. Secondly, the current design shows a number of units where the house itself is positioned on a steep slope, for example units 24, 25, 38, 57, and 52. The subdivision regulations Section 201.2.C state a goal of avoiding development in areas on excessive slopes. The applicant may be able to avoid this if the Board awards less than 60 units, or this may require a reduction in the up-to number once reviewed further. Finally, there is a concern with traffic. This area leads to an intersection that is already stressed. Traffic will get worse at that intersection due to any development nearby. The fact that the intersection is a problem does not necessarily mean that no one can develop along that road. The Board needs to consider whether offsite improvements are needed, for which a developer should pay a proportionate share. He will likely request, as the regulations and ordinances allow, that a study be conducted by an engineer retained by the DPW to look at traffic improvements that need to be made to service the level of traffic that will exist post-development. He will ask the Board to calculate the proportionate share of that and impose that as an exaction, which is similar to an impact fee on the developer. He would like the applicant to consider this item.

Sam Foisie asked if the up-to unit number could be reduced by the Board if the applicant cannot make the physical design of the site work. Bill Stoughton agreed that this could be an issue if any of the problems still exist at the final design. The applicant may then be able to place units elsewhere to be satisfactory, rather than needing to make huge cuts and fills to place the units because of the bonus numbers.

Tom Silvia stated that he believes 60 units is a very large number. The bonus units proposed based only on housing type do make some sense, but he does feel that some are being double

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counted. He believes bonuses of bonuses are being requested. The restoration bonus and preservation of the historic nature of Town is discussed and, while he appreciates the effort to preserve a structure, this appears to be a rundown farmhouse into which the applicant will install two units. The applicant is not proposing to restore the inside of the structure back to an 1800s house. This will be turned into a modern house except for the outside. Four bonus units for this seems like too many, and he would maybe recommend two bonus units instead. Regarding walkability, Tom Silvia stated that there appears to be a complete overlap of open space items proposed for bonuses. He thinks of walkability as people being able to walk or bike along the road instead of an already existing path in the open space of this site. He stated that he does not see these items as a benefit to the Town or the community space. The bonus proposed for community space open to the public he pretty much rejects, as he does not see the proposal as a benefit to the Town. In doing this calculation, he stated that this leads to 14 units less than the proposal as stated. He suggested lowering the unit count to around 40.

Rob Clemens echoed the comments made by Bill Stoughton and Tom Silvia regarding value to the Town from the proposed bonuses. These categories are part of the IIHO and there are benefits to some of them, but there appears to be some overreach on the part of the applicant. Scaling these back could help alleviate some previously mentioned concerns regarding traffic impacts and impacts to resources.

Pam Coughlin stated that she had no additional comments at this time.

Arnie Rosenblatt stated that he shares some of the concerns identified by Bill Stoughton and Tom Silvia, though he may not agree completely. He stated that he does not buy the notion that redevelopment of the house deserves a bonus. The age of the structure does not justify a bonus, in his mind. There are other structures in Town for which this may be true. He shares the concerns with respect to the open space and double counting of bonuses. He stated that the Board and community should recognize that the IIHO may have been flawed, but there are certain requirements that need to be satisfied in order to get the CUP approved. The way this application is currently structured in terms of the proposed bonuses, the proposed density, the way the open space is configured, and the way the property is configured, he does not believe it satisfies the requirements. The proposal does not maintain the nature of the community and does not propose enough benefits, such as open space that serves the Town's purposes. This does not mean the project cannot work but he does not believe it will work with the number of bonuses proposed and the current configuration. He will need to hear further evaluation but currently calculates the number of units in the low 40s. Arnie Rosenblatt stated that he did not think the applicant had satisfied and sustained their burden with regard to each element of the IIHO regulations. He will continue to have an open mind and listen to arguments from the applicant.

Arnie Rosenblatt asked to move onto the second application at this time.

3. **CASE #: PZ17124-032323 – Robert H. Jacobson Revocable Trust, Laurie Stevens, Trustee (Owner) & TransFarmations, Inc. (Applicant), 17 Christian Hill Road, PIN #s: Tax Map 005-148-000 & 005-100-000 – Conditional Use Permit.** To depict a 33

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Single-Family Lot, and Four-Unit Barn and Planned Residential Development per the Integrated Innovative Housing Ordinance (IIHO). *Zoned Residential Rural. Continued from June 7, 2023.*

Sam Foisie explained that this application has been referred to as CUP 3, or the 33 single family lot plan, with an additional four-unit barn. The same items apply to this application that applied to the earlier one, such as the applicant providing responses to the traffic comments, a hydrogeological study, an open space exhibit, and a bonus density breakdown. Previously there was discussion regarding a potential sale to an abutter of a portion of the open space on the site. This is no longer on the table, so the entire property that is not being developed is proposed to be open space. This application proposes 77% open space, with the majority of it being upland area. He displayed an exhibit showing the steep slopes, wetlands, and floodplains on the site. The previously proposed 50 acres to be sold to an abutter will remain with the property under the restrictions of the open space. Regarding the bonus density breakdown, the base unit density remains 30.9 units. There is no senior housing proposed in this application. There are six units of workforce housing proposed. There are four units of attached housing proposed at a 10% bonus, to increase by 0.4 units. There are eight units of single-floor units proposed at a 10% bonus, to increase by 0.8 units. There are two one-bedroom units proposed at a 15% bonus, to increase by 0.3 units. There are four two-bedroom units at a 10% bonus, to increase by 0.4 units. Regarding walkability, the bonus proposed is 10% which will increase by 3.09 units. There are no improvements to public places proposed. There is a community open space for the public bonus proposed at 25%, for an increase of 7.73 units. Community space restricted to residents is not proposed. Open space under restrictive covenants is proposed for a bonus of 20%, for an increase of 6.18 units. Redevelopment of an existing structure is proposed for a bonus of four units. The upper limit of the density total proposed is 53.8 units. There are 33 single family lots with a four-unit barn proposed, which does not add up to 53.8 units. This is because the remainder of that density is proposed for 12 ADU units within the single-family housing, as allowed by State law and Town regulations. The main focus of the ADUs is how many units the Board will allow for this project.

Arnie Rosenblatt asked for Board comments and questions at this time.

Rob Clemens stated that he had no questions at this time.

Pam Coughlin asked about four driveways proposed off a corner of Christian Hill Road. Rob Clemens pointed out the access road versus the lot lines. Pam Coughlin had no further questions.

Tom Silvia asked about ownership of the proposed solar farm lots. Carter Scott stated that the farm lots that could contain solar have been removed from the open space count. The solar panels can be leased to an entity, but the land will be owned by the members of the community. This does not have to be a commercial entity but someone who needs the tax credits and the depreciation. A similar farming community had a solar cooperative in which they sold shares of the solar field. This was the first of its kind in New Hampshire. Tom Silvia noted that the CUP does not discuss electricity generators as an alternative use. He asked how this is an allowable

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use for the Zone. Carter Scott explained that 60kW is allowed per lot in the Town. The intention is to create solar farm lots. Some of the lots have 200' of frontage so instead of placing a house on them, the proposal is to preserve the farm area and add solar and renewable energy. Tom Silvia stated that he would like clarification as to exactly how this works and how it fits in the ordinances. Carter Scott stated that farms today often farm the sun. It is critical to get as much renewable energy as possible to help with daily heat extremes and other items. Tom Silvia stated that he would like to hear this from a different person.

Bill Stoughton stated that the ordinance allows 60kW max on a lot in a residential area. This proposal appears to be an attempt to place 240kW of energy generation in a residential area. He stated that he does not believe this is what the ordinance intends, and he would personally not be in favor of a subdivision application solely to make this happen. There are also property tax implications if the solar panels are not attached to the house. He stated that he does not believe these would qualify for property tax exemptions as they are separate from houses. He stated that he understands the applicant is trying to generate revenue and be creative, but he believes this is too creative and contrary to what a subdivision should be. He stated that he has additional comments once other Board members speak.

Cynthia Dokmo stated that her questions and concerns are about the solar items. She shares Tom Silvia's confusion regarding how ownership will work if the land is going to be owned by the residents, but the panels are going to be owned by some other entity. Carter Scott stated that electricity generated will be placed into the grid. Cynthia Dokmo expressed concern that this is close to a commercial use, and she is not clear if it fits in with the subdivision rules and regulations. If these were individual panels on individual houses, that would be a different matter, but selling electricity as a business bothers her. This does not mean that the applicant is not capable of doing this, but she will have to further review the ordinance. Carter Scott explained that this is a farm business, as one of the income streams for the farm.

Arnie Rosenblatt asked what types of farming will be done on the property. Carter Scott stated that there will be approximately six acres of row and pollinator crops, run by the CSA.

Kelly Mullin, Christian Hill Road, asked how many ADUs this application proposes. This concept concerns her if they are to be rented or run as Airbnbs. She asked who will be running the CSA. The proposed baseline unit is 30 but asked if this application is any different than the other, if 38 ADU units are also proposed. She is not feeling any better about the impact this proposal will have on the community.

Jim Hendrix, 44 Christian Hill Road, urged the Board when examining the hydrology study to consider the cow field/cornfield side of the property units. He stated that these homeowners will be quite unhappy with the runoff coming off the hill in this area. In the spring of 2020, there was a four-wheel drive vehicle stuck behind the house there due to this runoff. He also asked the Board to consider the amount of water that will be required by the CSA. This could dwarf what the proposed units are using during the summer months. Finally, he noted that the traffic is already a failure at the Boston Post Road and Foundry Road intersection in the morning,

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according to the traffic studies. The fact that the applicant states that adding several hundred more cars through there each will not make a significant difference is laughable.

Joseph Broderick, Christian Hill Road, asked about the solar farm. Even though this is proposed on four separate lots, the applicant will still have to connect to inverters. He asked if the applicant is considering individual inverters and then connecting to the grid in four different locations or placing these through one inverter with a single connection to the grid.

Eric Doucette asked about the aquifer and how there will be enough water to supply all these units. This will make a huge impact on the whole area.

Seeing no further public comment at this time, Arnie Rosenblatt asked if the Board would like to make further comments.

Rob Clemens stated that he would need to further review the Town's solar regulations. He has reviewed the hydrogeological study and has no questions at this time. He asked about the bedroom unit types with ADUs. Sam Foisie stated that there are a variety of them, and that Carter Scott has designed them appropriately, so they are interchangeable. This includes anything from a three bedroom to a two-bedroom with an ADU.

Tom Silvia stated that he had no additional comments at this time.

Bill Stoughton stated that he will have the same approach in looking at the benefit to the Town for the proposed bonus calculations. The plan shows a shared driveway on the west side of the property, and he is concerned with emergency vehicle and turnaround access. He is addressing this now, because he wants to make it clear that an up-to number of units given to the applicant can still be subject to any number of circumstances in which the Board can revisit density and reduce the up-to number of units. This is based on design sessions once the engineering has been completed. If the applicant cannot obtain sufficient access on this driveway, there may be a need to remove units. Regarding traffic, this is one of the items that killed the original applications. This concern is what took the appeal all the way to the Supreme Court. It is clearly an issue of concern to people in the Town and is an issue of concern for him. He strongly encouraged the applicant to try to solve this issue by determining things that make it better instead of saying that the proposal does not make it any worse. At the subdivision plan phase, he will likely ask that the DPW do a study on exactions for the developer's proportional share cost of off-site improvements.

Bill Stoughton stated that the proposal is for 33 single family units, but if this includes an ADU on a number of these, this will be a substantial impact on the community. Under the PRD ordinance, the Board has an obligation to set the total number of bedrooms, which it has done in previous IIHO applications. He anticipates that the Board would require a provision in either homeowner's association or condominium association documents that will lock this down to ensure the number does not increase. The applicant does not need many bonus units to get 33

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units, but some of these bonus units may need to be applied to extra bedrooms that the applicant desires.

Cynthia Dokmo asked about engineering to capture the water that comes off the hill. Sam Foisie stated that any increases in runoff generated by the project would have to be captured within the stormwater management system and there cannot be an adverse impact on the surrounding properties or public right of ways. Cynthia Dokmo stated that she agrees with other comments made by Board members.

Arnie Rosenblatt asked the proposed percentage of open space in this application in contrast to the other. Sam Foisie stated that this application proposes 77% open space, while the other application proposes 70%. Arnie Rosenblatt stated that this is not a big difference in terms of open space. He stated that he concurs with comments made by Bill Stoughton. His comments with respect to the first application apply to this application as well. It is his view, under the ordinance, that the applicant needs to focus on the balance between getting some number of bonus units and satisfying the requirements of the ordinance. The Board needs to see that the requirements are satisfied. As the applicant becomes more ambitious with respect to bonuses sought, it becomes more difficult to sustain their burden. He suggested the applicant become less ambitious in terms of the bonuses sought. He also shares questions with respect to the solar and the farming proposals. He stated that he finds the term solar farming confusing, as farming generally means crops or livestock. The Board likely needs a better understanding of the solar item and the entire project in general, in order to determine whether or not it is comfortable that the applicant has satisfied the requirements of the ordinance. He stated that he is confident the applicant will likely be approved for some number of units in the 40s. He asked that the applicant think carefully about what benefits there are to the Town from either application. He stated that the applicant has legal arguments, that the Supreme Court tossed this project back to the Planning Board, and that the Board has certain obligations with it, but in his view the Board has the discretion to exercise its best judgment in what is in the best interest of the Town, even within this ordinance that the Town previously rejected. The language of the ordinance provides this and he believes the Board will steer through this ordinance while doing its best to protect the Town.

Sam Foisie summarized the points he heard from the Board. For both applications, the Board may benefit from having a narrative of items proposed in each bonus category and a justification as to why the applicant thinks that benefits the Town. Arnie Rosenblatt noted that the applicant will not persuade him by stating that the people who wrote the ordinance wanted certain items, or that certain items were approved for other IIHO applications, or that the project is entitled to a certain number of bonus units. His view is that the ordinance gives the Board discretion on this point. Sam Foisie stated that the applicant will detail the bonus categories with the associated calculation and describe the benefit as to how it meets the spirit and intent of the ordinance. The applicant will also look to add some clarity regarding the farming and solar farming aspect of the plan and how it fits and should be allowed within the ordinance. Arnie Rosenblatt stated that he believes this is a fair summary with the understanding that, by definition, any summary leaves

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out details, nuances, and probably some contradictions from comments on the Board that are hopefully reflected in the record.

The Board discussed dates to continue this hearing to. Arnie Rosenblatt noted that he does not want to shortchange the applicant, public, or the Board with time to discuss this topic, while also not wanting to put this item off for too long.

Sam Foisie noted that the applicant will likely choose one application to move forward with at the next Board meeting.

**Bill Stoughton moved to continue both applications to September 6, 2023, at 7pm at Town Hall. Seconded by Tom Silvia.
Motion carried unanimously 5-0-0.**

OTHER BUSINESS:

4. Minutes: July 19, 2023

**Tom Silvia moved to approve the meeting minutes of July 19, 2023, as presented.
Seconded by Bill Stoughton.
Motion carried 5-0-1 [T. Adams abstaining].**

5. Any other business that may come before the Board.

**Cynthia Dokmo moved to adjourn the meeting at 9:15pm. Seconded by Tom Silvia.
Motion carried unanimously 6-0-0.**

Respectfully submitted,
Kristan Patenaude

Minutes approved: August 16, 2023