

TOWN OF AMHERST
Planning Board

October 2, 2019

APPROVED-AMENDED

In attendance: Michael Dell Orfano- Chair, John D'Angelo-Selectman Ex-Officio, Sally Wilkins, Arnold Rosenblatt, Rich Hart, Brian Coogan, Cliff Harris, Christy Houpis (Alternate), and Lisa Eastland (Alternate).

Staff present: Nic Strong, Community Development Director, and Kristan Patenaude, Minute Taker.

Michael Dell Orfano called the meeting to order at 7:35 pm at Town Hall.

NEW BUSINESS:

- 1. CASE #: PZ11605-080519 -24 Brook Road, LLC, c/o John Walsh (Owner & Applicant), 24 Brook Road, PIN #: 010-026-000 – Submission of Application/Public Hearing/Integrated Innovative Housing Ordinance Conditional Use Permit. Proposed residential subdivision of Tax Map 10 Lot 26 utilizing the IIHO (Integrated Innovative Housing Ordinance). Zoned Northern Rural. Case tabled from September 4, 2019.**

Chairman Mike Dell Orfano stated that this application appears to be missing certain elements that would make it considered complete.

Chad Branon, of Fieldstone Land Consultants, PLLC explained that, in past applications, a list of permits, past variances, etc. have been generated based on the final layout of the development, not during the conceptual layout. First, the plan is usually heard, then a site walk is completed, and that will impact the necessary permits. He is willing to submit a list of things believed to be needed, but it will not be a complete list at this time. He explained that he can speak to all of the permits that will be required based on the application being submitted at this time.

Mike Dell Orfano stated that the Board will hear the application without accepting the plan, in order to determine how complete it is.

Brian Coogan will sit for Marilyn Peterman for this meeting.

Chad Branon stated that the subject property is on the west side of Brook Road. It contains 126.94 acres and is bordered by other residential properties. The lot is primarily vacant and was logged approximately 10-15 years ago. The property is in the Northern Rural zone and in an aquifer protection area. A previous application for this property proposed 39 units and was approved, but that approval lapsed in 2012 as the market was not conducive at that time. The current proposal consists of a 46 unit layout in hopes to best serve the property and the community. This will be an improvement over the former design. One of the goals of the project is to consolidate the amount of development on the property and increase the focus on the conservation of the area.

Chad Branon explained that there will be various housing types and styles proposed for this development. There will be some attached duplexes, some single-floor detached units, some

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ADA accessible units, and some 1/2/3 bedroom houses for sale and rent. These will include market rate units and some age-restricted units. There will be a main cul-de-sac road, approximately 2,315ft in length. This is a significantly shorter road than the past proposal for this property. There will then be five spur cul-de-sacs off the main road to create housing clusters. There will be safe access through the development, for both pedestrians and traffic.

Chad Branon explained that there are a couple of proposed areas for trailhead parking on the lot. There will be one proposed midway along the road, which will connect to the open space on the lot and to the current nearby trails. There will be a second one proposed at the end of the main spur, which will be closer to the town-owned property.

Chad Branon spoke to the significant benefits to the town and general public. He explained that this proposal looks to put 80% of the land into protected open space. That is equivalent to about 100+ acres. The proposal also looks to give formal access to lot 8-24-1, a town-owned lot that is land-locked on this property. The proposal will also provide access to the existing town land with a trailhead that is open to the public. Also, the Town will be able to access the land-locked parcel for forestry management purposes.

Chad Branon explained some of the design objectives of the project, including a covered bridge design to enter the site, storm water management improvements, minimal wetland and wetland buffer impacts, and individual septic systems. Some of the permits he believes will be necessary include an AOT permit, a subsurface permit, a wetlands permit, a shoreland permit, a community water systems permit, and a permit through the Army Corp of Engineers, for the bridge crossing. These may be changed or be added to based on the final layout.

Chad Branon went through the density worksheet with the Board. He stated that, of the 126.94 acres on the property, 44.824 acres are wetlands or in the floodplain. This leaves 82.12 acres of useable land. This zone requires a 5 acre minimum lot size, which yields a base density of 16 lots.

In response to a question from Mike Dell Orfano, Chad Branon stated that the land could hold 16 large estate lots, but that would mean more impacts to the property and less land conserved. It is feasible for the plan to show 16 lots, but he doesn't believe this would encompass the goals and objectives of the ordinance.

Mike Dell Orfano expressed concern over the proposed road being able to stay within the 8% grade to access the 16 lots. Chad Branon stated that the road for the previous proposal in 2006 was designed to the same parameters.

Chad Branon explained that for the bonus density category of Demographics, 16 of the units will be age-restricted to 65+; this will lead to a 30% bonus. For the category of Housing Type, there will be 12 duplexes, and for the category of Unit Type there are 16 ADA accessible units proposed.

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In response to a question from Cliff Harris, Chad Branon stated that there may be units proposed that are 65+ and also ADA compliant. The regulation doesn't speak to not doing that.

Cliff Harris stated that ADA compliant units usually have a wider design than a typical 65+ unit. He hopes that the final design will show 16 ADA units, not all of which will also be 65+ as well.

Chad Branon stated that for the category of Unit Size, 16 of the units will be 2 bedrooms. There will also be some 3 bedroom units. For the category of Proposed Amenities, both walkability and improved access to public places will be sought for bonuses. Walkability will be spoken to with proposed trails, sidewalks, and the preservation of over 80% of the land area. The improved access to public places will be sought by allowing for improved access to the land-locked parcel of town-owned land, trailhead parking, access to 100 acres of open space, and by allowing the town to access their property for forestry management. The design elements of this property clearly address extraordinary circumstances and thus allow both parts of the bonus density category to be sought.

Chad Branon continued with the category of Community Space, by explaining that the common areas of the development will be open to the public. The public will also be able to utilize the trailhead parking and hike on the open space of the property. For the category of Open Space, there will be both open space under restrictive covenant, and open space improved and open to the public. He explained that there should be some advantage to this development proposing to preserve 80% of its land, when there is only a 40% requirement for planned residential housing.

In response to a question from Mike Dell Orfano, Chad Branon stated that, of the 127 acres, 82 acres are not steep, not wet, and not in the floodplain, so otherwise developable. The plan is to consolidate the amount of land being developed onto only 20 acres, and leave the rest as open space.

Chad Branon continued with the category of Type of Ownership by explaining that there will be 6 deed restricted rental units. For the category of Redevelopment of Existing Structures, the existing log home on the property is being offered to either the Conservation Commission (ACC) or the Heritage Commission. The ACC is not interested, but the Heritage Commission is going to evaluate the structure.

In response to a question from Mike Dell Orfano, Chad Branon stated that the cabin is about 900ft². It has not been occupied for some time. He believes the structure might be of importance to the Heritage Commission, which would allow for a bonus of an additional 4 units.

Sally Wilkins stated that this bonus is for the redevelopment of an existing structure. This generally speaks to using the structure as part of the proposed housing. She doesn't believe the bonus has ever been given for converting a shed. She believes the redevelopment of a structure would need to show usefulness and value.

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Chad Branon continued with the final bonus category of Voluntary Public Infrastructure. Under this category they will seek bonuses for public way betterments, as they will agree to work with the town to provide access to the landlocked property in order to do maintenance and manage it.

Discussion:

In response to a question from Rich Hart, Chad Branon explained that there may be some one bedroom units built, but there won't be any incentives sought from these.

In response to a question from Rich Hart, Chad Branon stated the comments from the ACC are appreciated and that they are sensitive to the impacts to the water supply and to Joe English Brook. They will address any concerns and meet them within the necessary parameters, but would not be willing to go to a 200' buffer.

In response to a question from Rich Hart, Chad Branon stated that he has never tested the ground or surface water before, during, or after construction on any other residential project.

John D'Angelo stated that he has concerns with this project and double-dipping for bonus purposes. The proposal uses 16 units as a base for the 65+ bonus, and then again as the base for the 2-bedroom bonus, and then again for the ADA compliant bonus. He believes this could lead to 16 units that are 2-bedroom, and ADA compliant in order to double-dip on the bonuses. He would like to see more clarity on exactly how many of each type of unit there will be.

Chad Branon explained that there will be some amount of double counting, but they are not addressing this as a negative, but instead incorporating different elements that will lead to a diversity of housing stock and styles. He believes that the density bonus worksheet is a dynamic one, where there can be overlap between categories in order to create diversity.

Brian Coogan stated that he would like to see some transparency as to what will actually be built. The plan is not clearly laying out which units will be at which locations to meet the tighter density being proposed.

John D'Angelo agreed that he isn't sure that the number of proposed units can fit onto 20 acres of land.

Sally Wilkins explained that the whole design of the ordinance is that this level of specificity isn't yet complete at this time in the proposal. The developer will get a maximum number of units from the Board during the CUP process. They will then take this number, see how it fits on the land itself, and come back to the Board for a non-residential site review.

Sally Wilkins addressed the issue of possible double-dipping. She stated that there are certain bonus density categories that will be considered double-dipping and not allowed. However, she believes that walkability and improved access to public spaces bonuses should both be allowed

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because there will be two totally different amenities proposed (sidewalks, and access to the landlocked property and existing trails).

In response to a question from Sally Wilkins, Chad Branon stated that there may be one short section of the road that will have a 9% road grade in order to reduce impacts, but there are still a couple of different options being run through.

Arnold Rosenblatt stated that needing to complete a site walk is evident. He also stated that, in respect to the ordinance, the burden is on the applicant to show why each bonus on this land is deserved. It is at the Board's discretion to determine if the town will benefit from this plan. The Board needs to be persuaded that the developer is entitled to any bonuses at all because of how the ordinance is drafted.

Brian Coogan agreed that the land owner has rights to develop the land, but, as a steward of the Board, there is a right to keep the integrity of the town intact as well. While he applauds the proposed amount of open space, he is not clear on the overall objective of this project. The property density has been crammed in to maximize the yield and the profit, but there is a need to do this within the well-being of the town.

In response to a question from Mike Dell Orfano, a member of the public stated that there are 33 existing units on Brook Road. Mike Dell Orfano stated that he would like the applicant to look at how the proposed additional 46 units would impact this area with its existing conditions. The proposed development will more than double the current use of that road.

Cliff Harris suggested that residents of Brook Road have their water tested before and after any proposed development, as any issue with it afterwards would be a civil one.

In response to a question from Mike Dell Orfano, Chad Branon stated that the project would likely be constructed in phases.

Brian Farmer, 20 Brook Road, stated that he owns a small footbridge that crosses the Brook onto the property. The Board may use the bridge to access the land to do a site walk, as long as they notify him first.

Rob Clemens, Chairman of the Amherst Conservation Commission, emphasized that the open space being offered has been an interest of the ACC for a long time. This property connects the Joe English, Lorden, and isolated Reutsch properties and offers the town real open space and public access. However, the proposed density of this plan will put pressure on the wetlands. It will also impact the storm water flows, ground water aquifer, and Joe English Brook. He urged the Board to look carefully at the associated ordinances to protect this area.

In response to a question from Mike Dell Orfano, Rob Clemens stated that the ACC would prefer an easement to the land with defined access, and the ability for forestry machinery and recreational use on it.

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Dan Burns, 18 Brook Road, explained that this proposed development would leave him with five homes across from his property. He understands the value of the conservation land but questions if it is in the best interest to cluster all of the proposed units near the four abutters. He is interested to see if the densities and layout prove out. The question of well quality and the water quality of the Brook are also important issues.

Tom Quinn, 30 Christian Hill Road, asked if the Board would consider imposing impact fees, as per Section 4.19, for this new development.

Mike Dell Orfano replied that that question is better suited for the Board of Selectmen. He did explain that there are time limits on impact fees that the town must match. The fees also can only apply to new impacts, not pre-existing conditions. An impact fee standard has not been adopted by the town.

Bill Rapf, 43 Brook Road, stated that the Northern Rural zone is unique with its 5 acre zoning because of its topography. Septic systems in this area need space. 46 units in a 5 acre zoning area doesn't make sense. The excess number of houses is not proportional to what the land can put up with.

Mike Dell Orfano replied that the State doesn't say that 5 acres are required anywhere in the state for septic system use. That amount of land is nice to have, but the technology has advanced since the ordinance for it was made. The Board will do what it can to make sure that the water quality and safety of the neighborhood are preserved.

Sally Wilkins stated that there is language in the ordinance regarding that the impact to neighbors not be more egregious than what is allowed by right.

Arnold Rosenblatt stated that the way the standard is articulated shapes the way a project is approached and he doesn't agree with posing the question in that way.

The Board set the site walk for this project on Saturday, October 19th at 11am.

Nic Strong, Community Development Director, reminded the Board that it must determine completeness of an application within 45 days of it being delivered and should accept it as complete prior to holding a site walk. She noted that if the Board was not going to accept the application the applicant should state for the record that they were okay with it. The applicant's attorney, Gerry Prunier agreed that his client would consent to this application being tabled for completeness, while being aware of the rules of the regulation.

**Sally Wilkins moved to table this hearing to the evening of November 20, 2019. Cliff Harris seconded.
All in favor.**

Arnold Rosenblatt exited the meeting.

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Christy Houpis sat for Arnold Rosenblatt for the remainder of the meeting.

2. CASE #: PZ11724-091019 -

The Board cleared up an issue regarding the application. There was an abutter listed who shouldn't have been on the list in the first place, as it is not a direct abutter to the applicant.

- **Friends of Young Judaea (Owner & Applicant), 9 Camp Road, PIN #: 008-059-000 – Submission of Application/Public Hearing/Wetland and Watershed Conservation District Conditional Use Permit. 1,551 square foot impact to 50' buffer area adjacent to jurisdictional wetland. Zoned Residential/Rural.**

Marcy Kornreich, a director of the Camp, explained that the boys bunk area has not changed since it was originally built in the 1940's. Parents would like their children to be in bunks with bathrooms and showers. This application is to redo the bunks to add these items.

Paul Finger, of the Camp's Board of Directors, stated that the girl's bunks were replaced and refitted with bathrooms and showers in 2016. The plan is to work with Paul Chisholm, of Keach-Nordstrom Associates, to do a five year, phased development of the boy's area. One bunk will be done this year, and the remainder will be done over time, as fundraising occurs. There are a number of hurdles for this plan to overcome. It is expected to fail receiving its building permit, as it doesn't comply with the building code set for it. This will need to have relief sought from the Board of Appeals. The whole project will be filed for with the building inspector. There will be no parking lots or paved roads involved in this project.

Sally Wilkins moved to open both hearings for this project. Cliff Harris seconded. All in favor.

[Also involved: CASE #: PZ11723-091019 – Friends of Young Judaea (Owner & Applicant), 9 Camp Road, PIN #: 008-059-000 – Submission of Application/Public Hearing/Non-Residential Site Plan review. Replacement of existing dorms in the Boy's area of the camp. Zoned Residential/Rural.]

Paul Chisholm reviewed the site plan with the Board. The cabins will be reconstructed with bathrooms and showers added. Sewer and electric will be brought to each. The rubble paths to each will also be re-laid; the same gravel material will be used. The applicant is requesting three waivers: 1) to locate all trees of a 5' or greater caliber within the site area, 2) relief from landscaping standards, 3) lighting around the structures themselves.

Paul Finger explained that they are hoping to locate the major trees within the area, but will leave the area mostly wooded. He also explained that the camp is only open in the summer time. All of the lighting will be turned off in the off-season.

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**Sally Wilkins moved to accept both plans, the CUP and the NSRP, for review as complete. Cliff Harris seconded.
All in favor.**

Paul Chisholm explained that there has been a revision to the original drainage plan. This will allow for more runoff from cabin 4A and will allow for more room for activities to the side of the cabin. This will cause an additional 997ft² wetland buffer impact. This is believed to be a reasonable modification.

Discussion:

Sally Wilkins stated that the ACC advises the Planning Board and the Board will wait to hear from them on some of these items.

In response to a question from Rich Hart, Paul Finger explained that the new bunks will be larger because the standards from the American Camping Association have changed.

Mike Dell Orfano reviewed the plan checklist.

**Cliff Harris moved no regional impact. Brian Coogan seconded.
All in favor.**

**Sally Wilkins moved to approve all three waivers. Cliff Harris seconded.
All in favor.**

**Sally Wilkins moved to table the final vote on this application to October 23rd. Cliff Harris seconded.
All in favor.**

- 3. CASE # PZ11721-091019 – Judith A. Imperato Trust (Owner) & Fieldstone Land Consultants, PLLC (Applicant) – 100 Baboosic Lake Road, PIN #: 006-006-000 – Submission of Application/Public Hearing/Final Subdivision. Subdivide existing Tax Map 6, Lot 6 into two residential lots. The new proposed lot will be 3.057 acres and the remaining lot will contain 12.995 acres. *Zoned Residential/Rural.***

Mike Ploof, of Fieldstone Land Consultants, PLLC, explained that this proposal is to subdivide Map 6, Lot 6 into two residential building lots. The total area of the lot is 16.05 acres, with 771 feet of frontage. The proposed new lot would be 6-6-5. There are at least two waivers being requested: 1) topography on the remainder lot, because there will be no improvements or changes made to it, 2) building setbacks on the remaining lot, for the same reason. Additional waivers could include: fiscal, environmental, traffic, drainage, hydrology, etc. studies because this is a minor subdivision with no intent to develop the remainder lot.

Discussion:

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In response to a question from John D'Angelo, Mike Ploof stated that the purpose of the application is to develop the new lot.

The Board discussed the location of a stump dump on the property and that its location was noted on the plans and should be included in the deeds.

**Cliff Harris moved no regional impact. John D'Angelo seconded.
All in favor.**

**Sally Wilkins moved to waive all of the impact studies because this is a single lot subdivision. Cliff Harris seconded.
All in favor.**

**Sally Wilkins moved to accept the plan for review as complete. Cliff Harris seconded.
All in favor.**

**John D'Angelo moved to approve the waiver requests [topography, building setbacks on the remaining lot]. Cliff Harris seconded.
All in favor.**

The Board discussed the threshold levels of work, per RSA 674:39 for active and substantial development. They decided that the first threshold will be recording the plan. The second threshold will be getting a driveway permit.

**Sally Wilkins moved to approve the plan as presented, with the precedent conditions of the changes before the creation of the mylar that were previously discussed, with the paying of any necessary fees and, subsequent to conditions that the bounds being set as a precedent condition that they wind up on the mylar and the subsequent condition that the applicant has to comply with the subdivision regulations and the land is going to be developed as detailed on the plat. John D'Angelo seconded.
All in favor.**

- 4. CASE #: PZ11722-091019 -TransFarmations, Inc. – Carter Scott, President (Applicant), Robert H. Jacobson Revocable Trust (Owner) & Edward M.P. Smith (Owner) - 17 Christian Hill Road, PIN #: 005-100-000 & 3 Stonewall Crossing, PIN #:005-088-001 – Submission of Application/Public Hearing/Lot Line Adjustment. To depict a Lot Line Adjustment between parcels 005-100-000 & 005-088-001. Zoned Residential/Rural.**

Sally Wilkins recused herself.

Ken Clinton, of Meridian Land Services, Inc., explained that this lot line adjustment is between the Jacobson property, about 90.4 acres of vacant land, and the Smith property, about 6.6 acres

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of a house lot. The intent is to create Parcel A, which is part of the Jacobson lot, 6.7 acres, part woodland and wetlands. This is located in the southerly corner of the lot. It will be conveyed from the Jacobson lot to the Smith lot. The remaining Jacobson lot will be 83.7 acres, and the resulting Smith lot will be 13.3 acres. This is simply a transaction between two private land owners.

Ken Clinton reviewed the staff comments on the application.

Discussion:

Bill Stoughton, 11 Pinetop Road and ACC member, explained that the abutting lot 5-89, called the Rough Diamond Lot, is managed by the ACC. There is an easement on Lot 5-88-1 to provide access to the Rough Diamond Lot from Lyndeborough Road. The corridor is on the eastern boundary and is about 10' wide. The ACC would like for this easement corridor to be depicted on the plan, so as not to be lost.

Ken Clinton stated that he didn't find a recorded plan for this easement, but will depict it if one is found.

Bill Stoughton supplied Ken Clinton with a recorded deed of the easement that provides the boundaries.

In response to a question from Richard Hills, 8 Winding Hollow Road, Ken Clinton explained that this lot line adjustment would not allow for the lot to be further subdivided. This is a private matter with an adjacent land owner.

**Cliff Harris moved to accept the plan as complete. Christy Houpis seconded.
All in favor.**

Cliff Harris moved to approve the plan subject to adding the easement information to the record and the other items that will be changed as noted by Ken Clinton.

**Brian Coogan seconded.
All in favor.**

OTHER BUSINESS:

5. Minutes: September 4, 2019 & September 18, 2019

**Sally Wilkins moved to approve the minutes of September 4, 2019 as amended [Line 20, 'planned' changed to 'anticipated;'] Line 147, 'Legal counsel has stated' changed to 'Attorney Muller claimed']. John D'Angelo seconded.
All in favor.**

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437 **John D'Angelo moved to approve the minutes of September 18, 2019 as amended**
438 **[Line 243 'said' added after 'Mike Akillian']. Cliff Harris seconded.**
439 **All in favor.**

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441 **John D'Angelo moved to adjourn at 11:12pm. Cliff Harris seconded.**
442 **All in favor.**

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451 Respectfully submitted,
452 Kristan Patenaude

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454 Minutes approved as amended: October 23, 2019