

TOWN OF AMHERST
Planning Board

September 6, 2023

APPROVED

In attendance at Town Hall: Arnie Rosenblatt – Chair, Tracie Adams, Cynthia Dokmo, Bill Stoughton – Board of Selectmen Ex-Officio, Chris Yates, Tom Silvia, Pam Coughlin (alternate), Rob Clemens (alternate), and Brian Cullen (alternate).

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

Arnie Rosenblatt called the meeting to order at 7:00pm. He explained that the Board will meet until approximately 10pm. If the Board has not started a particular application by 10pm, then it will need to be continued to another time.

Pam Coughlin sat for Tom Quinn.

Rob Clemens sat for Tracie Adams on the TransFarmations hearings.

PUBLIC HEARINGS

WITHDRAWAL REQUESTED BY APPLICANT

1. **CASE #: PZ17205-041323 – Scott & Susan Jacobs O’Connell (Owners) & Kali Construction (Applicant), 3 Mack Hill Road, PIN #: 020-029-000** – Subdivision Application – To depict a subdivision of land of existing lot 20-29 creating two new residential lots to be known as 20-29-1 & 20-29-2 with a larger remainder lot. *Zoned Residential Rural. Continued from July 19, 2023.*

Arnie Rosenblatt explained that this item has been withdrawn by the applicant.

2. **CASE #: PZ17123-032323 - 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 60-unit Planned Residential Development per the Integrated Innovative Housing Ordinance (IIHO). Zoned Residential Rural. Continued from August 2, 2023.**

Tracie Adams recused herself and Rob Clemens sat for her for this and the next agenda item.

Arnie Rosenblatt read and opened this case. He asked if this item could be continued to the Souhegan High School location given the crowd. Nic Strong stated that this is unclear since she did not have the schedule for the auditorium. Bill Stoughton asked if there will be anything to act on at a continued hearing because the next application may be acted on at this meeting. Arnie Rosenblatt stated that this is unclear. The applicant suggested tabling discussion on this hearing until the next agenda item is discussed.

The Board agreed to defer discussion of this item until it hears first on the next agenda item.

3. **CASE #: PZ17124-032323 - Robert H. Jacobson Revocable Trust, Laurie Stevens, Trustee (Owner) & TransFarmations, Inc. (Applicant), 17 Christian Hill Road, PIN**

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#s: Tax Map 005-148-000 & 005- 100-000 - Conditional Use Permit. To depict a 33 Single- Family Lot, and Four-Unit Barn and Planned Residential Development per the Integrated Innovative Housing Ordinance (IIHO). *Zoned Residential Rural. Continued from August 2, 2023.*

Arnie Rosenblatt read and opened the case. He explained that this was an application under the Integrated Innovative Housing Ordinance (IIHO), which has since been repealed by the Town. However, the Board is required, based on the New Hampshire Supreme Court's order, to apply the IIHO to this application. The IIHO was in effect when this applicant submitted an application seeking a Conditional Use Permit (CUP) under that ordinance. The Planning Board at the time denied that application. The applicant appealed to the New Hampshire Superior Court. While the Superior Court action was pending, the applicant submitted a second application for the same property. The Board at the time denied that application on the grounds that it was too similar to the first application, and, under applicable case law, it decided not to consider the application. The applicant appealed that decision as well to the New Hampshire Superior Court. The New Hampshire Superior Court affirmed the Planning Board's decisions and denied both appeals. The applicant then appealed those two Superior Court decisions to the New Hampshire Supreme Court. The New Hampshire Supreme Court reversed the Superior Court's decision and remanded the cases back to the Superior Court, effectively remanding them back to the Planning Board. The Board is now required, based on the New Hampshire Supreme Court's decision, not to necessarily grant the applications, but to consider the applications under the IIHO.

Arnie Rosenblatt explained that the applicant has submitted two applications and based on the advice of Town Counsel, the Board can consider two simultaneous applications. The purpose of this meeting is to continue this hearing which was begun several weeks ago and make a determination as to whether or not the applicant has satisfied the requirements for a CUP under the IIHO and, if so, up to how many units under the provisions of that ordinance the Board will agree to. If the Board were to determine that the elements and requirements of the IIHO have been satisfied and that the applicant may build up to so many units, the next step would be to move forward with the application.

Sam Foisie, Meridian Land Services, and Carter Scott, TransFarmations, Inc., addressed the Board. Sam Foisie explained that the applicant has listened to the comments from the Board and public and has asked to continue the other application while focusing on this application, as it seems to be a better fit for the Town. He explained that there were comments made during the site walk regarding the steep slopes of the property and proposed lot locations. The applicant has decided to relocate two lots originally proposed on the lower lot slopes to the end of the cul-de-sac. The movement of these lots leads to 91.5 acres of open space to the public on the property. This will be placed under restrictive covenants, meeting one of the criteria for bonus densities. This leads to 76% of the overall parcel of land, approximately 50% of which is uplands, being placed under restrictions in open space covenants and dedicated for public access. Also, regarding the previously proposed solar farm operation, this has been removed from the plan. Two rows of solar panels remain on the plan, but these will not be part of a solar farm.

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Sam Foisie explained that there were previous Board concerns regarding bonus densities and the base density that was applied to the units. Where there were previously more than 30 of the units which had a density applied to them, in the revised plan there are ten units with a density applied. The plan has been updated to show where the bonus densities occur and where there could be potential accessory dwelling units (ADUs). Minor pulling in of detention basis is proposed in order to preserve the wetland buffer as much as possible.

Sam Foisie reviewed the proposed bonus density calculations. For attached housing at a 10% bonus, there are four units proposed, increasing the density by 0.4. For single-floor units, there are eight units proposed at a 10% increase for 0.8. There are two one-bedroom units proposed at a 15% bonus, to increase this by 0.3. There are four two-bedroom units proposed at 10% to increase the density by 0.4. Regarding improvements to public access to public places, there are landlocked Town lots, Yankee Homes Lot, and Rough Diamond tract, that do not currently have public access. Dedicating much of the land on this property as open space for the public will allow access to those parcels. Additionally, with the open space provided by this project, there are other privately owned lots with easements that give access to the public allowing for connectivity between Lyndeborough Road and Christian Hill Road for hiking. Regarding open space under restrictive covenant, this plan seeks to place approximately 91.5 acres of open space into restrictions and open to the public. This land has existing trails on it and there will be a trail that will connect the public right of way to those existing trails. Regarding redevelopment of existing structures, the Heritage Commission commented that it would like to see the existing structure on the lot preserved, which the applicant is proposing to do. In terms of a benefit to the Town, the Town has established that it is seeking to purchase and has purchased lots to preserve open space. This proposal is a way for the Town to preserve open space while allowing the applicant a little bit extra density to offset that benefit to the Town.

Arnie Rosenblatt asked the Board for comments and questions.

Chris Yates and Cynthia Dokmo had no questions or comments at this time.

Tom Silvia asked for clarification on the solar portion of the plan. Carter Scott explained that he heard a concern from the Board regarding having four solar lots and using this to circumvent the cap per lot of 60 kW. The current plan erases three of those lot lines, leaving one solar lot for a solar field that could produce up to 60 kW. Tom Silvia asked about ownership of this lot. Carter Scott stated that ownership is to be determined. The developer or farm could own it. There are many mechanisms for ownership. Tom Silvia asked about how electricity generation on this lot fits with the Town regulations. Carter Scott explained that, by right, each of the 33 single family lots proposed could have a maximum of 60kW solar production. The intention for each lot is solar production in the 10kW-12kW range. The farm solar lot can generate electricity for the farm itself at 60kW maximum. This farm area is no different from one of the other lots. An entity can own the solar array or can lease it to a third party. The third party would then get the associated 30% Federal Tax Credit.

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Sam Foisie asked if this could be ironed out during the definitive plan application. This is a use question for the lot, versus a density bonus calculation question. Arnie Rosenblatt stated that this is a position that the applicant can take at this time and Board members can weigh in on it. The Board needs to determine if the application satisfies the requirements for a CUP under the IIHO and, as part of that, if so, the Board would decide on what the maximum number of lots would be. This is a piece of the project for overall approval. Sam Foisie noted that this piece is not being used to justify bonus density.

Tom Silvia asked what will be done with the farmhouse. Carter Scott explained that the existing farmhouse has an “ell” which is similar to a one- to two-bedroom ADU, including a kitchen and bath. The intention is to keep the ell and fix it up. In the main building, the third floor contains two rooms and what could be a bathroom space. The structure dates to the early 1800s and work has not been done to it in likely 100 years. There is only electricity in the ADU, with no electricity in the front part of the house. It is unclear when the main house was last occupied. On the second floor, there are currently four bedrooms. On the first floor there are two more rooms, a parlor, and another room. There is no kitchen in the front part of the building. The structure will need extensive amounts of work to bring it back to its prior glory. He has done a similar project in Lexington, MA. The work on the farmhouse is being proposed for an additional four units of density. Without that density, it may be easier to just knock down the structure and build a new house. The four units of bonus density will not create four more lots but be used for four ADUs throughout the property. This will also create additional diversity of housing for the project. These are the benefits to the Town. Carter Scott stated that he has preliminary plans for this farmhouse through an architect. The front of the house faces downtown and a porch there will be restored. Replacement of shingles and clapboard will be completed as required. There could be a deep energy retrofit done to the building, depending on expense.

In response to a question from Tom Silvia, Carter Scott stated that each of the 33 single family lots will be approximately a half-acre in size.

Bill Stoughton stated he would like to make sure the proposed solar is done in a way that complies with Town ordinances. He asked about a note in the Staff Report that the plan had a net tract area of 70.4 acres rather than 61.8. Sam Foisie noted that the correct net tract area of 61.8 has since been added to the plan under Note 9.

Bill Stoughton asked if the cul-de-sac has been moved on the plan. Sam Foisie stated that it has remained in the same place. Bill Stoughton asked about the elevation change across the cul-de-sac. Sam Foisie explained that there is approximately an 8’ change in elevation.

Bill Stoughton asked if any of the lots are still proposed on steep slopes. Sam Foisie stated that there are some lots still proposed on steep slopes. The Town’s definition of steep slopes is 20%. Houses can be strategically placed on steep slopes in specific areas so that there can be walkout basements. Bill Stoughton noted that this potentially makes stormwater management more challenging. Sam Foisie agreed.

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176 Pam Coughlin had no questions.
177

178 Rob Clemens asked if the proposed farm is attached to any of the structures. Carter Scott
179 explained that the farm is approximately six acres and used to be the cornfield. The farm is the
180 centerpiece of this project. It would be vastly easier to build in the farm area and not put in a new
181 road. The farm area used to be four lots and now just one lot. Farming is a by-right use in
182 Amherst. The farm is not associated with any of the proposed buildings and is planned to be a
183 separate CSA.
184

185 Rob Clemens asked about the proposed ADUs. Carter Scott explained that these are within the
186 proposed units on the plans. This is one of the Town's requirements.
187

188 Brian Cullen stated that he did not have any questions or comments at this time.
189

190 Arnie Rosenblatt asked for public comment at this time. He noted that all are allowed to
191 comment but asked people to be succinct and efficient.
192

193 Colleen Sweeney, Bloody Brook Road, expressed concern regarding the schools. The schools are
194 currently bursting at the seams. She asked how this project will impact this.
195

196 Kelly Mullin, Christian Hill Road, asked how much of the proposed 76% of the open space is
197 actually developable. Sam Foisie stated that 64 acres of uplands/steep slopes that are not
198 wetlands. This area could be developed.
199

200 Kelly Mullin asked if four-unit ADUs in the farmhouse will be rental units. Carter Scott
201 explained that four units proposed are the bonus density for reuse of an existing structure. The
202 existing farmhouse is a single-family home with an ADU.
203

204 Kelly Mullin stated that she would like the applicant to state exactly what he plans to do. These
205 meetings have been confusing, and the applicant has not given direct answers. She stated that she
206 will reach out to the applicant outside of a meeting for clarification.
207

208 Jim Hendrix, Christian Hill Road, stated that the applicant has had challenges with any large-
209 scale projects, such as TransFormations in Massachusetts. He requested that the Board insist on a
210 performance bond for this project.
211

212 Doug Chabinsky, 89 Boston Post Road, asked what was the total number of units sought. Carter
213 Scott explained that the proposal is for 33 single family unit homes and a four-unit barn, plus
214 nine optional ADUs scattered throughout the site. These could be potential rental units, in-law
215 units, or offices. Arnie Rosenblatt explained that, per the plans submitted, there appears to be a
216 total of 46 units proposed.
217

218 Will Ludt, 3 School Street, explained that there has been some concern from the public regarding
219 the safety of walking on Christian Hill Road toward Amherst Village. He asked if a walkway is

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being considered as part of this project. Carter Scott explained that he is not proposing this at this time. He was originally considering an 8' pathway, which would have had an extensive cost to build. He heard from the Heritage Commission that the Town wants to preserve the existing stonewall. Those two interests are juxtaposed. If the pathway was placed beyond the stonewall, it would likely be in the wetland buffer.

Arnie Rosenblatt moved back to the Board.

Bill Stoughton stated that the Board has to determine whether this application satisfies the criteria in Section 3.18 regarding a CUP and, assuming it does, determine a not-to-exceed number of units, based on the Board's judgment as to a benefit to the Town in the various categories. While he is comfortable discussing the up-to number of units, the items within Section 3.18 are a bit more difficult, as this comes down to traffic for him. He has read through the traffic analysis and reports by the applicant's expert and by the third-party reviewer. There appears to be some tension, as one expert was hired for one position and the other expert does not necessarily agree. In the words of the third-party NRPC individual, the applicant's expert has taken things in the light most favorable to the applicant. Traffic today is not as bad as it could be because during school hours there is a police officer directing traffic. However, traffic is still not good. Bill Stoughton stated that he is unclear what the solution is. He does not believe the Board has the authority to never allow new development along Christian Hill Road because it will put more cars on the road. The most the Board can say is that this would be premature. This issue may be solved if the Board, at the time of a final subdivision application, requests the DPW to do a study of potential road improvements with the assistance of the Town's highway engineer. The Board could also approve a lower number of units, as this would have somewhat less of an impact on traffic. He stated that he does not believe the Board can deny this application as a result of potential traffic issues, as there is no evidence to do so. If the Board includes appropriate conditions and Findings of Fact with respect to traffic, he believes the Board could say that this application satisfies the Section 3.18 requirements.

Bill Stoughton reviewed what he believes to be appropriate density bonus numbers. He explained that he reviews these in terms of benefits to the Town. In the categories of attached housing, single floor housing, single bedroom housing, and two-bedroom housing, he believes there is substantial overlap of the benefit to the Town. This is because the same units have many of these features. The applicant is not proposing to increase the stock of housing by adding ten attached houses, and ten single floor houses, and ten single bedroom units, and ten separate two-bedroom houses. While the bonuses sought are relatively modest, he would condense this down and award one bonus unit in all of those categories. Regarding the categories of improved access to public spaces and open space under restrictive covenant, there is again substantial overlap in the benefits. The open space itself is providing the improved access to public spaces. In his opinion, the benefit to the Town is not the sum of those two categories. Also, much of the open space is wetlands and steep slopes. For those two categories, Bill Stoughton determined a maximum bonus of six units altogether. Regarding redevelopment of the existing structure, he stated that he believes the Town benefits only the smallest amount from redevelopment of the existing farmhouse. The history of the farmhouse is already preserved in documentation, as the applicant

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has submitted. There is no record that the farmhouse was involved in the early history of the Town, colony, county, or the State government, or that it has unique architectural features, or that it was occupied by persons of historical importance. He would give this, at most, one bonus unit out of the four requested, but could be convinced that this should be zero. This leads to a bonus density calculation of eight bonus units or a total of up-to 38 units for the development.

Arnie Rosenblatt asked if Bill Stoughton made a motion would it be to have this CUP approved with up-to 38 units, or eight units over what the applicant would be entitled to do as a standard grid subdivision. Bill Stoughton explained that his calculation shows a base density of 30.9 + 8 bonus units, leading to 38.9 units, and rounding down from that to 38.

Bill Stoughton noted that it is clear that there are a number of issues that the Board will need to review at the next stage, including the proposed road and lot construction in areas of potentially steep slopes which may require excessive cuts and fills particularly given stormwater management challenges, the ability of emergency vehicles to operate on the depicted shared driveways, the impacts of proposed development on traffic as stated, the stormwater management features that will be necessary given the steep slopes and the need to stay out of the wetlands and wetland buffers, and information regarding the solar ownership and use.

Chris Yates and Cynthia Dokmo expressed their support for Bill Stoughton's suggestions and reasoning.

Tom Silvia shared his bonus density calculation. He started with the base density of 30.9 units. Regarding the three units proposed for public access and six proposed for open space, he reviewed the objectives of the IIHO and the Town's Planned Residential Development regulations. This proposal includes a lot of open space and that is an objective. He did not view those as canceling each other out, but instead viewed it as a positive. Secondly, while some of the unit configurations may overlap in individual components, the Town is seeking housing diversity, and this is part of the Master Plan. This needs to be recognized through the density calculation. Regarding redevelopment of the historic structure, he does not see the value as stated and echoed Bill Stoughton's comments regarding the structure's significance. Tom Silvia stated that his calculations led to an additional 11 bonus units above the 30, resulting in a total of 41 units.

Rob Clemens stated that he supports the proposed acceptance from a CUP standpoint. He has not yet done specific density bonus calculations. This proposal focuses on things that the now past IIHO was intended to do, such as emphasize open space preservation and access to that open space. He places a bit more value on the farmhouse preservation, as part of what the Master Plan intends, and the Town has said it wants to keep the rural aesthetic. Preserving this farmhouse speaks to preserving the architecture. He would err toward a higher bonus density calculation number.

Brian Cullen echoed Tom Silvia's comments on the open space. He believes that the addition of 91.5 acres of open space with public access is important and something that is worth value for

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additional bonus units. He also echoed Rob Clemens' comment regarding preservation of the farmhouse. A farmhouse on this lot, even if it does not exist in the exact condition it is in today, would be significant, as opposed to having it wiped out. He would also lean toward a slightly higher bonus density calculation number.

Pam Coughlin echoed the comments regarding the open space proposal. She has some concerns regarding bike riding, walkability, and emergency vehicle access to the site. Christian Hill Road has some bad curves on it.

Arnie Rosenblatt stated that he guesses this application satisfies the requirements for a CUP, as the standard is loosey goosey. The IIHO is difficult to understand. To those who are concerned about development on this property, there is a right to develop this property. He agreed with Bill Stoughton that, regardless traffic concerns, he is not aware of a basis on which the Board can simply stop the development because it does not prefer it. The way to stop development is by the Town, or the Town and other entities, purchasing it. The Town has done well on that this year. It failed dismally in past years, including on this parcel. He pleaded with everyone who is interested in preserving open space to support another warrant article this March for additional funding to purchase more open space. He echoed Bill Stoughton's comments regarding the density bonus calculations. With respect to the farmhouse, the fact alone that it is an old house does not lead to density bonuses in his mind. Preserving open space and making sure it is not divided is important, but he will not be persuaded that all of the proposed open space was going to be divided. It would not be practical to turn all of this open space into housing. He stated that he is comfortable with Bill Stoughton's proposed calculation number, minus one for no bonus for the redevelopment of the farmhouse.

Tom Silvia asked if the Board could frame a motion around the categories of housing such as single-family and ADU units, as proposed. Bill Stoughton stated that the IIHO allows the Board to control the number of bedrooms. Arnie Rosenblatt agreed that the Board can vote on up-to some number of units, which is what the applicant is requesting. Tom Silvia stated that he believes there is a real difference between an ADU and a single-family home.

Bill Stoughton stated that the low number for the calculation seems to be 37 and the high number is 42. He asked if there is a consensus number that could be considered. Tom Silvia stated that he is okay with 39 units, as the driver was 33 single family units, with a four-unit barn and remainder ADU units. He thought the applicant could consider slightly fewer ADUs in order to reach whatever the consensus unit number is from the Board.

Bill Stoughton asked how many Board members would support a bonus density calculation total of 39 units. Four Board members agreed with this. Cynthia Dokmo stated that she would support 39 units but would prefer 40.

Bill Stoughton moved to approve CASE #: PZ17124-032323 for Robert H. Jacobson Revocable Trust, Laurie Stevens, Trustee (Owner) & TransFarmations, Inc., c/o R. Carter Scott (Applicant), for a Conditional Use Permit for a Planned

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Residential Development under the Integrated Innovative Housing Ordinance, at 17 Christian Hill Road and Christian Hill Road, Map 5 Lot 100 & Map 5 Lot 148, as the proposed IIHO development complies with the Zoning Ordinance, including the specific provisions and standards of Section 3.18 of the Ordinance regarding Conditional Use Permits and Section 4.16 regarding IIHO projects, for a maximum of 39 units which may be subject to reduction during any required subdivision/site plan review process and the details that may be determined with regard to such things as, but not limited to, road design and construction, drainage constraints, septic capabilities, water resources, and with the conditions set forth in the Staff Report, with the addition of the following

- **Condition 6.4: To address concerns regarding the preliminary plans submitted with the CUP application, if those concerns have not been addressed satisfactorily in subsequent applications. Such concerns include, but are not limited to, constructions of roads and structures in excessively sloped areas, and lack of adequate emergency vehicle access**
- **To add to Condition 8 the following sentence: “Pursuant to Zoning Ordinance Section 4.19 N, the DPW may obtain engineering support at applicant’s expense for road, drainage, sewer, and water upgrades necessitated by the development, and the applicant may be assessed its proportionate share of the cost of such improvements.**
- **Condition 12: Project phasing shall be determined based on the details provided in the subdivision application.**

Seconded by Tom Silvia.

Discussion:

In response to a question from Sam Foisie, Bill Stoughton explained that one type of impact fee is an off-site exaction. Per the ordinance, the reference in the motion is to the ordinance section regarding off-site exactions and those off-site exactions are in addition to impact fees. Sam Foisie noted that the statement is open-ended so there may be an additional cost that would be associated with the project. The applicant is being asked to make an economic decision based off how many units are approved. Bill Stoughton explained that the ordinance is set up so that the study is done at the time of the final application. It will be done by the DPW with engineering assistance. This will create a list of what needs to be done and the estimated cost. The Planning Board then determines the applicant’s proportionate share, with input from the applicant.

Vote: 6-0-0 motion carried unanimously.

Bill Stoughton addressed the Findings of Fact:

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Findings of Fact

1. Subject to the reservations in the subsequent findings and the conditions of approval, the Board finds that the application meets the requirements for issuance of a Conditional Use Permit in accordance with Zoning Ordinance Section 3.18.C.1.

2. In determining the maximum density the applicant will be permitted to use in its subsequent applications, the Board has exercised its discretion after careful consideration of the views of the applicant, the public, and individual Board members.

3. The Board finds as fact that the same or overlapping benefit to the town is present in several bonus categories and that the actual benefit the town will enjoy does not warrant the maximum possible bonus in those categories.

a. In the categories of attached housing, single floor housing, single bedroom housing, and two-bedroom housing, the Board finds there is an overlap of these features and benefits within a few housing units, particularly in proposed lots 3, 4, and 5, limiting the total benefit derived.

b. In the categories of improved access to public spaces and open space under restrictive covenant, the applicant is using access through the open space as its proposed improvement. The benefit to the town is not as great as it would be if the proposed amenities were entirely separate, such as the proposed open space and a separate bike path to the village providing improved access to public spaces (which has not been proposed).

4. The Board finds that the benefit to the town of the proposed open space is affected by the presence of undevelopable wetlands and steep slopes and has taken that into account in bonus awards.

5. The Board finds that the benefit to the town of the redevelopment of the existing farmhouse is minimal. The Board has carefully considered the views of the Town's Heritage Commission but concludes the farmhouse lacks the historical importance necessary to justify the award of the claimed bonus units. For example, there is no evidence in the record that the farmhouse was involved in early colony, town, county, or state government functions, or that it has unique architectural features, or that it was occupied by persons of historical importance, or that it otherwise merits significant housing bonuses based on its history. The Board finds that the town already enjoys most of the historical benefit of the farmhouse by virtue of the documentation efforts previously undertaken to show the historical use and appearance of the farm and its structures.

6. The Board has expressed concern with the proposed plans in several respects. The Board finds that the record of this application does not permit the Board or the public all of the information necessary to address those concerns adequately, but that the concerns may be addressed, in whole or part, by the applicant's subsequent subdivision applications. The Board notes that its ordinances and regulations anticipate this possibility, permitting the Board to grant the CUP with a maximum density number that is subject to potential reduction at later application stages, and

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expressly reserving numerous decisions for the final application stage. In establishing a maximum density in this CUP, the Board is expressly relying on its ability to review the final plans and supporting information and, if necessary, to reduce the allowed number of units or, if warranted, to reject the final application. The concerns expressed include, but are not limited to:

- a. Proposed road and lot construction in areas of potentially excessive slopes, which may require excessive cut and fill, and which may result in unacceptable stormwater management challenges.
- b. The ability of emergency vehicles to operate on the depicted shared driveways.
- c. The impacts of the proposed development on traffic, particularly at the intersection of Boston Post Road and Foundry Street. The Board notes that the third-party review of the applicant's traffic studies, which was performed by the Nashua Regional Planning Commission, states that the applicant's traffic engineer's conclusions are tailored to be advantageous to the applicant, and benefit from existing police officer presence at the intersection during certain times. Further, the Board notes that upon presentation of the final application and subdivision design, the Town Department of Public Works, with professional engineering assistance if needed, may assess the off-site road and drainage improvements necessitated by the proposed development, which may affect the traffic impacts of the proposed development.
- d. The need for stormwater management features that comply with town and state requirements without encroachment into wetlands, wetland buffers, and steep slope areas. This is of particular concern at this site given the proximity of the proposed impervious surfaces to steep slopes, and the potential difficulty of locating acceptable infiltration and other stormwater management features.
- e. The need to assess the proposed solar panel installation and its compliance with Town ordinances and regulations.

Bill Stoughton moved to adopt the proposed Findings of Fact, as read into the record. Seconded by Cynthia Dokmo.

Vote: 6-0-0 motion carried unanimously.

2. **CASE #: PZ17123-032323 - 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 60-unit Planned Residential Development per the Integrated Innovative Housing Ordinance (IIHO). Zoned Residential Rural. Continued from August 2, 2023.**

The Board retook this item at this time.

Arnie Rosenblatt asked the applicant what the preference is for the CUP 2 application. Sam Foisie explained that the applicant would request to continue the CUP 2 application for approximately six months, with the understanding that any deadlines are continued accordingly. Nic Strong noted that this would be around March 6, 2024.

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Bill Stoughton stated that the Board has taken action on an application that affects this land. He asked if this makes the other application moot. Carter Scott explained that, if the CUP 3 application receives its final subdivision approval, then the second application would be moot, but until that happens there are no guarantees on his side. Bill Stoughton stated that he believes this is really pushing the envelope. He suggested that the applicant withdraw the CUP 2 application and, if it does not, the Board could deny it based on approval of CUP 3. Arnie Rosenblatt explained that the applicant pursued two simultaneous applications, which was deemed permissible by Town Counsel. He stated that he was skittish about refusing the continuance without consulting Counsel. Bill Stoughton therefore agreed that continuing the application for six months and deal with it then if the Board needed to.

Bill Stoughton moved to continue the application for CUP2 to March 6, 2024, at 7:00 PM at Town Hall. Seconded by Tom Silvia.

Vote: 6-0-0 motion carried unanimously.

Arnie Rosenblatt explained that the next step will be for the applicant to move forward with an additional application. Nic Strong explained that there will be notice of the next application, as it will be brand new.

Tracie Adams retook her seat on the Board.

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

- 3. CASE #: PZ17697-080823 – Clearview Development Group, LLC c/o Erol Duymazlar (Owner) & Meridian Land Services, Inc., c/o Ken Clinton (Applicant); Boston Post Road, PIN #: 005-159-001. Subdivision Application Amendment – To amend the phasing of the Prew Purchase - West Village and the length of the dead-end road. Zoned Residential Rural.**

Arnie Rosenblatt read and opened the case. He asked if there were any issues with completeness of the application. Nic Strong stated that there were not.

Cynthia Dokmo moved to accept the application as complete. Seconded by Tracie Adams.

Vote: 6-0-0 motion carried unanimously.

Ken Clinton, Meridian Land Services, explained that the Board previously went through the approval process for a PRD condominium subdivision for this property. There was an east village proposed with 18 units of senior housing and 25 units in the west village for market-value or no-restriction housing. The applicant recently completed all of the conditions precedent and had the plans recorded along with all the legal documents. As that was occurring, discussions began regarding conserving the west village and voiding the 25 units, to create open space on that side of the project. The town has been successful in purchasing one parcel in particular, but

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the funding for the entire purchase was not available at the Town level. Several entities have become involved in this potential purchase. If this purchase comes together, the conservation will occur in two parts. The Board received a presentation on this matter and there have previously been public hearings with respect to the potential purchase.

Ken Clinton explained that he is representing the landowner and because the purchase is set up in two phases, while phase one may occur, there are no guarantees that phase two subsequently will occur. If certain design features that had been part of the approved plan set are changed due to the first purchase occurring, then the remaining land, including the road, units, and infrastructure, may require modifications. The request is for an amended subdivision, as the subdivision itself was approved with certain conditions. There are two aspects to discuss, one is the dead-end road length. This project has been set up in four phases per the order of logical construction. As one enters the site from Boston Post Road, some drainage was proposed, with the majority of it on the south side of the development. Phase 1 is proposed for six lots plus the road and infrastructure to support them. Phase 2 is uphill from this area and needs virtually no stormwater infrastructure. The stormwater basins would already have been constructed in Phase 1. In Phase 2, six units are proposed, including limited common areas. Phase 3 is again on the low side of the property, where the majority of the stormwater controls and management are needed. This then would lead to Phase 4. The area of purchase consideration is within Phases 2 and 4, including the units themselves plus the associated limited common area, and the “road” in front of those units. This leads to a total reduction of 12 units for the first portion of the purchase.

Ken Clinton explained that the first purchase, if the second one does not occur, would result in an increase in the dead-end road length. One waiver, listed as Note 6B on the plan, would allow a dead-end road length for the combined Phases 1 and 3 to be 1,518.15 linear feet. The regulation states a maximum of 1,200 linear feet is allowed. He explained that he sat down with Fire Chief Conley regarding this proposal and the previous turnaround suitability for fire trucks and emergency access. Chief Conley wrote an affirmative memo to the Board regarding the plan as proposed. The second waiver request may be mischaracterized as a waiver because, while zoning is dictated through the ZBA, the Planning Board has full discretion to modify it to suit a certain project, in particular with a PRD. Regarding the phasing, Phase 1 would have seven units and Phase 3 would have six units. The original condition of approval was for phasing the project at no more than 25% of any of the units in a given year. This leads to four years of phasing and one unit left over for a fifth year of phasing. This does not make sense. Thus, the second request is to request an increase from the maximum of 25% in the first year to 28% of the overall units, an increase of 3%. This would remove the need for the fifth year of phasing. This removes a bit of risk from the applicant, during the process of this proposed purchase.

There were no questions or comments from the Board.

Bill Stoughton moved to grant the waiver requested to Section 302.4 of the Road and Utility Standards, as the Board has determined that strict conformity with the requirements would pose an unnecessary hardship to the applicant because of the

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pendency of the land acquisition sale agreement, and the waiver would not be contrary to the spirit and intent of the regulations. Seconded by Cynthia Dokmo. Vote: 6-0-0 motion carried unanimously.

Bill Stoughton moved to approve CASE #: PZ17697-080823 for Clearview Development Group, LLC for the above-cited amended subdivision of Map 5 Lot 159-1 Boston Post Road, as shown on the plan dated August 4, 2023, with the conditions set forth in the Staff Report. Seconded by Tom Silvia. Vote: 6-0-0 motion carried unanimously.

4. CASE #: PZ17700-080823 – Beaver Meadow Investments, LLC (Owners & Applicants); 48 Ponemah Road, PIN #: 004-025-007 – Subdivision Application. To condominiumize the existing eight residential rental units in two existing buildings. Zoned Residential Rural.

Arnie Rosenblatt noted that the Board received some materials for this hearing shortly before the meeting. He noted that these likely have not been reviewed yet and he would like to hear from other applicants before coming back to this item.

5. CASE #: PZ17701-080823 – Scott R. McEttrick (Owner & Applicant); 6 North End of Lake, PIN #: 008-066-000 – Conditional Use Permit. To construct a detached garage with an ADU and approved ISDS and reclaim areas of the existing gravel driveway to be restored back to an unaltered state. Zoned Residential Rural.

Arnie Rosenblatt read and opened the case. He asked if there were any issues with completeness of the application. Nic Strong stated that there were not.

Tracie Adams moved to accept the application as complete. Seconded by Tom Silvia. Vote: 6-0-0 motion carried unanimously.

Taylor Hennas, Meridian Land Services, explained that this is a request for a CUP to construct a detached accessory dwelling unit, meeting the dimensional requirements as listed under Section 3.5.C within the Zoning Ordinance. This proposal is also seeking to reclaim areas of gravel on the lot. These areas of gravel are located within the adjacent wetland buffer. Once reclaimed, the area will return to an unaltered state with some incorporated plantings. This will reduce the overall impervious area on the lot creating a net improvement. She explained that this application was presented to the Board on February 1, 2023. The initial presentation was followed by a site walk, conducted on March 10, 2023. At an additional meeting on March 15, 2023, the application was denied with the following Finding of Fact: The property in question is not in conformance with the dimensional requirements of the zone for the CUP ADU unit and the Planning Board would like the ZBA to have the opportunity to weigh in on this application. This application was presented to the Amherst Zoning Board of Adjustment on May 16th and was continued for the ZBA to seek advice through legal counsel. On June 20, 2023, the ZBA

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determined that a variance for relief from dimensional requirements was not required and that this application could go back to the Planning Board for a decision.

Taylor Hennas explained that the request is for a detached ADU. This is due to the fact that an attached ADU to the non-conforming primary structure is not feasible because of existing access easements that run westerly and perpendicular to the primary structure. Also, the primary structure is located within the 100' buffer associated with Baboosic Lake, so an attached ADU would likely cause impacts to this buffer. Also, the sideline building setbacks run within the location of the primary structure, meaning that an attached ADU would likely result in a variance requirement. This proposed scope of work received a Shoreland Impact Permit from the NH DES Shoreland Program for the proposed ground disturbances, and a construction approval was issued by the NH DES Subsurface Bureau for the expansion of the existing three-bedroom septic system, as well as the proposed ADU.

Arnie Rosenblatt asked the Board for comments and questions.

Chris Yates noted that the existing septic tank is located within the 50' waterfront buffer. Taylor Hennas agreed and noted that this was approved in 2007. Chris Yates asked about safeguards in case of flooding. Taylor Hennas noted that the tank boundary line is at 237', which is in the 100-year flood zone. Typically, in situations where new septic components are proposed, the tank would be sealed. Given that this is an already existing tank in the ground, it would be quite difficult to seal it.

Chris Yates noted that the leach field sits right in front of the garage doors. He asked if there will be any type of safeguard to prevent someone from driving on the leach field. Taylor Hennas noted that the leach field was designed so that it can be driven on; it is H2O loaded and includes non-moving filter fabric over the tubes, as well as additional fill placed on top of the leach field.

Tracie Adams asked about the parking scenario note within the Staff Report. Taylor Hennas stated that, with the addition of the ADU, there will need to be room for four parking spaces. Two cars can park in the driveway, and the proposed garage with an ADU on the second story would allow for two additional parking spaces underneath. Tracie Adams asked about the Staff Report note regarding driveway access and traffic concerns. Taylor Hennas explained that there is access through the existing access easement, as well as the existing gravel area, allowing for two points of access.

Tracie Adams noted that it is helpful to hear from the DPW Director, Fire Chief, Superintendent of Schools, and Merrimack. None of these had any concerns regarding this proposal.

Cynthia Dokmo asked about the ADU living unit. Taylor Hennas explained that this will be one bedroom located upstairs. For the Subsurface Regulations it is evaluated as 1.5 bedrooms.

Tom Silvia, Bill Stoughton, Pam Coughlin, Brian Cullen, and Rob Clemens stated that they had no questions at this time.

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Arnie Rosenblatt asked for public comment.

Kathy Boyd, 2A North End of the Lake Road, stated that the rationale is that an accessory apartment in a building detached from the principal dwelling may be permitted as a conditional use in accordance with the provisions. There is an existing house and garage on the lot, which is too small. This is a non-conforming lot. She expressed concern regarding the driveway. The existing driveway runs through the landlocked piece of property. Technically, the applicant is supposed to come down North End of the Lake Road and cut between two abutting houses, and she is concerned that the applicant will end up with more space by taking an abutter's driveway area. She asked if the bushes and trees proposed to be planted will be along her property line. Regarding impact to the hydrogeology of the land, she believes the land has already been decimated. The applicant has already cut down trees and pulled out stumps. The water is not coming through the middle of the applicant's property the way it used to, but instead coming closer to an abutter's house. She asked if additional stormwater would flow into her detention pond. She noted that the plans state that this will not be located within 50' of wetland, but she believes her retention pond should count as wetland. This lot is too small to build a second house on.

Ellen Bostwick, 8A, 8, and 10 North End of Lake, stated that, when she went to get a home equity loan, FEMA made her get flood insurance. Through the mapping completed, it was determined that the home was not in the flood zone. She has not been able to find the boundaries for her house since this applicant started doing work on the property. She expressed concern regarding the number of trees that have been removed from the applicant's property.

Brenda Bostwick, 8 North End of Lake, stated that there is a huge parking issue in this area. The applicant owns his own business, leading to personal and business vehicles on the property. The applicant placed boulders on the side of the road going down her driveway which she would like removed. Taylor Hennas explained that this is a proposed ADU within a two-story garage with two parking spots underneath. This will not be within any access easements, and it will not be within the existing gravel road. There will still be access from a westerly point down to Baboosic Lake and access across the property, as well as along the existing undeeded gravel path.

Mike Isabel, abutter, stated that he does not want any more neighbors. He does not know if the lot is big enough to support another neighbor. He would be okay with this as a garage only. He noted that, from his well to the applicant's well is 123', where 75' is code.

Richard Boyd, 2 and 2A North End of the Lake Road, asked if a variance is needed, due to the fact that this property is less than two acres of land. He noted that his boundary stones were also destroyed during destruction of this property.

Ken Clinton, Meridian Land Services, stated that the lot is indeed big enough. The ZBA determined that it is a pre-existing non-conforming lot, and no further variance is needed. NH DES has also reviewed the site and stated that the proposed use is appropriate. The uses are all

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designed within both Town and State regulations that meet or exceed them. Relative to boundaries, driveways, and rights, Meridian Land Services has multiple licensed land surveyors on staff. This plan is a product of these licensed land surveyors. Regarding changes, while he empathized, he also noted that change is inevitable. In terms of shoreland protection items, such as trees, this is in the jurisdiction of the State. Also, a detention pond is not considered a jurisdictional wetland and therefore is not subject to the same setbacks and buffers as a jurisdictional wetland.

Arnie Rosenblatt went back to the Board.

Tracie Adams asked for the perspective of someone who attended the site walk. Chris Yates stated that he attended the site walk and remembers that there was a lot of site work done prior to the application being submitted, and it was a bit messy. He explained that his concern was the two driveway access points off North End of the Lake Road.

In response to a question from Bill Stoughton regarding if the current property boundaries are marked and delineated, Taylor Hennas explained that the survey crew that performed the existing conditions survey found the majority of the monuments that identify the lot corners, which would be the pins and drill holes in the stonewall. She is not aware of any missing.

In response to a question from Bill Stoughton, Taylor Hennas confirmed that all of the stormwater created by the new proposed structure and impervious area will be handled on site.

Bill Stoughton stated that a lot of the abutters have concerns but he believes these are either addressed on the plan or out of the Board's hands. This, like many of the lots at the Lake, is small. Many members of this Board had concerns about that, which is why it asked the applicant to go before the ZBA. The ZBA stated in its action that the proposed ADU is appropriate on this site. The Board will still need to address the requested waiver on the nitrogen cleanup, but he believes this application otherwise complies with the requirements for a CUP.

Arnie Rosenblatt asked Bill Stoughton if the Board's hands are tied because of the ZBA's actions, whether or not the Board agrees with the ZBA's actions. Bill Stoughton agreed. He explained that the reason this item was sent to the ZBA was due to dimensional concerns. The Board is required to look at whether the lot complies with the dimensional requirements before approving a CUP. The ZBA stated that this is okay, and so the Board should no longer consider it. He stated that he believes the application, as presented, complies with the ordinance and that the Board is obligated to approve it with the conditions in the Staff Report.

Taylor Hennas noted that there is a second waiver request regarding a separate stormwater management plan. As with other Baboosic Lake properties, the stormwater management techniques are within the CUP plan set. Bill Stoughton noted that the plan set complies with the regulations and that a waiver is not needed from this. He stated that there is one waiver request from the nitrogen clean up percentage of 60% to 55%. The Board has typically allowed for this with drip edges. The net result from a stormwater perspective is an improvement to the water

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quality in the Lake because this will reduce the amount of untreated water created by impervious area on the site.

Bill Stoughton moved to grant the waiver to the nitrogen reduction requirement allowing 55% removal in lieu of 60% removal because granting the waiver will not impair achieving the spirit and intent of the regulations, compliance with the regulations is not reasonably possible given the specific circumstances relative to the site, and the proposed substitute solution is consistent with the goals of the regulations and is in the best interest of the Town. Seconded by Tom Silvia. Vote: 6-0-0 motion carried unanimously.

Bill Stoughton moved that the Board finds the application satisfies the criteria of Section 4.11 I. 1. 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 Case # PZ17701-080823 for Scott McEttrick, for a Conditional Use Permit for site improvements in the WWCD and for the construction of an Accessory Apartment in a detached garage at 6 North End of Lake, Tax Map 8 Lot 66, as shown on the plan dated October 20, 2022, most recently revised January 30, 2023, with the conditions set forth in the Staff Report. Seconded by Tom Silvia. Vote: 6-0-0 motion carried unanimously.

Tracie Adams reviewed the Findings of Fact:

Application Description

Case #: PZ17701-080823 Scott R McEttrick (Owner & Applicant); 6 North End of lake, PIN #: 008-066-000 – Conditional Use Permit - To construct a detached garage with an ADU and approved ISDS and reclaim areas of the existing gravel driveway to be restored back to an unaltered state. Zoned Residential Rural. The Staff Report is adopted into the record and can be referred to for further details.

Application Completeness

The Planning Board reviewed documents provided and determined that the application was sufficiently complete to proceed with consideration by the Board per RSA 676:4. I (b).

Land Usage Requirements

This application complies with Zoning Ordinance Section 3.5 C.6 which states that accessory apartments located in an accessory building, detached from the principal dwelling, are permitted as a Conditional Use in accordance with the provisions of Section 3.18.

Accessory Apartment Requirements

This application complies with Section 3.5 C requirements including that the accessory apartment occupies no more than 70% of existing gross heated floor area, has only 2 bedrooms, and will be the only one on the lot.

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Environmental Requirements

The Wetland and Watershed Conservation District purpose is fulfilled and the requirements for a Conditional Use Permit per Section 4.11 of the Amherst Zoning Ordinance are met by this application. Any future construction would require a Conditional Use Permit.

Studies

The Planning Board granted a waiver for preparation of the studies, reserving the right to request any or all of the studies if deemed necessary upon hearing the application. After the application was presented, no studies were required. (Studies: Drainage, Environmental, Fiscal, Hydrogeological, Traffic, Water Supply, etc.)

Waivers

The waiver(s) requested by the applicant(s) for relief from the Stormwater Regulation Section 5.A.6 to accept total nitrogen removal of 55% instead of the required 60% was approved by the Planning Board.

Conditions

The applicant acknowledges the conditions precedent and conditions subsequent in the Staff Report as well as any additions from the Planning Board are required.

Summary

The Planning Board finds that the application meets the spirit and intent of the Ordinances and Regulations and is approved.

Arnie Rosenblatt asked if it would be appropriate to add a sentence stating that, although there were concerns from Board members with respect to the impact of this development based on the small size of the lot, the Board concluded that the ZBA's action precluded the Planning Board from making any further decisions. Tracie Adams agreed with adding that to the Summary statement.

**Tracie Adams moved to accept the Findings of Fact for 6 North End of Lake as proposed, with the addition of the Summary item. Seconded by Bill Stoughton.
Vote: 6-0-0 motion carried unanimously.**

- 4. CASE #: PZ17700-080823 – Beaver Meadow Investments, LLC (Owners & Applicants); 48 Ponemah Road, PIN #: 004-025-007 – Subdivision Application. To condominiumize the existing eight residential rental units in two existing buildings. Zoned Residential Rural.**

The Board re-took up this item at this time.

Brad Westgate, attorney for Winer & Bennett, LLP, explained that Nic Strong generated a comprehensive Staff Report, in which she analyzed the waiver request previously submitted and

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identified a number of items on the checklist that are either not applicable or need waiver requests. This is a simple application to convert an eight-unit apartment building development approved back in the late 1990s to a condominium form of ownership. There are no infrastructure improvements contemplated. The subdivision application form contemplates a lot of details that any normal subdivision would have that may not be applicable in this case.

Arnie Rosenblatt asked about the materials submitted to the Board this evening. Attorney Westgate explained that this is a response to Nic Strong's Staff Report on what she determined should be a not applicable item or what needed a supplemental waiver request letter.

Bill Stoughton stated that he would like to continue this item in order to review the additional material submitted. Tracie Adams agreed. Attorney Westgate stated that he understands this.

Bill Stoughton moved to continue this hearing to October 4, 2023, at 7pm at Town Hall, with any necessary extensions of deadlines as approved by the applicant.

Seconded by Chris Yates.

Vote: 6-0-0 motion carried unanimously.

- 6. CASE #: PZ17707-080923 – The Raymond Family Rev. Trust of 2019, c/o Steven Raymond, 125 Hollis Road & 7 Golden Pond Lane, PIN #: 001-014-000 & 001-014-001.** Subdivision Application-Lot Line Adjustment. To adjust the lot lines between Map 1 Lot 14 & Map 1 Lot 14-1. *Zoned Residential Rural.*

Arnie Rosenblatt read and opened the case. He asked if there were any issues with completeness of the application. Nic Strong stated that there were not.

Tracie Adams moved to accept the application as complete. Seconded by Cynthia Dokmo.

Vote: 6-0-0 motion carried unanimously.

Joe Wichert, LLS, explained that the lots and road were created and approved by the Planning Board in 1984. The Raymond Family Trust owns lot 14, which has rental property of the Country Club Kennel, Lot 14-1 which is the Raymond residence, and Lot 14-2 which is not part of the application. The proposal is not for any new construction. The current lot line runs through the middle of a pond on the property. The pond is an amenity that the Raymonds enjoy and would like to keep strictly with the house, instead of split by the boundary line. The proposal is to move the lot line east of the pond. Parcel A, which is currently 1.3 acres, will be removed from Lot 14 and added to Lot 14-1. Lot 14 will be reduced in size from 6.34 acres to 5.03 acres. State Subdivision Approval is not needed. The house parcel will be increased from 2.47 acres to 3.78 acres. The applicant is okay with all items in the Staff Report.

Tom Silvia asked how far the building is from the kennel and propane tanks. Joe Wichert stated that this area is greater than 25' but inside of the wetland setback. The new lot line is approximately 40'-44' from the propane tank.

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

Chris Yates moved to approve CASE #: PZ17707-080923 for the Raymond Family Revocable Trust 2019, Steven R., and Pamela Raymond Trustees for the above cited lot line adjustment for Map 1 Lots 14 and 14-1, 125 Hollis Road and 7 Golden Pond Lane with the conditions precedent and subsequent as noted in the Staff Report.

Seconded by Tom Silvia.

Vote: 6-0-0 motion carried unanimously.

Tracie Adams addressed the Findings of Fact:

Application Description

Case #: PZ17707-080923 – The Raymond Family Rev. Trust of 2019, c/o Steven Raymond, 125 Hollis Road & 7 Golden Pond Lane, PIN #: 001-014-000 & 001-014-001. Subdivision Application – Lot Line Adjustment. To adjust the lot line between Map 1 Lot 14 & Map 1 Lot 14-1. Zoned Residential Rural. The Staff Report is adopted into the record and can be referred to for further details.

Application Completeness

Subdivision Regulations Section 202: The Planning Board reviewed documents provided and determined that the application was sufficiently complete to proceed with consideration by the Board per RSA 676:4. I (b).

Dimensional Requirements

The minimum lot layout meets the requirements of General Regulation 208 in the applicable Zoning District/Residential Rural and the requirements are maintained after the lot line adjustment.

Land Usage Requirements

Subdivision Regulations Section 208: The proposed land use meets the existing land uses permitted in the Zoning District /Residential Rural.

Environmental Requirements

The planned lot line adjustment does not impact the preservation and protection of existing features as required in General Regulation 209.

Studies

No studies were required for this application.

Waivers

No waiver(s) were requested by the applicant(s).

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Stormwater Management

No Stormwater Management plan was required.

Conditions

The applicant acknowledges the conditions precedent and conditions subsequent in the Staff Report as well as any additions from the Planning Board are required.

Summary

The Planning Board finds that the application meets the spirit and intent of the Ordinances and Regulations and is approved.

Tracie Adams moved to adopt the Findings of Fact as presented. Seconded by Tom Silvia.

Vote: 6-0-0 motion carried unanimously.

- 7. CASE #: PZ17708-080923 – Riley Investment Properties, LLC c/o Tom Riley (Owner & Applicant); 125 NH Route 101A, PIN #: 002-035-001-C.** Non-Residential Site Plan. To amend the previous site plan approval for Phase C involving the construction of a 12,000 square foot single story retail building and propose a 2,400 square foot single story drive-thru only café. *Zoned Commercial.*

Arnie Rosenblatt read and opened the case. He asked if there were any issues with completeness of the application. Nic Strong stated that there were not.

Tracie Adams moved to accept the application as complete. Seconded by Cynthia Dokmo.

Vote: 6-0-0 motion carried unanimously.

Sam Foisie asked if the next item on the agenda would be addressed this evening. Arnie Rosenblatt stated that, due to the late hour, this item would not be addressed at this time.

Sam Foisie, Meridian Land Services, explained that the intent of this application is to modify an existing site plan from a 12,000 s.f. single story, retail building to a roughly 2,000 s.f. Pressed Café. This will be an express café for the company and the first one branded as such. This will be a drive-through only facility. The property is located off Route 101A, across the street from Lowe's, behind Dunkin' Donuts and Taco Bell/KFC. The property is known as Lot 2-35-1, with the specific area on the lot known as 2-35-1-C. The overall size of the lot is 3.5 acres with the area of development roughly 1.1 acres. This is Zoned Commercial and within the Aquifer Protection District. The lot is currently a vacant parcel. It was cleared on one side with an infiltration basin installed. A building permit was pulled, and site work was started before Pressed Café expressed interest. There are no wetlands on the site or adjacent to the site. Access to the property is through the signalized interchange shared with Lowe's, Dunkin Donuts, and KFC/Taco Bell through a shared access easement. Patrons will then travel along an additional

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shared access easement which leads to Goodwill and then enter the site. Customers can then use two lower kiosks to order or a third kiosk to pickup online orders. The third kiosk will also double as a bypass lane. Parking spaces are proposed for employees and for customers that want to sit in the outdoor seating area. The site plan that was submitted described six but, upon further conversations, this will likely be closer to 12 employees, helping to justify the 37 proposed spaces.

Regarding utilities, Sam Foisie explained that the site will be served by water through an existing stub under the existing access easement. The site will be served by an on-site individual septic system. The site will also be served by gas through a stub underneath the access drive, and underground electric and cable. The drainage for the site was originally permitted in 2012 when the plan was modified from an aboveground infiltration basin. This has since been modified to subsurface infiltration basins. The applicant has provided updated calculations to account for any increases in rainfall from 2012 and to meet Amherst Stormwater Regulations and NH DES regulations. The proposed lighting plan complies with Amherst's new Zoning Ordinance. Per the height restrictions, 16' pole heights are shown instead of the standard 20' pole heights. The landscape plan has been designed in accordance with Amherst's regulations. A waiver is being requested from a section of the landscape requirements, which is landscaping adjacent to the building. This will not be feasible given the drive through and pick up window function of the site. However, the intent is for there to be landscaping between the parking area and the access drive, so the building is screened from view of the public.

Rob Clemens asked about how the subsurface stormwater retention basins function. Sam Foisie stated that they function the same way as aboveground subsurface basins but are not as efficient. A subsurface basin is trying to create the same amount of storage volume below ground. They can be chambered systems, pipe and stone systems or arch chambers. These are placed under the parking areas at a certain depth of cover. The chambers have 100% void space, and the stone typically has a 40% void space. The plan is to add enough chambers to meet the same volume as an aboveground system. Rob Clemens asked about the retention time. Sam Foisie stated the basins will eventually fill up. This will then infiltrate into the ground, evenly across the square footage.

Rob Clemens noted that this proposed facility thrives on throughput of cars, yet there was no discussion of traffic. He stated that the Board received a letter from Dunkin' Donuts regarding potential traffic. Sam Foisie stated that the applicants have updated their NH DOT access permit. NH DOT governs the associated traffic signal for the site.

Bill Stoughton asked about an existing leaching catch basin shown on the existing conditions sheet of the plan. Sam Foisie stated that he is unclear of the status of this basin. The existing conditions plan shows the site after it was disturbed from previous development of the site. Bill Stoughton asked if that basin is required to handle stormwater from elsewhere and how that stormwater will be handled once the leaching basin is removed. Sam Foisie explained that the two subsurface systems were designed to accommodate the flows from other parts of the property, as they interconnect. Bill Stoughton noted that this is an existing feature being used to

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1005 infiltrate stormwater and asked what will happen to the stormwater that previously was routed
1006 into it after construction. Sam Foisie stated that the typical construction sequencing is that
1007 stormwater management is supposed to be constructed first so there is a way to collect any runoff
1008 and make sure sediment is not moving offsite.

1009
1010 Bill Stoughton asked about an existing monitoring well. Sam Foisie stated that he is unclear what
1011 that item is used for, but it will be decommissioned.

1012
1013 Bill Stoughton stated that there is a concern that in the morning the Dunkin' Donuts drive
1014 through backs up and it is hard to move around on the shared access road. Adding Pressed Café
1015 to this area is a concern regarding traffic. It is unclear if the access to Pressed will be impacted
1016 and he would like this to be addressed. He would like to see comments from the Town Engineer
1017 before taking action on this item.

1018
1019 Bill Stoughton noted that there are temperature requirements on the lighting regulations, and he
1020 would like to see these reflected on the plan. Sam Foisie noted that a note has been added to the
1021 plan regarding this item.

1022
1023 Tom Silvia asked about the traffic for this site and ownership of the access road. Chris Riley,
1024 Riley Investments, Inc., explained that the access point is a granted access through the
1025 association to the abutting parcel. The shared access of roadways is owned, maintained, and
1026 operated by the association. The association has granted access at the Town's request for the
1027 abutting parcels to have interconnectivity to the lighted intersection on Route 101A. That
1028 intersection did not exist when this parcel was initially developed. Tom Silvia echoed comments
1029 regarding if the access way can handle the additional proposed traffic. Chris Riley explained that
1030 the road was designed to accommodate all three condominium units, as well as access from the
1031 abutting parcels that were being developed at the time. The association feels that the access way
1032 is adequate to the traffic condition that could potentially exist. All the traffic is internal to the
1033 association. There is extensive metric data from Pressed Café. Dunkin' Donuts currently has a bit
1034 of backup into the common area access point at peak hours. Pressed Café only does 25% of its
1035 business in the morning, whereas Dunkin' Donuts does approximately 65% of its business in the
1036 morning hours. Pressed Café is predominantly a lunch-based company, leading to a synergy
1037 between the uses. This property was initially intended for a 12,000 s.f. building which has been
1038 reduced to 2,400 s.f., albeit with a more circuitous action coming through the site for this use.

1039
1040 Charlie Logiotatos, manager for Pressed Café, explained that the company wants to contain all
1041 traffic to its site. The company is 100% positive there will not be any overflows. This is
1042 addressed using extra queuing, parking, and people outside taking orders with tablets. Breakfast
1043 sales at other Pressed Café locations are approximately 20%.

1044
1045 Tom Silvia asked about the internal traffic on the site. Charlie Logiotatos explained that the order
1046 kiosk lanes can likely hold approximately 50 vehicles. There will not be a chance of overflow on
1047 this site, unless there is double the business expected.

1048

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1049 Cynthia Dokmo had no questions or comments at this time.

1050

1051 Tracie Adams explained that there are a number of outstanding items mentioned on the Staff
1052 Report that need to be completed. She stated that she likes the theme of the internal traffic but
1053 there could be a concern regarding the traffic for all of the businesses nearby. She would like to
1054 see data on this.

1055

1056 Chris Yates asked if all three lanes are leading to one pick-up window. Charlie Logiotatos
1057 explained that one of the lanes leads to the pick-up online order window and the other two lead
1058 to a regular pick-up window. For the online orders, there is an 18" space allowing an employee
1059 to bring the order to the customer. Chris Yates stated that he is very concerned with the potential
1060 traffic backups at the intersection and internal to the site. Charlie Logiotatos stated that the plan
1061 gears all traffic to exit to the left, to remove it from any other backup traffic on the site. Sam
1062 Foisie noted that the site can be signed properly to allow for certain exits to be used. He stated
1063 that the applicant could review the existing traffic patterns and compare them to the proposed
1064 traffic. Chris Yates noted that he believes many commuters will hit this Pressed Café location.

1065

1066 Arnie Rosenblatt noted that the Board will be continuing this item shortly. He stated that the
1067 Board would hear brief public comment at this time.

1068

1069 Carl Andrade, Dunkin' Donuts owner, stated that he has a problem with this business being
1070 placed in his backyard. Pressed Café is the same thing as Dunkin' Donuts. There is no way that
1071 Pressed Café will not impact the access road. A traffic study is needed.

1072

1073 Arnie Rosenblatt asked Nic Strong what the Planning Board's scope is in terms of dealing with
1074 traffic. Nic Strong stated that, per the Site Plan regulations, the Board should review traffic
1075 circulation and access, including adequacy of adjacent streets, entrances and exits, and traffic
1076 flow. Chris Yates stated that, while NH DOT may have jurisdiction of the intersection on Route
1077 101A, the Board should discuss the traffic flow for the site. The applicant likely has projections
1078 of how many vehicles go through the other sites hourly. Arnie Rosenblatt stated that this may
1079 give the Board an understanding as to the volume of cars but will not necessarily give the Board
1080 an understanding as to how those cars can be addressed. Chris Yates stated that the Board needs
1081 to review numbers from not only the potential Pressed Cafe site but also from Dunkin' Donuts,
1082 Taco Bell and other businesses that lead from the access road. A traffic study is needed.

1083

1084 Charlie Logiotatos stated that there are metrics that can be pulled. It is important to remember
1085 that these are all private internal roadways with easements granted to all abutters by the
1086 association. Access is granted to the abutting parcels at the request of the Town. Ultimately, if
1087 the site functionality works without that access, it would be in the ownership's best interest to
1088 disallow that access. This interconnectivity access point would like to be preserved.

1089

1090 **Tracie Adams moved to continue this application to October 4, 2023, at 7pm at**
1091 **Town Hall, with the understanding that a traffic study will be completed and**

TOWN OF AMHERST
Planning Board

September 6, 2023

APPROVED

1092 submitted a week in advance along with Town Engineer comments. Seconded by
1093 Chris Yates.
1094 Vote: 6-0-0 motion carried unanimously.
1095

1096 **CONCEPTUAL CONSULTATION:**
1097

1098 **9. CASE #: PZ17704-080923 – Mohamed Ali Ewiess (Owner) & Meridian Land**
1099 **Services, Inc. (Applicant); 134 Route 101A & 1 Truell Road, PIN #: 012-037-000 & 012-**
1100 **036-001. Non-Residential Site Plan – Conceptual Consultation. To construct a restaurant**
1101 **with 42-49 seats on Map 12 Lots 36-1 and 37. Zoned Commercial.**
1102

1103 *The Board previously discussed that this item would not be addressed this evening.*
1104

1105 **OTHER BUSINESS:**
1106

1107 10. Minutes: August 16, 2023
1108

1109 **Tracie Adams moved to approve the minutes of August 16, 2023, as amended [Line**
1110 **653: change Cynthia Dokmo's vote to abstain and change Bill Stoughton's vote to**
1111 **aye; Line 1: change the location of the meeting to Souhegan High School; Line 179:**
1112 **change "is possible" to "as possible;" Line 450: remove "PE".] Seconded by Cynthia**
1113 **Dokmo.**

1114 **Vote: 6-0-0 motion carried unanimously.**
1115

1116 11. Any other business that may come before the Board.

1117 **Tracie Adams moved to adjourn the meeting at 10:57pm. Seconded by Tom Silvia.**
1118 **Vote: 6-0-0 motion carried unanimously.**
1119

1120 Respectfully submitted,
1121 Kristan Patenaude
1122

1123 Minutes approved: