

TOWN OF AMHERST
Planning Board

March 6, 2024

APPROVED

In attendance at Town Hall: Arnie Rosenblatt - Chair, Tom Quinn, Tom Silvia [7:30pm], Bill Stoughton – Board of Selectmen Ex-Officio, Brian Cullen (alternate), Rob Clemens (alternate, remote), and Pam Coughlin (alternate).

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

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

Brian Cullen sat for Cynthia Dokmo. Pam Coughlin sat for Chris Yates.

PUBLIC HEARING(S):

1. **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 September 6, 2023***

Arnie Rosenblatt noted that there has been a request for withdrawal of one application for this applicant. The other application is not up for consideration at this meeting.

**Bill Stoughton moved to accept the applicant's request to withdraw CASE #: PZ17123-032323. Seconded by Tom Quinn.
Vote: 4-0-0 motion carried unanimously.**

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

2. **CASE #: PZ18526-020624 – Christopher & Victoria Judson (Owners & Applicants), 12 Lakeview Street, PIN #: Tax Map 024-046-000 – Conditional Use Permit. To raze the existing non-conforming property and construct a more conforming primary structure with a legal ISDS, well, and storm water management techniques. Zoned Residential Rural.**

Arnie Rosenblatt read and opened the case.

Arnie Rosenblatt asked Nic Strong if there were any completeness issues for this application and she stated that there were not.

**Tom Quinn moved that the application is complete. Seconded by Bill Stoughton.
Vote: 4-0-0 motion carried unanimously.**

TOWN OF AMHERST
Planning Board

March 6, 2024

APPROVED

Taylor Hennas, Meridian Land Services, stated that the subject parcel is Lot 24-46 which is entirely within the Shoreland Zone of Baboosic Lake. This lot is also partially located within the Town's Wetland and Watershed Conservation District. The 100' buffer associated with Baboosic Lake is represented on the plan. There are two isolated wetland pockets within the front of the lot. The 25' buffers are not shown, as they are superseded by the 100' buffer to Baboosic Lake. The building setbacks are not shown on this property as they also overlap with the buffer. This lot is zoned Residential and there is a pre-existing single-family home located on the lot which was constructed in 1935. This lot is currently serviced by a cesspool and there are currently no stormwater management techniques in place. Some other existing improvements located on the lot include an existing gravel parking area, and existing access stairs leading down to the primary structure.

This proposal intends to raze the pre-existing nonconforming primary structure and reconstruct a more nearly conforming structure. This will be located further back from Baboosic Lake, will be further back from the building setback associated to the north and will not encroach on the sideline setback to the south, creating an overall more conforming location. This proposal will also construct a legally approved pretreatment septic system. Drip edges will surround the structure. The plan includes a proposal to install a well and some access stairs within the existing gravel area. The total permanent disturbance on the lot is 1,376 s.f. The temporary disturbance on the lot will be 3,932 s.f. This is associated with the construction area as well as the construction access way, which will be placed on a 20% grade. The construction area will be bounded with a double erosion control technique, including silt fence and silt sock that will remain in place until construction is complete, and the area is stabilized. Given the fact that the existing impervious area on the lot is less than 60%, the plan follows the stormwater management sizing criteria for new development, with drip edges designed to reduce the post development peak runoff rates from applicable storm events. A waiver is being sought for a 5% reduction from the total nitrogen removal requirement. As recommended by the Amherst Conservation Commission, this proposal has incorporated some plantings, including native highbush blueberry, within the waterfront buffer, as well as red maples to be planted within the construction pathway following the completion of construction. No additional stormwater management techniques were added to this plan following the meeting with the Amherst Conservation Commission due to some setback constraints from the proposed subsurface components. This proposal will reduce the overall pervious area on the lot from 24.5% to 23.1%. This is due to removal of the access stairways. This proposal will improve the subsurface components on the lot with the approved pretreatment system creating an overall net improvement.

Pam Coughlin had no comments or questions at this time.

Tom Quinn stated that the Fire Chief noted he may have questions later. Taylor Hennas stated that she did not see this email, but this may deal with the Building Code.

TOWN OF AMHERST
Planning Board

March 6, 2024

APPROVED

In response to a question from Tom Quinn, Taylor Hennas explained that the leach field is located under the existing gravel parking area. It will consist of concrete chambers that are H2O loaded.

Tom Quinn asked if there are any concerns regarding the septic tank location. Taylor Hennas explained that the applicant went through a review process with Advanced Onsite Solutions, who recommended a separate pump chamber due to the elevation difference. This was included on the plan. Some stormwater could run into this area, but the State allows for the tank to be located within 50' of the well as long as it is sealed.

Tom Quinn noted that there was not much difference in nutrient loading on the site pre- and post-construction. Taylor Hennas stated that the plan meets the requirement and allows for an overall reduction. The plan meets the required percentage removal for total suspended solids as well as total phosphorus. A waiver is being requested for the 5% reduction in total nitrogen requirement, as drip edges only provide 55% nitrogen removal and not the required amount of 60%. Tom Quinn asked for the reasoning for the requested waiver. Taylor Hennas stated that many of the techniques that allow for that percentage of reduction typically have setbacks associated with them, and given the size of this lot, these cannot be accommodated for.

Bill Stoughton noted that there were some questions in the Staff Report, such as if easements will be required given the well location. Taylor Hennas stated that, as of August, the State no longer requires a well release form to be recorded at the Registry of Deeds at the time the plan is approved, so a well release form has not been provided. When the well is installed, it is the driller's responsibility to take care of that.

Bill Stoughton noted that the applicant provided a supplemental stormwater filing. The new house is slightly larger in square footage than the existing and is being moved further from the Lake. Taylor Hennas agreed that the current building is located 13.4' from the property line, but the proposed building will be 18'. The existing building is 13.5' from the Lake and the proposed building will be 21.4'.

Bill Stoughton explained that the cleanup percentage for nutrients is specified by the State for various BMPs. There does not seem to be space on the lot to install an infiltration basin in order to improve on the proposed nitrogen cleanup.

Brian Cullen asked about the proposed deck along the front of the house. Taylor Hennas stated that this will be raised on posts.

There was no public comment at this time.

Tom Quinn expressed concern with the requested waiver, as there are already issues in Baboosic Lake. Taylor Hennas stated that there is typically a 75' setback distance associated with surface waters to obtain the required nutrient removal. That distance is not possible on this lot. An

March 6, 2024

APPROVED

infiltration distance greater than 75' from surface water meets the required nutrient removal, but less than that distance will lead to a lesser nutrient removal amount.

Bill Stoughton moved to grant the applicant's request for a waiver from Section 5.A.6. of the Amherst NH Stormwater Management Regulations based on a finding that granting the waiver will not impair achieving spirit and intent of the regulations, that compliance with these regulations is not reasonably possible given the specific circumstances relative to the conditions of the land in the CUP, and that the proposed substitute solution is consistent with the goals of these regulations and is in the best interest of the Town. Seconded by Brian Cullen.

Discussion:

Bill Stoughton agreed that Tom Quinn had raised valid concerns and stated that there is a nutrient issue in Baboosic Lake, and it is primarily phosphorus, but it could become nitrogen. At the moment, the Lake is impaired for phosphorus and not for nitrogen. As with many similar applications for this area, there are no stormwater or septic controls existing today. In granting this, there may be a loss of the additional required 5% reduction, but it allows for improvements, both in stormwater and septic controls. Arnie Rosenblatt concurred.

Vote: 4-0-0 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 with a Conditional Use Permit in the Wetlands and Watershed Conservation District, and further to approve CASE #: PZ18526-020624 for Christopher and Victoria Judson for a Conditional Use Permit for the above cited improvements in the WWCD for the demolition of an existing dwelling and construction of a new dwelling at 12 Lakeview Street, Tax Map 24, Lot 46, as shown on the plan dated September 19, 2023, most recently revised February 5, 2024, with the conditions set forth in the Staff Report including condition precedent #2, which addresses Keach Nordstrom inspection services, deleting condition subsequent #2, and imposing impact fees at the Residential rate. Seconded by Tom Quinn.

Discussion:

Bill Stoughton explained that the Staff Report lays out two alternatives for inspection services; one is that Keach Nordstrom, Town Engineer, does the inspections, and the second is that the applicant's design engineer, Meridian Land Services, completes the inspections, and reports back. He suggested that the Board consider these two options and additional options for further discussion.

Arnie Rosenblatt stated that he believes it is self-evident that if the Board agreed that Meridian can inspect its applicant's project, another firm will then request the same and the Board may not be comfortable with this. There is an intrinsic issue

March 6, 2024

APPROVED

with a firm reviewing its own applicant's project. This is inconsistent with the Board's past approach to this, and it opens the Board up to other firms requesting the same. While he is not against this on a case-by-case basis, he would like the Board to further discuss it before agreeing outright.

Bill Stoughton explained that, regarding impact fees, a raze and rebuild does not fit nicely within the definition for new development. However, this application includes a change of use from seasonal to full-time use. The purpose of the ordinance is to consider new residents to the Town and potential new demands on Town services. Therefore, he believes it is appropriate to impose impact fees in this situation at the Residential rate.

Tom Quinn added that it is important to have a third-party engineer review projects, especially in this area of Town.

Vote: 4-0-0 motion carried unanimously.

FINDINGS OF FACT:

The following findings of fact support the Planning Board's approval of this application:

Application Description

CASE #: PZ18526-020624. Christopher & Victoria Judson prepared by Meridian Land Services. PIN #: Conditional Use Permit, Tax Map 24 Lot 46 in the Residential Rural Zone. The applicant proposes to raze the existing non-conforming property and construct a more conforming primary structure with a legal ISDS, well, and storm water management techniques.

The Staff Report's description and chronology is adopted by the Board as a portion of the Findings of Fact and can be referred to for further details.

Application Completeness

The Planning Board reviewed the application documents provided and it was determined that the application was sufficiently complete to proceed with consideration by the Board per the RSA.

Land Usage Requirements

This application complies with the Zoning Ordinance, Article 4, Section 4.3. Land Uses permitted in the Residential Rural Zone.

Compliance with Regulations

The Board finds that the proposed project is consistent with the stated purpose of the Ordinance Section 4.11.C., which is to protect the health, safety, and general welfare of the public by promoting both the most appropriate use of land, and by protecting wetland and surface water ecosystems and water quality, in accordance with the goals and objectives of the Amherst adopted Master Plan.

TOWN OF AMHERST
Planning Board

March 6, 2024

APPROVED

With respect to Conditional Use Permit requirements, the Board is satisfied that conditions A-G for a Conditional Use Permit have been met.

The Board acknowledges this is a pre-existing nonconforming use and that the application will create an overall net improvement on the property, including a more nearly conforming primary structure, installation of pretreatment septic system, a well, and installation of stormwater management features.

With respect to Conditional Use Permit criteria, Section 4.11, i., a., and e., the proposed use is consistent with the purpose of this Ordinance and avoids and minimizes impacts to the land situated within the District to the extent possible. This includes Subsection A., minimizing degradation of land and adverse impacts to functions and values of wetlands, surface waters, and vernal pools, and Subsection B., proposed use cannot practically be located otherwise on the site to eliminate or reduce the impact to the Wetland Watershed Conservation District.

The Planning Board did not require studies due to the scope of this application.

The Planning Board granted the waiver requested for a reduction in total nitrogen removal of 55% instead of the required 60%.

In summary, the Planning Board finds that, with the conditions imposed in the approval, the application meets the spirit and intent of the ordinances and regulations.

Bill Stoughton moved to adopt the Findings of Fact as presented. Seconded by Tom Quinn.

Vote: 4-0-0 motion carried unanimously.

CONCEPTUAL DISCUSSION:

- 3. CASE #: PZ18544-021424 – Cintina Realty, LLC, c/o Barry D’Andrea (Owner) & Country Village Montessori School, LLC, c/o Jim Doody (Applicant); 17 Route 101A, PIN #: Tax Map 001-023-003 – Non-Residential Site Plan – Discussion. Change of Use from retail to private school. Zoned Commercial.**

Tom Silvia joined the meeting.

Arnie Rosenblatt read and opened the conceptual discussion. He noted that this is a conceptual discussion, not a public hearing. There will not be an opportunity for public comment at this time. This is an opportunity for the applicant to present a concept, for the Board to react, and for the applicant to get some potential ideas. The discussion is not binding in any way on the Board. Comments by individuals or by the Board as a whole cannot be relied on.

Ken Clinton, Meridian Land Services, explained that the property is known as Tax Map 1, Lot 23-3, or 17 Route 101A. The property was most recently known as the Shoe Box retail store.

TOWN OF AMHERST
Planning Board

March 6, 2024

APPROVED

Currently the building sits vacant. The adjacent Country Village Montessori School decided to pursue expanding their school services and their enrollment for different age groups into the building.

Jim Doody, Country Village Montessori School, explained that the current Montessori school services have been offered at the current location on Overlook Drive for 21 years. The school has a childcare license to cover students aged 2 years, 9 months through Kindergarten, and a non-public school charter for kindergarten through 6th Grade. The school population is currently growing and looking for more space. The proposal is to move the elementary portion of the school, or grades 1-6 into the new building. The building suits the school well as it is currently a large open space.

Ken Clinton explained that the existing Shoe Box building is located directly adjacent to the existing Montessori school and the Shoe Box building has a right of way easement over the school property for its driveway access. In the past, the State closed down its individual access points, and shifted access to Overlook Drive. There is an existing long access drive parallel with Route 101A. The existing building and traffic pattern are well suited for this type of conversion to a private school use, as parents will be able to access the site in a circular movement around the entire building. There is also space for stacking vehicles off the public roads. Parking is in the rear of the building and there is existing mature landscaping on the sites. The landscaping does not necessarily meet today's standards but is existing and mature in place. When traveling from up Route 122, the landscaping is fairly substantial on the site. There will be some minor improvements shown with the site plan.

Ken Clinton explained that the existing septic system will be reviewed to make sure that it is suitable for the proposed use. There may be an upgrade in the tank. The existing stormwater management is believed to be sufficient but will also be reviewed. The proposed property is as turnkey as possible for this project, especially as it is located next door to the current use. There may be one or two teachers in the new building, leading to only a small need for daily parking on that site. In order to move forward, the applicant will need to seek relief from the Zoning Board as private schools are not allowed by right in this Zone. However, this use is allowed by special exception. There is a chance the special exception criteria may not be met due to lot size, and/or frontage. The intention is to submit the application to the ZBA next week. The applicant will then file for site plan review from the Planning Board. This would likely include a fair number of waivers, as it is an existing building.

Brian Cullen stated that he will be interested in the traffic flow and how this will work if more students are added to the school. It will be important that this does not impact Overlook Drive or Route 101A.

Tom Silvia asked which proposed waivers will be requested. Ken Clinton stated that anything already in place that substantially meets the intent of the regulations will likely have a waiver requested for it instead of trying to replace each item. Strict conformity to landscaping

March 6, 2024

APPROVED

requirements will be one item, as the existing landscaping is mature and in place. These requests will be fully spelled out in the application.

Tom Quinn stated that he believes it would be nice for the waiver requested items to be made better in some way. He asked if the two parcels will remain in common ownership. Ken Clinton stated that they do not need to, and he believes the intent is not to merge them but keep them separate. Tom Quinn stated that his question revolves around the existing right of way as it does not conform to the existing driveway. Ken Clinton explained that these items will be surveyed as part of the site plan application. If the actual drive is not located within the right of way easement, and in the future one of the parcels was to be sold, he would then expect the easement to be conveyed properly. Tom Quinn noted that he would like this addressed during the actual application submittal.

Bill Stoughton and Pam Coughlin had no questions or comments at this time.

4. **CASE #: PZ18545-021424 – Arboleda Realty, LLC (Owner) & LaBelle Winery, c/o Amy LaBelle (Applicant); 340 Route 101, PIN #: Tax Map 008-052-000.** Non-Residential Site Plan-Discussion. To reduce building and infrastructure for amended site plan approval. Zoned Northern Transitional.

Arnie Rosenblatt read and opened the conceptual discussion. He noted that this is a conceptual discussion, not a public hearing. There will not be an opportunity for public comment at this time. This is an opportunity for the applicant to present a concept, for the Board to react, and for the applicant to get some potential ideas. The discussion is not binding in any way on the Board. Comments by individuals or by the Board as a whole cannot be relied on.

Ken Clinton, Meridian Land Services, explained that this applicant previously went through a site plan approval process for what was then known as the Farmhouse Marketplace. Initial approval was received in August 2020. Unfortunately, the pandemic placed the project on hold for a period of time and, subsequent to that, an opportunity for another facility came up in Derry. The conditional approval had certain timelines that were to be met to be considered for vesting against changes to the Zoning Ordinance. The current proposal is to modify the conditionally approved site plan. The original approval included a tavern, market, offices, event space, distillery, tasting room, barrel barn, and conversion of the existing farmhouse into a cottage. The current proposal is a reduction to the overall program, leading to a reduction in intensity of use. The proposed uses still include the tavern, market, and the offices, but the rest of the uses are eliminated and replaced by complimentary outdoor based uses, such as a patio and greenhouse. A garden in the front is proposed for growing herbs and vegetables that could be used in the kitchen, but also for green space landscaping. The proposal includes a reduction in the overall parking from 193 spaces to approximately 130-133. The elimination of parking spaces includes less infrastructure, less impervious surface, fewer wetland impacts, etc. The primary area of improvements remains in the southwest corner of the lot. The access points remain the same, including a main one directly across the street from the winery, and a secondary one for both emergency access and one-way exits. The same internal drive configurations are proposed.

TOWN OF AMHERST
Planning Board

March 6, 2024

APPROVED

Stormwater management is proposed to remain the same. There will likely not be changes to the proposed infiltration basin due to the small reduction in footprint.

Ken Clinton explained that there were some original components of this application for a conservation easement of 25 acres which was worked out through the Amherst Conservation Commission as well as the Wetlands Bureau. This was due to the amount of square footage impacts, not only to the wetlands, but also a wetland buffer impact for the parking in the rear of the site. This is proposed to remain in place. Part of this proposal includes a new lot, Lot 8-52-1. There is a consideration to hold back this lot of approximately 8.5 acres, with 300' of frontage for potential future residential use. This would require a separate application in the future, as this is not really a single-family lot location. The preliminary consideration may be for a seven-unit workforce housing building. This would be configured in such a way that it would use the same access and the vehicles for this use would be factored into the DOT permit. This lot would likely be subsequent to any revised approval of the site plan. Ken Clinton showed a proposed illustration for the site, including a building for the market, the tavern, and the kitchen.

Ken Clinton explained that the original application was part of a fairly lengthy and detailed review process to get to a conditional approval 3 ½ years ago. The question is if a revised site plan should be pursued via an amended application to discuss the proposed changes, or a brand new site plan application.

Pam Coughlin had no questions or comments at this time.

Tom Quinn stated that the existing building is beautiful and nice to have in Town. He noted that there was a better feedback to the previous application, and he suggested the applicant reach out to neighbors regarding this revised project. Ken Clinton noted that the objections were largely focused on the distillery and event space, which are no longer being considered as part of the plan.

Tom Quinn asked if the site is approved for residential uses. Ken Clinton explained that there is an existing variance in place for various approved uses. Based on the issuance of a conditional approval, this could still be in place but this needs to be verified.

Tom Quinn noted that the intersection at Camp Road and Route 101 is a disaster at certain times of the day. He would be concerned with people trying to cross Route 101 at night. Ken Clinton stated that the applicant would seek police details if needed for certain events. If reconstruction of Route 101 was imminent by the State, something additionally could be considered, but the applicant has no other authority to act on this at this time.

Tom Silvia noted that he may have additional questions regarding the original site plan when this comes back before the Board.

Bill Stoughton asked when the subdivision would occur. Ken Clinton stated that this would be reserved on paper. This could occur concurrent with the site plan or may come about afterward.

TOWN OF AMHERST
Planning Board

March 6, 2024

APPROVED

Bill Stoughton asked if the area across from the winery is part of the Town's Economic Revitalization Zones. Ken Clinton stated that he is unsure if this is true. Bill Stoughton stated that the Town may want to amend this in order to make sure the space is included.

Bill Stoughton stated that the proposal is good for the Town. This is viewed by the Town as a gateway to Amherst. This proposal should continue to contribute to that.

In response to a question from Bill Stoughton, Ken Clinton stated that an approved State Alteration of Terrain permit was not received yet for this item. Bill Stoughton stated that he would like to make sure this complies with the State and local stormwater requirements. He would also like to make sure this complies with the Town's lighting requirements.

Brian Cullen also expressed concern with people trying to cross Route 101 to access the property across the road. The current building is spectacular, and it is especially nice that the parking area is subtle. He would like the new site to be similar. Ken Clinton stated that there was an architectural package submitted in the previous site plan. The façade and landscaping have not yet been amended, but they will look similar to the existing property.

Arnie Rosenblatt echoed the comments regarding this area being a gateway to Amherst. Regarding the process for this item, a residential component may make this much different than the original application. Also, the makeup of the Board may have changed enough in order to rehear this item. He noted that he would not be recusing himself on this item when an application is submitted this time.

Will Ludt, 3 School Street, asked if the barn is proposed to be used as part of this application. Ken Clinton stated that the house was previously going to be used as a cottage, but this is no longer viable. There are some materials in the barn that could be repurposed on the site. The proposal is to repurpose most of the materials in another location on the site.

Ken Clinton noted that, in reference to a prior conversation, as President of Meridian Land Services, he would rather have a third party inspect their sites.

OTHER BUSINESS:

5. Minutes: February 21, 2023

**Tom Silvia moved to approve the minutes of February 21, 2023, as presented.
Seconded by Tom Quinn.**

Vote: 4-0-1 motion carried [P. Coughlin abstaining.]

OTHER BUSINESS:

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

TOWN OF AMHERST
Planning Board

March 6, 2024

APPROVED

435 Arnie Rosenblatt thanked Chris Yates and Cynthia Dokmo for their time and effort on the Board
436 over the years.

437

438 **Bill Stoughton moved to adjourn the meeting at 8:16pm. Seconded by Tom Quinn.**

439 **Vote: 5-0-0 motion carried unanimously.**

440

441 Respectfully submitted,

442 Kristan Patenaude