

TOWN OF AMHERST  
Planning Board

December 16, 2020

**APPROVED - Amended**

In attendance: Arnie Rosenblatt - Chair, Dwight Brew-Selectman Ex-Officio, Bill Stoughton, Brian Coogan, Mike Dell Orfano, Tracie Adams (Alternate), Chris Yates (Alternate), Marilyn Peterman, and Christy Houpis (Alternate).

Staff present: Nic Strong, Community Development Director; Natasha Kypfer, Town Planner; and Kristan Patenaude, Minute Taker.

Arnie Rosenblatt called the meeting to order at 7:01 p.m., with the following statement. As Chair of the Amherst Planning Board, I find that due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic and in accordance with the Governor's Emergency Order #12 pursuant to Executive Order 2020-04, as extended by various Executive Orders, this public body is authorized to meet electronically.

Please note that there is no physical location to observe and listen contemporaneously to this meeting, which was authorized pursuant to the Governor's Emergency Order.

However, in accordance with the Emergency Order, I am confirming that we are:

Providing public access to the meeting by telephone, with additional access possibilities by video or other electronic means:

We are utilizing Zoom for this electronic meeting.

All members of the Board have the ability to communicate contemporaneously during this meeting through this platform, and the public has access to contemporaneously listen and, if necessary, participate in this meeting through dialing the following phone #312-626-6799 and password 832 2254 2633, or by clicking on the following website address: <https://zoom.us/j/83222542633> that was included in the public notice of this meeting.

Providing public notice of the necessary information for accessing the meeting:

We previously gave notice to the public of the necessary information for accessing the meeting, including how to access the meeting using Zoom or telephonically. Instructions have also been provided on the website of the Planning Board at: [www.amherstnh.gov](http://www.amherstnh.gov).

Providing a mechanism for the public to alert the public body during the meeting if there are problems with access: If anybody has a problem, please call 603-341-5290.

Adjourning the meeting if the public is unable to access the meeting:

In the event the public is unable to access the meeting, the meeting will be adjourned and rescheduled.

Please note that all votes that are taken during this meeting shall be done by roll call vote.

Let's start the meeting by taking a roll call attendance. When each member states their presence, please also state whether there is anyone in the room with you during this meeting, which is required under the Right-to- Know law.

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**Roll call attendance: Dwight Brew; Bill Stoughton; Brian Coogan; Tracie Adams; Marilyn Peterman; Christy Houpis; Chris Yates; Mike Dell Orfano; and Arnie Rosenblatt; all alone and present.**

*Christy Houpis sat for Cynthia Dokmo.*

**Public Hearing on Proposed Zoning Ordinance Amendments. See separate notice.**

Arnie Rosenblatt read and opened the public hearing.

Nic Strong reviewed the proposed amendments with the group:

- 1) This is a housekeeping item to remove any reference to the Integrated Innovative Housing Ordinance (IIHO) in the Zoning Ordinance. The petition from March 2020 removed Section 4.16, IIHO, but did not also remove all references to it. Town Counsel has advised that this now be done through this separate article.
- 2) This item is due to a Zoning Board of Adjustment (ZBA) application proposed earlier this year for a garage that fronted on two roads; it was setback from one road by 50' and one by 31'. The ZBA has historically interpreted the language to be that the structure must be setback 50' from both roads, but a strict reading of the language created confusion and the applicant, thus, applied for a variance, which was granted. This proposal is to change the language to make it clear that even accessory structures on a corner lot must be setback 50' from both roads.
- 3) This item deals with Planned Residential Development (PRD) applications. This gives a method to calculate the density for these applications by referencing the Purpose section.
- 4) This item adds the density calculation to the Elderly Section but putting back in language that was originally in place, prior to the IIHO.

Nic Strong suggested that the Board table this conversation to January 6, 2021, so that Town Counsel can review these proposed amendments.

Arnie Rosenblatt stated that he would first ask for any comments from the public. There were none. He then asked if there were any questions/comments from the Board.

In response to a question for Bill Stoughton, Nic Strong explained that the language being proposed to be included in the PRD applications gives the Planning Board guidance on how to determine density, based on the Purpose Statement.

Mike Dell Orfano questioned if prescribed density calculations should be included in the PRD. Nic Strong noted that Town Counsel advised that that suggestion was not the best way to handle this item.

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In response to a question from Mike Dell Orfano, Nic Strong explained that, per Town Counsel, the statement in the Purpose Section of the ordinance is enough to give the Board the discretion to determine density on a case-by-case basis.

Mike Dell Orfano stated that this sounds very subjective and counter to how the Board has handled this process in the past.

In response to a question from Marilyn Peterman, Nic Strong stated that this proposal does not look to reference the number of bedrooms to determine density for PRDs, but instead references the Purpose Statement and allows the Board to take its guidance from that.

Mike Dell Orfano asked Nic Strong to read the Purpose Statement because he could not readily access it. Nic Strong explained that the Purpose Statement is found in the first section of 4.17, the PRD Ordinance. The Purpose Statement reads: "Planned Residential Development allows an alternative pattern of land development to the pattern permitted in the Residential/Rural, Northern Rural, Northern Transitional, and Commercial Zones. It is intended to encourage the preservation of open space and, at the same time, provide for a greater variety of housing types and affordability in the Town of Amherst at somewhat greater densities than permitted elsewhere in the Zoning Ordinance, without causing a significant increase in the town-wide population density. It is envisioned that in a PRD, dwelling units will be constructed in clusters which are harmonious with neighborhood developments and housing, and with natural surroundings. These clusters shall detract neither from the ecological and visual qualities of the environment, nor from the value of the neighborhood, environment, or the Town. The PRD should contain a variety of housing types to accommodate the Master Plan purposes of encouraging a diversity of people, a variety of age groups of different interests, backgrounds, and economic levels. The overall site design and amenities should enhance the quality of living for the residents of the development and, in general, the neighborhood and the Town. The Board shall determine whether the proposed PRD, namely the site plan or layout, and number, type, and design of the proposed housing is suitable to the neighborhood within which it is to be located and is consistent with the Master Plan and its reasonable growth objectives."

Mike Dell Orfano questioned how the Board is to define "somewhat greater density." He also questioned if the approval for individual lots is somewhat smaller than the minimum acreage of the zone, what are the setbacks and frontages. The mechanism of the IIHO specified that a PRD would be allowed by a Conditional Use Permit. He questioned what conditions the Planning Board can impose upon a PRD beyond the 40% open space, as specified in 4.17 F. He questioned how the ordinance could be so subjective.

In response to a question from Arnie Rosenblatt, Mike Dell Orfano stated that, prior to the IIHO, the objective bases used to determine density were very formulaic. Marilyn Peterman added that the density calculations were based on the number of bedrooms after the 40% open space was calculated. There were generally not lot lines, setbacks, etc. The number of bedrooms determined the number of units that could be built of different types.

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Mike Dell Orfano noted that he believes this proposed amendment is flawed and he will not vote to support it.

Arnie Rosenblatt suggested that Town Counsel provide written opinions on these items to the Board. He also suggested that the Board try to meet with Town Counsel, prior to its January 6, 2021, meeting. Nic Strong stated that she would check with Town Counsel on his availability. Marilyn Peterman suggested that Town Counsel also be given a copy of the ordinance language that existed for the PRD ordinance, prior to the IIHO.

Dwight Brew stated that the IIHO language allowed density as an “up-to” amount. He does not see this proposed language as being any more subjective than that language.

In response to a question from Dwight Brew, Nic Strong explained that the proposed amendments to the PRD and Elderly sections specifically speak to the density calculations because when the IIHO was removed there was no language left to speak to that item. The PRD ordinance still contains the Purpose Statement, which allows the Board to determine density; the Elderly ordinance currently does not contain any language to this effect, hence the proposed amendment.

Christy Houpis noted that he thought, after the IIHO was deleted, that these sections would simple revert back to the language that existed prior to the IIHO. He would like more clarity on this.

**Christy Houpis moved to continue the discussion regarding the proposed Zoning Ordinance Amendments, to a public hearing on January 6, 2021, and request that Nic Strong schedule a meeting for Town Counsel to speak with the Planning Board prior to January 6, 2021, depending on his availability. Dwight Brew seconded. Roll Call: Brian Coogan – aye; Mike Dell Orfano – aye; Christy Houpis – aye; Dwight Brew – aye; Bill Stoughton – aye; and Marilyn Peterman – aye. Motion carried unanimously.**

**Public Hearing on Adoption of Revised Stormwater Regulations. See separate notice.**

Arnie Rosenblatt read and opened the public hearing.

Arnie Rosenblatt asked for questions/comments from the public. There were none. Arnie Rosenblatt asked for questions/comments from the Board.

In response to a question from Dwight Brew, Nic Strong explained that the next step for these proposed revised stormwater regulations, if the Planning Board votes to adopt them, is for the Board of Selectmen and Health Officer, acting as the Board of Health, to vote to adopt them as well.

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**Bill Stoughton moved to adopt the proposed Stormwater Regulations. Christy Houpis seconded.**

**Roll Call: Brian Coogan – aye; Mike Dell Orfano – aye; Christy Houpis – aye; Dwight Brew – aye; Bill Stoughton – aye; and Marilyn Peterman – aye. Motion carried unanimously.**

**PUBLIC HEARING**

- 1. CASE #: PZ12164-121619 – MIGRELA and GAM Realty Trust (Owners) & MIGRELA Realty Trust (Applicant), Carlson Manor, 153-159 Hollis Road, PIN #s: Tax Map 1, Lots 8 & 8-2, Tax Map 2, Lots 7, 7A, 7B, 3-1 & 3-2 – Public Hearing/Subdivision & Non-Residential Site Plan. Proposed 54-unit condominium style development. *Zoned Residential/Rural. Continued from November 4, 2020***

Arnie Rosenblatt read and opened the public hearing. He explained that the process will be to hear the presentation from the applicant, go to the Board for comments/questions, hear from the public, and then come back to the Board.

Chad Branon, civil engineer with Fieldstone Land Consultants, stated that he is representing GAM Realty Trust in this continued discussion for subdivision approval of a 54-unit condominium-style development. When last before the Board, a site walk was scheduled. Two site walks occurred, one on November 13, 2020, and the other on November 20, 2020. These walks looked at the proposed stormwater management areas and structures on site to be repurposed.

Chad Branon addressed the questions from the Staff Report. He explained that this project has been designed to support a 54-unit development, as per the already approved Conditional Use Permit (CUP). He noted that he has provided the Board with the correct density calculation spreadsheet that shows the 54-unit calculation. The notes on the plan are identical to the previous calculations done for the density bonuses.

Chad Branon explained that the design layout is essentially what was proposed on the conceptual plan presented at the CUP hearing. He believes the up-to 54-unit number has been proved out through the current design and studies completed. Some of the studies completed include an environmental and wildlife habitat evaluation, a letter from Pennichuck stating that there will be no negative impact on water availability to other residents nearby, a traffic study that showed favorable results, a hydrogeological evaluation that shows the depth to seasonal water table and stormwater/wastewater management systems, and a fiscal impact analysis that included an evaluation of the impact fee schedule. Chad Branon explained that the design details have been run past Keach-Nordstrom, and the applicant has no objections to the latest letter sent by Keach-Nordstrom. He stated that the applicant will still need a wetlands permit from the State for a proposed wetland crossing on site, and an Alteration of Terrain (AoT) permit, along with a permit from NHDOT for the road accesses. A permit will also be needed from NHDES for the proposed subsurface disposal system.

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Chad Branon explained that the second plan set sheet has added details about the boundary and consolidation plan. He stated that there have been questions regarding Sheet 9, Note 7, which reads that the "... applicant reserves the right to alter this, with approval of Town Staff ensuring that CUP compliance is maintained." The intent of this statement is to allow certain types of units to be shifted to certain lots based on what the buyer wants. This will allow latitude to address market conditions. Chad Branon stated that there is a suggestion that there will be local oversight throughout the project. He requested that the Board give insight as to if approvals for slight alterations need to be brought to the Board, or if they can be approved by Town Staff. He also requested insight on the proposed phasing plan.

Chad Branon stated that a list of possible road names has been submitted to the Fire Department and is awaiting approval. The intention is to reuse the stone walls that exist on site. All septic systems will need local and State approvals. The landscape plan has a component for the new plantings proposed in the wetland buffer to address the requirement for a restoration plan from the CUP approval; there is no separate plan for this item, but one can be made, if necessary. Chad Branon stated that the stormwater design is made to exceed local standards and will be worked through with Keach-Nordstrom. The design will also meet AoT design standards, which are fairly high because this is located within a sensitive watershed. There are three subsurface gravel wetland systems proposed on the property that will function with the infiltration systems. The proposed stormwater design will mitigate any stormwater impact from the project.

Chad Branon explained that there were previous concerns about the potential impact to the water temperatures flowing into the nearby cold water brook. He noted that there are not currently any surface waters on site from which to establish a baseline temperature. Consulting wildlife biologists believe that the proposed system is adequate and will meet/exceed local and state standards.

Chad Branon noted that the Staff Report touches on bonding. The applicant is willing to post a restoration bond, per the regulations. This will be prepared for review by Keach-Nordstrom. He stated that various notes from the staff report will be added to the plan with no objection.

Chad Branon explained that he believes this project has advanced far enough that the detail in the plan set and the information provided from the studies gives the Board enough information for a conditional approval.

Arnie Rosenblatt stated that counsel for a number of abutters, Dan Muller of Cronin, Bisson, & Zalinsky, P.C., submitted a letter on November 4, 2020, addressing some legal concerns. He explained that Nic Strong submitted this letter to Town Counsel for his opinion, but this has, unfortunately, not yet been received.

Mike Dell Orfano stated that, regarding Sheet 9 Note 7, he would like to see more specific language regarding the intent of the note. The language could be more specific in terms of relocating units due to lot usage, but not to change the mix of unit types within the site.

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Tracie Adams asked what had been done to follow up on the comments received from various Town Departments early on in the application process. Chad Branon stated that there has not been any further comment from Town Departments on this application. He has not yet been in front of the Amherst Conservation Commission (ACC), but hopes to file a wetland CUP package with them soon.

Tracie Adams asked about Pennichuck water and the provision of fire hydrants in the development. Chad Branon stated that the proposed fire hydrants are shown on the plan. The Fire Department will check the proposed placement of the hydrants. The development is located on a loop road and so the location of the hydrants can be flexible. Tracie Adams asked about comments in regard to the no parking signage and the width of the road, Chad Branon stated that these details will be added to the plan. The DPW and Fire Departments have stated that they are okay with the road width being reduced as proposed as long as cars do not park along the roadside.

Marilyn Peterman stated that, in follow up to Mike Dell Orfano's comments, she would not have a problem with moving different units within the development as long as the mix and the number of units stays the same. She asked how the units would be sold and how whoever was marketing the units would know that there could not be more of X number of units of X type. Chad Branon stated that usually there is a marketing plan for selling units that includes color coded lots to show which are allocated for particular uses. There is usually one primary real estate agent that will work through the sale. The marketing plan will be available onsite for reference.

Marilyn Peterman responded that there had to be follow through on that because unless all the footprints were the same, there may be units that cannot be built on certain parts of the lot where others could be, due to the size of the limited common areas defined on the plan. Chad Branon explained that the largest proposed unit footprint has been included for each lot, so that the layout can be moved around interchangeably.

Marilyn Peterman noted that all the architectural information submitted so far was for single family units. She asked what the floorplans would be like for attached units. Chad Branon stated that this had been pointed out in the staff report and he hopes to have the architectural floorplans for the attached units by the next Board meeting.

Marilyn Peterman noted that a development such as this usually has two parking spaces: one in the garage and one in the driveway and it was usually specified in the condo documents that there could be no off-site parking. She asked how parking was arranged in this subdivision and about visitor parking. Chad Branon explained that each unit is currently designed with a two-car garage and to allow for two cars to park in the driveway. There are 20 parking spaces available near the clubhouse, which will double as visitor parking. There will also be some parking available near the community garden, but this is to be used for the trails.

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In response to a question from Marilyn Peterman as to why a compliance hearing would be required for this application, Nic Strong explained that #5 in the Staff Report deals with a requirement in the Non-Residential Site Plan Review regulations for the portion of the site that is open to the public. This will require a public hearing, which needs to be completed before a certificate of occupancy can be given. Chad Branon stated that he would like to discuss this item in terms of phasing. He does not want to impact certificate of occupancies in phase I for something that needs to be completed in a later phase. He stated that he would review this with staff and come up with a plan to handle this, probably including notes to be added to the plan set.

Chris Yates stated that during the process the Heritage Commission had submitted comments suggesting that there be originality in lot layout and preservation of existing features. Chris Yates was concerned with the number of units on this main road into town and how it would affect the look and feel of the area. Chad Branon explained that, during the CUP process this development started with an up-to number of 66 units. He and the Planning Board worked through a number of different layouts until finding one that worked. This plan was reviewed with the Heritage Commission and that group issued a letter asking that the existing structures and stone walls on site be preserved. This was a condition of the CUP. The approved CUP included an up-to number of 54 units. The current plan looks to preserve the stone walls on the property and to repurpose the existing structures. Some of the stone walls will be set back in the line of the common area on site through the right of way. There was also a request made by the Board to distribute the proposed duplex units throughout the site, which this plan shows. The plan also tries to keep the wetlands within the open space areas of the site. Chad Branon explained that there are rows of pine trees on site that will be removed, but these are not natural features to the site as they were planted at some point in the past. The plan also looks to close a number of current curb cuts along Route 122 and install stone walls in those areas to keep with the rural character of the area.

Chris Yates stated that he would like to see additional information from the Heritage Commission about the repurposing of the existing structures on site. He would also like to examine the IIHO density worksheet to discuss how the repurposing of these structures is a benefit to the community for an increase in density bonuses.

Christy Houpis stated that he appreciates the detail that continues to be supplied. He has concerns regarding the balance of the proposed density of the project. He stated that the volume of traffic seen during the site walk he was on was concerning, especially due to the proximity of the property to the intersection of Route 101A. The traffic study seems to indicate that the project will not have an impact on traffic in this area, but he believes this is only a snapshot in time. He also has concerns about the drainage and the runoff. There have been concerns raised about the proximity to the cold water brook and the possible effect on the water temperature. He also appreciates the IIHO density spreadsheet calculation, but there is a difficulty in balancing the proposal for community and public space with the benefit to the Town.

Bill Stoughton discussed the stormwater items on site. He explained that he is not yet convinced that there will be no effect to the temperature of the nearby cold water brook due to the proposed



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proximity of the stormwater features to the existing wetlands. In the 10-year storm, the runoff will flow at a rate of 10 cubic feet/second, which will put some of it into Witches Brook. Unless this runoff is cooled, it will make an ongoing issue worse. He would like an analysis of this issue to be completed.

Bill Stoughton stated that three of the four proposed stormwater features on site are located in the wetland buffer. The ordinance states that this should be avoided altogether, and, if not, should be minimized. He is not convinced that the features, as currently designed, need to be located within the buffer. He understands that the proposed locations might be the most convenient, but he is unsure if placing them within the buffer could be avoided. He notes that the applicant received a 385% density bonus during the CUP process. In accordance with the ordinance, the Town needs to see a benefit from every bonus awarded. He does not believe that the consideration of density bonuses stops after the CUP is approved. He believes that this process continues through all phases of the application. He questioned if the Town would actually realize the supposed benefits that the Planning Board thought it was going to get when the CUP was approved for 54 units. He explained that the encroachment into the wetland buffers and the placement of the stormwater features are less of a benefit to the Town and were also not shown on the plans when the CUP was approved. He also questioned the proposed usage of the three buildings to be repurposed, in order to get an extra 12 density bonus units.

Chad Branon stated that there seemed to be a misunderstanding - the density for the proposed development was determined during the CUP process. In 2018, when the CUP was approved, there was no language in the regulations regarding that the density bonus provisions must be based on benefits to the Town. This item was changed after this development was approved through the CUP process. This is touched on in the Staff Report. He explained that the existing structures are proposed to be repurposed exactly as was stated during the CUP process. The three structures include a community building in the garden area, a community clubhouse, and a community building to be used by members of the development.

In response to a question from Bill Stoughton, Nic Strong stated that the 2018 ordinance document included one sentence, in Section E, regarding incentives: "In order to achieve the purpose of the IIHO, an applicant may propose to incorporate any of the following restrictions and amenities which have been determined to be desirable to the Town in accord with the Amherst Master Plan."

In response to a question from Bill Stoughton, Nic Strong stated that items deemed to be "desirable by the Town," is in the judgment of the Planning Board. Bill Stoughton stated that there is an element in the language that allows for judgement of the Planning Board to determine if a proposed amenity is desirable by the Town. He does not believe this determination ends at a CUP approval but carries on through the development of the project. Bill Stoughton explained that the Planning Board gave density bonuses during the CUP process for restrictions and amenities, but it is unclear if the related benefits to the Town have been realized.

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Dwight Brew explained that he attended the first site walk and that the group was, unfortunately, unable to view the three building proposed to be repurposed. In response to a question from Dwight Brew, Chad Branon stated that one of the structures to be repurposed is currently being inhabited. Chad Branon reviewed each of the structures proposed to be repurposed.

Dwight Brew asked about the improved access to public places that had been included in the spreadsheet for bonuses. Chad Branon explained that, as part of the CUP process, he and the Board went through each of the proposed amenities and the Board decided on an up-to number of units. The proposal is now going through a site design review and the up-to number is no longer being discussed. He is confused as to why there is a CUP process if the up-to number is going to continue to be discussed. The applicant has received the up-to number, as determined by the Board, and is now proving that site design through roads, septic, drainage designs, and other studies.

Dwight Brew brought up a discussion about the benefit to the Town from the proposed community open space. Chad Branon stated that the applicant's position on this item, and the Board's decision, was already discussed during the CUP process. Dwight Brew stated that, since he was not getting any answers, he had no further questions.

Arnie Rosenblatt stated that, regarding the burden on the applicant of showing the benefit of any proposed bonus, he does not believe it's true that, regardless of the ordinance language at the time that this application was initially discussed, individual members of the Board led anyone to believe that the ordinance provided that the bonuses were automatic. Arnie Rosenblatt read from the minutes of the August 15, 2018, meeting. He noted in the early stages of the CUP process that the incentive bonuses are not a formulaic process and that he believed each benefit must be a benefit to the Town, each must be demonstrated and that any bonus may not be granted. He stated that, regardless of the ordinance language, he believes the burden is on the applicant to show that each bonus requested is a benefit to the Town and explained that he articulated this during the CUP process. This was not arrived at from a revision to the ordinance.

Arnie Rosenblatt stated that the Board is waiting to receive word from Town Counsel on a number of issues, including senior housing being mixed with other types of housing in the development, as per Dan Muller's letter on page 2.

Public Comment:

In response to a question from Debra Keough, 16 Summerfield Way, Chad Branon stated that there are six existing wells on the property and that the applicant is looking into utilizing one of those wells for irrigation purposes. The applicant is not planning on using Pennichuck Water for the irrigation system. There has not been an impact study on the wells to nearby abutters, as the wells on site are private and only being used by the applicant.

Debra Keough noted that even private wells can have an impact on abutters.

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Linda Sutherland, 32 Peacock Brook Lane, stated that the drought that occurred toward the end of the summer this year is the first time in her seven years living in this area that she hasn't seen surface water on this site. She stated that her development consists of 19 units on 26 acres with a common area in the middle and that snow removal is a nightmare. She also noted that the HOA for her development pays the hydrant costs; they are not paid for by the Town. She has concerns regarding the increased traffic from this proposal and also has concerns about the wells.

Arnie Rosenblatt noted that, as no other hands were raised, public comment was closed.

Marilyn Peterman noted that traffic along Route 122 has been increasing for many, many years, even without the current developments that now exist along the road. She explained that Route 101A is rated a level D or F for traffic, and so much of the traffic has ended up offloading into Route 122. She believes that the Summerfields development is denser in units than what is being proposed through this application, and that it was approved even after this increase in traffic along Route 122. While the Peacock Brook development has had less of an impact to traffic, it was also built after the increase in traffic began.

Dwight Brew stated that he would like the Board to meet with Town Counsel and understand his opinion on a number of items. The Board can then have a discussion regarding the public benefit of the proposed bonuses and settle on a final unit number.

Brian Coogan asked, with regard to comments from abutters on drought and the timing of the hydrogeological study, if there was generally a lot of water in this area and would the neighboring wells be impacted. Chad Branon stated that the property in question is a large property with a good number of wells on it from which to obtain irrigation. Chad Branon stated that he has been involved with the design of many similar projects with wells that lay closer to abutters than the ones on this site; he has not seen an influence on neighbors from well use in these other developments. Chad Branon explained that water monitoring on the wells on site has been done and the static level is known. He stated that he is confident with this design's approach. Chad Branon explained that the wetland that bisects the property does not flow all the time and is seasonal in nature. The wildlife report touches on this item and also notes that the wetlands have been altered by man over time. Chad Branon went on to say that he had been working on this project for two to three years now and in certain seasons there was not enough surface water to monitor the temperature.

Christy Houpis stated that he appreciates the comments about not automatically approving the up-to number of units even at this point in the process. He has concerns regarding the impacts of the runoff into the cold water brook, especially due to the importance of this area. He was also concerned with the traffic and the impact of adding traffic to the existing numbers. Christy Houpis stated that the benefit to the community of granting the bonuses was tied into all these factors and that the Board needed comments from Counsel.

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Chris Yates agreed that the items of concern should be addressed with Town Counsel before moving forward with this application. He would also like to see additional plan items and a detailed phasing plan.

Mike Dell Orfano agreed with other Board member's concerns regarding runoff from the site to the brook. He noted that he remembers crossing running water while taking an earlier site walk. He does have concerns about the temperature of the water affecting the temperature of the cold water brook. He stated that he has concerns with the Board considering rolling back the up-to 54 unit number at this point. He explained that, if the benefit to the Town cannot be quantified or memorialized in some way, that might give the Board leverage to roll back the already given up-to number, but otherwise he believes there would need to be something significant from one of the studies to warrant a reduction in unit numbers. He stated that the CUP phase of this application has already concluded, and he is uncomfortable attacking the already given density number at this stage.

Tracie Adams agreed that she would like to hear from Town Counsel before moving forward with this application.

Bill Stoughton stated that he would like to hear from Town Counsel before moving forward. He also believes that the wetlands CUP will need to be resolved before the Board can make any further decisions on this application. In response to a question from Arnie Rosenblatt, Bill Stoughton explained that the applicant requires an approved wetlands CUP before being able to place stormwater features on site. If the CUP is denied, the site plan may need to be changed to accommodate any alterations. The Board would need to know if the site plan will be altered before voting on it. He stated that he believes he once heard Chad Branon say that the stormwater features could be placed somewhere else on the site without sacrificing the number of proposed units. He would like this process to play out prior to the Board voting on the site plan. The ACC has not yet seen this CUP application but hopes to soon.

In response to a question from Arnie Rosenblatt, Nic Strong stated that the Board has a deadline to take action on this application by January 8, 2021. The Planning Board's next meeting is on January 6, 2021. She noted, however, that the January 6<sup>th</sup> meeting was already very full, so, the Board could request to extend the deadline for this application to January 20, 2021, with the applicant's approval. Chad Branon asked if this application would be heard first on the agenda on January 20<sup>th</sup>. Nic Strong noted that nothing else was currently scheduled for that meeting. Chad Branon stated that he was in agreement with continuing this meeting until January 20, 2021, and agreed to extend the deadline for Planning Board action on this application until that date.

Chad Branon noted that the wetlands CUP will be submitted well in advance of the January 20, 2021, Planning Board meeting. Rob Clemens, Chair of the ACC, stated that the ACC will hear the wetlands CUP once received and send comments back to the Planning Board.

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Mike Dell Orfano questioned if the Board should also receive legal counsel on its ability to roll back the already given up-to number of units at this time. He explained that the ordinance, as it was written at the time this applicant's CUP was approved, was law. The up-to number approved was conditioned on the physical restraints of the site and has now been proven, at least in regard to the physical characteristics of the site. He believes that rolling back the number now could be an issue with regarding to the legal rights of the applicant.

Marilyn Peterman stated that she agrees with Mike Dell Orfano and has concern regarding interpreting the ordinance in this way.

Brian Coogan stated that he is comfortable moving forward with this application without hearing Town Counsel's opinion on this matter.

Dwight Brew, Tracie Adams, Chris Yates, and Christy Houpis all noted that they would like to hear Town Counsel's opinion on this matter.

Bill Stoughton stated that he is on the fence regarding hearing Town Counsel's opinion on this matter.

Arnie Rosenblatt stated that there is enough interest for Town Counsel's opinion to be sought on this item as well as the others previously mentioned.

**Mike Dell Orfano moved to table this application to January 20, 2021, at 7pm, via Zoom. Marilyn Peterman seconded.**

**In response to a question from Arnie Rosenblatt, Bill Stoughton stated that the Board could hear both the wetland CUP application and this application again at the same meeting without issue.**

**Roll Call: Brian Coogan – aye; Mike Dell Orfano – aye; Christy Houpis – aye; Dwight Brew – aye; Bill Stoughton – aye; and Marilyn Peterman – aye. Motion carried unanimously.**

**OTHER BUSINESS:**

**2. Minutes: 11/4/20 & 12/2/20; site walk minutes 11/13/20, 11/20/20 and 12/2/20**

**Christy Houpis moved to approve the meeting minutes of November 4, 2020, as amended [Line 359, to read "wetland ordinance."] Dwight Brew seconded.**

**Roll Call: Brian Coogan – aye; Mike Dell Orfano – abstain; Christy Houpis – aye; Dwight Brew – aye; Bill Stoughton – aye; and Marilyn Peterman – aye. 5-0-1; motion carried.**

**Mike Dell Orfano moved to approve the meeting minutes of December 2, 2020, as written. Christy Houpis seconded.**

TOWN OF AMHERST  
Planning Board

December 16, 2020

**APPROVED - Amended**

561        **Roll Call: Brian Coogan – aye; Mike Dell Orfano – abstain; Christy Houpis – aye;**  
562        **Dwight Brew – aye; Bill Stoughton – aye; and Marilyn Peterman – aye. 5-0-1;**  
563        **motion carried.**  
564  
565        **Christy Houpis moved to approve the meeting minutes of the site walk of November**  
566        **13, 2020, as written. Brian Coogan seconded.**  
567        **Roll Call: Brian Coogan – aye; Christy Houpis – aye; Dwight Brew – aye; Bill**  
568        **Stoughton - abstain. Motion carried.**  
569  
570        **Bill Stoughton moved to approve the meeting minutes of the site walk of November**  
571        **20, 2020, as written. Arnie Rosenblatt seconded.**  
572        **Roll Call: Bill Stoughton – aye; and Arnie Rosenblatt - aye. Motion carried.**  
573  
574        **Bill Stoughton moved to approve the meeting minutes of the site walk of December**  
575        **2, 2020, as written. Brian Coogan seconded.**  
576        **Roll Call: Bill Stoughton – aye; Mike Dell Orfano – aye; and Dwight Brew – aye.**  
577        **Motion carried.**  
578  
579        **Christy Houpis moved to adjourn the meeting at 9:43pm. Mike Dell Orfano**  
580        **seconded.**  
581        **Roll Call: Brian Coogan – aye; Mike Dell Orfano – aye; Christy Houpis – aye;**  
582        **Dwight Brew – aye; Bill Stoughton – aye; and Marilyn Peterman – aye. Motion**  
583        **carried unanimously.**  
584  
585  
586  
587        Respectfully submitted,  
588        Kristan Patenaude  
589  
590        Minutes approved as amended: January 20, 2021