

TOWN OF AMHERST
Planning Board

April 6, 2022

APPROVED

In attendance at Amherst Town Hall: Tracie Adams – Vice Chair, Bill Stoughton – Board of Selectmen Ex-Officio, Chris Yates - Secretary, Tom Silvia, Cynthia Dokmo, and Tom Quinn. Staff present: Nic Strong, Community Development Director; Nicole Stevens, Town Planner, and Kristan Patenaude, Recording Secretary (via Zoom)

Tracie Adams, Vice Chair, called the meeting to order at 7:00 pm at Town Hall. She noted that she will act as Chair tonight in Arnie Rosenblatt's absence. She introduced Board members and Staff.

PUBLIC HEARING:

1. CASE # PZ14920-101321 – Clearview Subdivision (Owner & Applicant); Boston Post Road, PIN #: 005-159-001 & 38 New Boston Road, PIN #: 007-072-000 – Subdivision Application. To depict the design of a 43-unit Planned Residential Housing Development and WWCD CUP known as Prew Purchase Condominium on Tax Map 7, Lot 72 & Tax Map 5, Lot 159-1. Zoned Residential/Rural. Continued from March 2, 2022.

Tracie Adams read and opened the hearing.

Cynthia Dokmo recused herself.

Nic Strong stated that the funds for the remaining engineering reviews were received on March 16, 2022. Keach-Nordstrom submitted the review to the Board today.

Tracie Adams explained that some of the information submitted by the applicant has not been as complete as some Board members may have wanted, and so some of the votes expected by the applicant tonight may not be made. The engineering review was only received late today, so the Board is likely not able to comment on it. She encouraged all applicants to submit application materials to the Board at least a week in advance of the meeting.

Ken Clinton, Meridian Land Services, and Erol Duymazler, Clearview Development, presented to the Board. Ken Clinton explained that the third-party review of the design set was received from Keach-Nordstrom earlier that day. It will likely take a week to review and comment on it. The delay of receipt of this report was partly due to miscommunication about the payment for the review and late payment from the applicant. There are still several items that must be discussed this evening, and he is hoping the Board will vote on two items in particular.

Ken Clinton explained that he did not believe the information provided to the Board tonight was new information to be provided a week ahead of time, but instead housekeeping items. This is a PRD subdivision proposal, grandfathered under the previous Innovative Integrated Housing Ordinance (IIHO) that is now defunct. Information for six key items have been assembled: senior housing requirement compliance to be overseen by a third-party management company – to be written into the condo docs; interior road signs suggested to be similar to the highway-style signs referenced in the Keach Nordstrom report; well testing for two wells in the east village per the

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StoneHill review protocol, and hybrid well testing of the west village using the State protocol with the StoneHill well requirements table; requiring state-of-the-art irrigation systems which monitor and adjust for precipitation and soil moisture or ones similar to that; private roads will be maintained in accordance with Green SnowPro practices; and agreement to follow items 1, 3, 4, 5, 7, and 8 listed in the GZA environmental study which suggested eight recommended conservation measures, with #8 being a construction inspection due to the prior study's timing. Ken Clinton noted that he omitted item #2, which recommended limiting the openings of catch basin grates to a 1"x1" square, as this would increase the size of the catch basin required to receive the same flow. The State's stormwater requirements will not favor this configuration; thus, it is not listed at this time, but can be further discussed during construction if needed.

Ken Clinton explained that he had two key items to discuss with the Board. The first was a potential condition of approval regarding public water supply systems. He would like a vote tonight as to whether this item will be a requirement. The water supply report and subsequent hydrogeological study from Sanborn Head shows that there is sufficient water supply as proposed for the 27 wells on site. The Town's third-party review by StoneHill confirmed this. Testing protocol recommended by StoneHill has been agreed to by the applicant. The wells, which have overlapping 75' protective radii, are placed to maximize utility of the units and their infrastructure, and allow for less woodland disturbance, similar to other developments. The limited common areas proposed must contain septic systems, driveways, and stormwater systems, thus placing the wells in the back of the property. Wells, when possible, should be located close to each other, in order to leave space for septic locations, and to allow efficiency of one stop to set two wells. This development cannot control the suitability of an abutter's well location and their depth, nor their use/overuse. There are too many unknowns about an abutter's quality and quantity to restrict the applicant's reasonable use of this land. Testimony from water supply experts shows that this property can support the 27 wells proposed, regardless of the abutters' well conditions. Ken Clinton stated that a public water supply system should only be required if a demonstrated need can justify this condition of approval. Studies and third-party reviews submitted do not show this justification. There will not be a reduction in volume of water drawn on this site based on one public water supply versus 27 wells. The suitability and compliance of the proposed wells is placed on the owner. The owners must ensure quantity and quality based on the established standards. The cost of a public water supply system for this site may cost approximately \$700,000. This would require an additional 15 +/- units to cover that extra cost. Inclusion of this system would require substantial redesign of the current plans, including a cross-country water main with gravel road access for maintenance through the open space with additional wetland CUP approvals. Ken Clinton explained that this cannot be a conditional approval at the end of this proposal but should have been considered during the CUP process. There is no demonstrated need for this type of system. It is critical for the applicant to know the position of the Board on this item at this time.

Ken Clinton asked if the Board would like to comment at this time. Tracie Adams asked Ken Clinton to complete his whole presentation first.

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Ken Clinton stated that his second item of importance for this evening is pretreatment septic systems. The west village is proposed to be similar to single-family condominiums. Each unit has its own well, leach field, driveway, etc. The east village is proposed to have 18 senior units with shared wells and leach fields. Systems similar to envirotube systems will likely be used, and pretreatment systems are not considered to be necessary. The currently proposed leach fields are pre-sized based on unit location, bedroom count, and the test pits performed on site. Each one on the west village is pre-sized for approximately 600 gallons/day, similarly on the east side. Their positions are such to maximize the gravity systems, comply with existing wetland setbacks and well radii. They comply with NH DES requirements and the Town's stricter requirements. Pretreatment septic systems would require a demonstrated need, and there has been none shown. The Town does not have nitrate design criteria as part of their septic requirements, but the State does. These do not kick in until systems are greater than 1,000 gallons/day. Up to that amount, the State considers that the 50' wetland setbacks and 75' protective radii cover the systems. The State also applies a 50' downgradient and 12' upgradient nitrate setback, if there is more than one leach field on a lot. This does not apply to this proposal, yet these requirements are still met by the proposal. The added cost for a single leach field to be converted to a pretreatment system is approximately \$10,000. Additional units may be needed to cover this cost, if required, or the project may be deemed economically unfeasible. There are also additional yearly maintenance costs associated with these systems. There is a question as to what could happen if the power goes out for several days, as pretreatment systems run on electricity. Residential systems are a very minor concern with regard to nitrates as compared to fertilizers or pet waste.

Ken Clinton suggested condition #7, lime and low phosphate slow-release fertilizer may be incorporated into the soil prior to, or at the time of, seeding. Seeding practices shall comply with local USDA Natural Resource Conservation Services recommendations. Low phosphate slow-release nitrogen fertilizer to contain no more than 2% phosphorus and, at a minimum 50 % slow-release nitrogen components. This is a substantially better remediation of nitrates on the property than adding the pretreatment systems, which he, again, does not believe are justified.

Ken Clinton explained that a professional opinion regarding the traffic from the site, and a third-party review of that opinion have been submitted. While there are some traffic issues present at nearby intersections, the percent contribution from the proposed number of units does not cause those problems and does not create a significant adverse impact. He is unclear what the scope of the current NRPC traffic review is for the Village area. He asked if a decision on this item is one that will be held up until the NRPC study can be completed, and, if so, what the timeline for this looks like.

Ken Clinton explained that a former Planning Board member raised concerns regarding potential blasting. There is little blasting proposed, especially in the east village. The test pit results and cut-and-fill designs confirm this. Any blasting will be central to the property and not impact abutters. A blasting study is not required for this project due to its proposed nature. He asked if the Board is concerned about blasting and what the specific concerns are.

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Ken Clinton explained that the applicant needs to know if the Board will require either the public water supply or the pretreatment systems and he would like to hear specific concerns that dispute the facts presented to justify either of these items.

Tracie Adams asked that the Board first address the item regarding blasting.

In response to a question from Tom Quinn, Ken Clinton stated that he does anticipate some blasting to occur as part of this project. Ken Clinton stated that has not yet run the calculations for estimated cubic yards needed for blasting, but he estimates 150 linear feet blasted to an approximate depth of 5-7'. There may also be a trench needed below that. The nearest residence to this area is approximately 850'. Ken Clinton stated that he does not believe blasting would cause shaking or anything else that could damage the Historic District.

In response to a question from Tom Silvia regarding the number of days for proposed blasting, Ken Clinton stated that the amount of blasting will depend on the nature of the rock on site. Utilities will need to be several feet below the paved surface and some of the drainage structures will likely be at the greatest depths. Ken Clinton stated that he does not want to give an estimated number of days for blasting on site, because he does not yet know. There are also standards for the Alteration of Terrain Bureau that need to be followed.

In response to a question from Bill Stoughton regarding comparing this to other projects in Town that have involved blasting, Ken Clinton stated that he is involved with the Founder's Village project that has approximately 47 clustered units. This project would propose approximately 1/5 of the blasting needed for that project. The phased construction of Founder's Village has continued while current residents have been living in their units. There have been no reports of complaints of the blasting at Founder's Village. Bill Stoughton stated that he has no concerns regarding blasting as part of this project at this time.

Chris Yates stated that he has no concerns or questions regarding blasting at this time.

Tracie Adams asked the Board to address the issue regarding traffic.

Tom Quinn stated that he has no concerns or questions regarding traffic at this time.

Tom Silvia stated that he would like to have an understanding as to where the NRPC study stands. He would like to incorporate this into the Board's thinking on this topic.

In response to a question from Bill Stoughton regarding the timeline for the NRPC study, Nic Strong stated that she believes this will be completed by the end of April.

Bill Stoughton stated that he hopes the NRPC study would be completed in time to review it as part of this application. The traffic problems addressed by that study are not wholly of the applicant's making. The Town will need to do something to address traffic and the question is

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what role the applicant might play. He does not believe the Board will likely hold up a decision on this item in order to receive the study.

Chris Yates stated that he has no concerns or questions regarding traffic at this time.

Ken Clinton noted that this project will be subject to impact fees and asked the Board to consider earmarking the road impact fees toward the potential intersection projects. Bill Stoughton noted that the Board of Selectmen authorizes spending of the impact fees.

Tracie Adams asked that the Board address the pretreatment septic system item.

Tom Quinn stated that pretreatment systems are important to consider as part of this project, in order to maximize the amount of protection to groundwater resources.

In response to a question from Tom Silvia, Erol Duymazler stated that the cost of the units will be market driven. While the bedroom count of these units is known, the square footages are not yet known, and this will drive the cost. Erol Duymazler estimated the cost of units on the west village to be approximately \$500,000. Tom Silvia noted that the additional \$10,000 to upgrade to pretreatment septic systems is an incremental cost of 2%. Erol Duymazler stated that this could still be a significant impact on the amount of profit made for this project. Ken Clinton explained that the impact of this one item must be looked at with the impact of all other items on this project.

Bill Stoughton stated that the pretreatment systems were suggested by StoneHill as part of their report, with the rationale that the close proximity of the wells and septic systems raised concern that nitrates may be introduced into the drinking water.

Ken Clinton read from the StoneHill report, *"With respect to development impacts to the water quality in the bedrock underlying the Site, it is unlikely to be measurably impacted due to incidental releases of oils and/or hazardous material potentially found in roadway runoff or discharged to residential septic systems. However, StoneHill does have some concern regarding potential impacts to groundwater quality by nitrates from up to 25 densely located traditional residential septic system leach fields, possibly in the vicinity of the same number of on-site supply wells. As such, we suggest that Clearview Development Group consider the use of advanced treatment septic systems to minimize impacts to groundwater quality by reducing the concentration of nitrates in the effluent discharged to the septic system leach fields."* Ken Clinton stated that StoneHill's suggestion was that Clearview consider these systems, and the applicant did based on the Town and State requirements and the impact they would have on this development. The focus of the review was regarding water supply, not to consider pretreatment septic systems. He stated that he would be happy to compile information to refute these suggestions.

Bill Stoughton stated that he thought he was going to see this additional information presented tonight. Ken Clinton stated that it is unnecessary. Bill Stoughton stated that the applicant is

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asking the Board to rely on this professional opinion for other items, such as that the water supply on site is adequate but should also disregard the same expert in terms of their opinion regarding the pretreatment systems. He will need information based on the actual locations of the wells and septic systems that the nitrate entering the water is not an issue, or that the cost to install these systems is prohibitive. The reported cost of these systems could be a sales point and is a small amount on the cost of the units.

Tracie Adams asked the Board to discuss the public water system item.

Tom Quinn stated that this is his greatest concern for the site, due to the number of abutter concerns regarding their water supplies. The StoneHill report also listed a concern regarding the close proximity of the wells in the development and that effect on well yields. Given that there are already issues for some neighbors, adding more units would likely make this issue worse.

In response to a question from Tom Quinn, Ken Clinton explained that Pennichuck has a water supply in Town but the costs to bring it down the road are approximately \$1M. The closest entrance to that system is at the Wilkins School site. This would also require an additional road through the site for maintenance. There are additional taxes on Pennichuck's infrastructure imposed on developers. Ken Clinton stated that this may have been a possibility when the applicant was originally seeking approval for approximately 63 units, but not now.

Chris Yates stated that he has no questions regarding a public water system at this time.

Bill Stoughton stated that he was not suggesting extending Pennichuck water to this site, but instead suggested community-based well systems, professionally installed and managed. He asked if water quality testing needs to be done on each well. Ken Clinton stated that he identified the StoneHill protocol as their company's program. The east village has a mini-community system proposed, with two wells serving 18 units total. The applicant is agreeable to follow the StoneHill protocol for testing, which is quality and quantity.

Bill Stoughton stated that he is concerned regarding water quality issues. Both experts used for testing are in agreement, in terms of water quantity for this site, and he believes the Board must trust those experts, although he is still concerned. His main concern is for potential PFAS and water quality of this site. There are currently over 200 residents' wells in Town that exceed the current PFAS State standards. These are being connected to Pennichuck, where possible, or being treated with aid from Town/State rebates. The community well he is suggesting would likely reduce the number of wells to be drilled, locate them in a less susceptible area to nitrate contamination by septic systems and potentially avoid the need for pretreatment systems, treat the water with professional management, and the Town would know it would be delivering good quality water to the residents of the development. The applicant was previously asked by former Board member Dwight Brew if PFAS testing of new well water was required. Ken Clinton stated that he does not know the full answer to this question.

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Ken Clinton stated that water quality has been a much less discussed concern than quantity. If the applicant can leave this meeting and seek more stringent water testing regarding quality, while knowing that a public water supply is not going to be required, the applicant would be agreeable to this. Bill Stoughton stated that tonight was the first time he heard a potential cost of a community water system, and he would like to see more information on this. The cost may be prohibitive and there may be alternates, but this has not yet been shown by the applicant.

Chris Yates stated that having shared wells in the west village may be a good idea. The vicinity of some of the proposed wells on that portion of the site are fairly close. Ken Clinton stated that the proximity of the wells is purposeful. Sanborn Head did not have concern regarding the well locations. If there is an issue with a well, the builder will need to shift it and still maintain all other requirements. There are no concerns with the well locations regarding either quality or quantity. He believes a level of testing that satisfies the Board but does not raise to the level of a public water supply system can be achieved. He still has not heard specific reasons as to why this is needed.

Tracie Adams opened the floor to public comment.

Will Ludt, 3 School Street, stated that previous large projects in Town that involved drilling and jackhammering caused damage to some of the older houses in the Historic District. These projects were in close proximity to his house, within 500'. He believes this could be an issue as part of this development and the blasting proposed.

Bob Ellis, 7 Farmington Road, stated that he lives in a neighborhood near a previous development constructed by this developer and had no bad experiences or issues. This is not a national corporate developer, but a local person with good interests.

There was no additional public comment at this time.

Bill Stoughton stated that the west village hybrid testing protocol has not yet been reviewed by the Board. Ken Clinton stated that he shared the DES fact sheet and the StoneHill review, but he has not consolidated this into a singular protocol as it is unclear if the Board is going to require a public water supply. Bill Stoughton stated that he is open to a hybrid protocol but would like to first review it. Ken Clinton stated that the applicant has agreed to follow through with this item.

Bill Stoughton stated that the Board gave early comments regarding proposed bedroom counts for this project. Ken Clinton stated that this will be revisited, and he will address it, along with the hybrid protocols.

Bill Stoughton stated that he would like more information on the cost estimate for the public water supply system, as well as information on the efficacy of using traditional septic systems in this proximity to wells. He believes StoneHill was trying to alert the Board to concerns regarding this item. Ken Clinton asked if the Board would allow him to follow up directly with StoneHill on this item. The Board agreed with this suggestion.

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In response to a question from Tracie Adams regarding the community water supply cost estimate, Ken Clinton stated that this information will largely be based on other contractor's information. He will also try to get a professional engineer who designs them to weigh in, but he is concerned the Board will not be satisfied with all of this information as it will not be 100% applicable to this site.

Tom Quinn stated that the DPW and Fire Chief comments regarding the hammerheads also need to be addressed. Tracie Adams asked that comments be focused on the items mentioned tonight by Ken Clinton.

Tracie Adams asked if the applicant is okay waiting to see the results of the NRPC traffic study, possibly at the end of April. Ken Clinton stated that he does not believe the applicant has a choice, and that this will be an additional item discussed at a continuance.

In response to a question from Chris Yates regarding a requirement when blasting to post notice to the Town, Ken Clinton stated this is customary, particularly for emergency services. The applicant would agree to additional notices of this type.

Tom Quinn stated that he has concerns regarding if the blasting takes place over a prolonged time period.

Tracie Adams noted that all of the items requested to be addressed by the applicant have been, in some fashion, by the Board at this time.

Bill Stoughton stated that the applicant's IIHO CUP approval is a year old, March 17, 2021. Under the regulations, the approval is good for a year and can be extended for an additional year. He asked if the applicant is seeking an extension to March 17, 2023. Ken Clinton stated that he has not verified this information but would trust this information and requested said extension.

**Bill Stoughton moved to extend the validity of the IIHO density CUP approval for Clearview Development until March 17, 2023. Seconded by Chris Yates.
Voting: 5-0-0 motion carried.**

Ken Clinton asked for a continuance to the next meeting, with the understanding that he will submit additional information to the Board ahead of that meeting.

**Bill Stoughton moved to continue this hearing to May 4, 2022, at 7pm at Town Hall, with the understanding that the applicant will accept extensions to the necessary deadlines. Seconded by Tom Quinn.
Voting: 5-0-0 motion carried.**

Cynthia Dokmo retook her seat.

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

2. CASE #: PZ15481-030922 – Dwayne D. Andreasen, c/o DDA Services Inc. (Owner & Applicant); 13 Lake Front Street, PIN #: 024-031-000 – Conditional Use Permit. To move an existing home away from the lake on the lot and set on new concrete foundation. Install new pre-treatment septic system and stormwater management and drill a new well. Zoned Residential/Rural.

Tracie Adams read and opened the case. She noted that the Board determined on March 16, 2022, that there was no regional impact from this application.

Bill Stoughton moved to accept this application as complete. Seconded by Chris Yates.

Voting: 6-0-0 motion carried.

Tracie Adams noted that some information on this project was received late in the day. She noted that materials are preferred to be received at least a week in advance.

Tom Carr, Meridian Land Services, addressed the Board. He explained that this is a redevelopment project. There is an existing structure on the property. This request is a combination CUP and Shoreland Water Quality Protection Act application. This was presented to the Conservation Commission a couple of weeks ago and the existing plan is different than shown during that meeting. This was revised due to DPW comments regarding parking in the right of way. The applicant has agreed to change the plan to have a garage under the structure to address these comments. Tom Carr explained that the existing structure is on the front property line; the proposal is to move it back 5' and rotate it to better fit within the lot lines. The lot is entirely wooded. Some trees will need to be removed, but this will comply with the Shoreland Water Quality Protection Act permit. There is no current stormwater management on the property, so a stone drip edge around the house and a crushed stone driveway are proposed. Under the Shoreland regulations, because the situation on site is being improved, stormwater management is not required. Not all Town stormwater regulations can be complied with, due to the size and location of the lot. This speaks to the requested waiver. The existing septic system is in an unknown location on site. The proposal includes a pretreatment septic system. The leach field is 4' above the mean high-water table. There is an existing dug well on the property. A new well is proposed to be drilled.

Tom Carr stated that the intention is to move the existing structure back on the lot. If this cannot be done, it will need to be razed and replaced in that location. He noted that allowing the Heritage Commission to document the structure, if it needs to be demolished, should be a condition of approval.

Tracie Adams asked for Board questions and comments.

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Chris Yates stated that updating the septic and stormwater features on site are great improvements. He is glad that the plan has been updated based on comments from DPW. Tom Carr noted he had specified the elevation at the road front, the lot line, and the driveway will be pitched at 1%, as suggested.

Bill Stoughton stated that he has not yet had a chance to review the new site plan, due to the lateness of submittal.

In response to a question from Bill Stoughton, Tom Carr stated that he has not yet had a chance to review the revised site plans with DPW. Bill Stoughton stated that he would like this to be a condition of approval.

Tom Carr noted that the shrubbery in the right of way is not an issue for this proposal.

In response to a question from Bill Stoughton regarding the lot line and the driveway, Tom Carr explained that the driveway extends past the end of the lot. Everyone's driveway in this area is within the right of way. Bill Stoughton stated that he is okay with this, as long as it is approved as part of the Town's review of the driveway permit.

In response to a question from Bill Stoughton regarding the ACC's concerns about the dam materials in the dripline, Tom Carr stated that the revised plan shows 2' wide by 2' deep stone block check dams.

Tom Carr explained that the infiltration trench is 600 cubic feet, 2' deep, 2' wide around the structure. That equates to 240 cubic feet, or 1,795 gallons. At a 12 minute/inch perc rate, this should recharge every 2.4 hours. 10,770 gallons should be able to recharge on this site every four hours. If one foot of rain fell in 24 hours, that would be approximately 9,000 gallons. This should handle well over a 50-year storm.

Bill Stoughton asked about separation from the groundwater table. Tom Carr stated that the test pit showed approximately 48" to seasonal high-water table on a hill of the site. There was no soil testing done on the lower site near the infiltration site. He cannot guarantee that the BMPs for separation can be met. Bill Stoughton suggested adding conditions of obtaining a driveway permit and any comments from the DPW Director.

In response to a question from Tom Silvia, Tom Carr stated that the existing structure hasn't been inhabited for at least 15 years. Tom Carr stated that he is unclear on how the house is proposed to be jacked up, but it will be done by a team of professionals. Tom Silvia stated that the actual construction is the more disruptive part of this project and asked what the sense of this will be. Tom Carr stated that the impact of moving the house is zero. The notes on the plan indicate the soil removed will be placed in a dump truck and moved offsite. The risks to the resource do come from construction, such as through erosion and sediment getting away from the contractor. Erosion control is in place on the property and on the other side of Lake Front

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Street. This becomes a best management practices item for the contractor. The Town and related inspectors must pay attention to what will be done on this site.

In response to a question from Tom Silvia regarding what the replacement structure may look like if needed, Tom Carr stated that he believes the dimensions will remain very similar.

In response to a question from Tom Quinn regarding the erosion BMPs, Tom Carr stated that the contractor will have three options: straw hay bales, silt fences, or silt socks. The BMPs are built into the plan through the notes.

Cynthia Dokmo stated that she has no questions. The proposal will be an improvement.

Tracie Adams asked for public comment.

In response to Todd Hutchinson, 15 Lake Front Street, regarding if the applicant plans to develop and resell this site, Tom Carr stated that this is not the intention. Todd Hutchinson stated that a separate nearby property was recently reconstructed, and he heard a lot of commotion during that time. He asked that the Board members not vote on this item until they drive by the site. He stated that there is nothing special about the existing structure and it will likely not survive being moved. There is a large uphill ledge on site, and he cannot believe the septic refuse will be able to be pumped up it. He is concerned with how long construction will take and if any limits will be placed on this. He stated that he is unable to leave his property while construction is ongoing, due to the road conditions. He suggested that the applicant be made to make sure construction trucks are moved off Lake Front Street during construction.

Brian Hoffman, 11 Lake Front Street, explained that the applicant has stated that he will keep the existing cottage as is, due to its unique features and proximity to the Lake. If the structure has to be demolished, the applicant has stated that he will try to make the cottage look as it used to. If these statements are correct, he supports the project.

There were no other public comments at this time.

In response to a question from Bill Stoughton regarding the abutter's concerns, Tom Carr stated that this is a sensitive site, and the applicant understands that public safety and neighborhood access is important. Some of the equipment may be staged on Hillside Avenue, as this is a private way and will not impact neighborhood travel.

Tom Silvia stated that he believes an additional condition should be added regarding square footage, height, and footprint of the replacement structure, if one is needed.

Nic Strong stated that the Board could ask the applicant to come back in a couple of weeks with more information for this proposed condition, or that the applicant come back if the structure needs to be demolished and rebuilt.

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Tom Carr stated that the Shoreland permit, and the CUP are relative to ground disturbance in the buffer; they do not have jurisdiction over the building code. A new structure would have to meet the building code. If the house has to be demolished, the structural components will have to be supplied to the Building Department, but he does not believe the Board has jurisdiction over this item.

Bill Stoughton asked about a condition that the footprint for a new structure remain the same, in terms of stormwater concerns through the CUP process. Tom Carr stated that he believes any new construction would need to fulfill the building code requirements.

Bill Stoughton suggested an additional condition, that replacement of the structure, if necessary, is limited to the same footprint as the present structure. Tom Carr stated that the applicant cannot exceed the lateral extent of this structure.

**Bill Stoughton moved to grant the requested waiver to the stormwater regulations with the findings that granting the waiver will not impair achieving the spirit and intent of these regulations and that compliance with these regulations is not reasonably possible given the specific circumstances relative to the CUP and the conditions of the land for which the CUP is requested and that the proposed substitute solution is consistent with the goals of the regulations and is in the best interest of the Town. Seconded by Chris Yates.
Voting: 6-0-0 motion carried.**

Bill Stoughton moved that the Board finds the application satisfies the criteria of Section 4.11 I. 1. of the Zoning Ordinance, addressing the findings required for approval of a Conditional Use Permit in the Wetlands and Watershed Conservation District; and, further, to approve Case # PZ15481-030922 for Dwayne D. Andreasen 2016 Revocable Trust, Dwayne D. Andreasen, Trustee, for a Conditional Use Permit for site improvements in the WWCD at 13 Lake Front Street, Tax Map 24 Lot 31, as shown on the plan originally dated February 14, 2022, and revised April 6, 2022, with the conditions set forth in the Staff Report, and the additional conditions subsequent:

- That the applicant obtain a driveway permit
- That the applicant satisfy the concerns of the DPW Director, as expressed in the letter containing those comments
- That replacement of the structure, if necessary, is limited to the same footprint as the present structure

Seconded by Chris Yates.

Voting: 6-0-0 motion carried.

3. CASE #: PZ15482-030922 – David R. & Ellen Constant (Applicants) & Constance Family, LLC 2 (Owner); 32 Clark Avenue, PIN #: 025-042-000. Conditional Use Permit. To raze and reconstruct a lakeside dwelling in the same location with no

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change in structure except to reduce one wall to square up the house and add a porch. Zoned Residential Rural.

Tracie Adams read and opened the case. She noted that the Board determined on March 16, 2022, that there was no regional impact from this application

Bill Stoughton moved to accept this application as complete. Seconded by Tom Silvia.

Voting: 6-0-0 motion carried.

Tom Carr, Meridian Land Services, explained that this lot is very flat and the risks to the resources from this project are much less than with the previous application. This lot is approximately 3.5' above the Lake level. The proposal is to raze and rebuild the structure in the same footprint. The Shoreland Protection regulations note that no walls can be moved closer to the Lake than they currently exist. Thus, one section of the house will be reconfigured and squared off during the rebuild. There is currently an existing wooden deck that extends over the lot line. There is also a concrete patio. There is no existing driveway, as the owners park on the back lawn, and a driveway is not being proposed. The proposal will allow for safety features to be updated. There is a flagstone walkway which will be removed and replaced with a porous walkway. The same stone drip edge will be installed on this property, as was proposed in the last application. No soil testing was required for this project, but the site will not allow for the required separation from the mean high-water table. The existing septic tank is an H-20 tank, due to the fact that the owners park their vehicles on top of it.

Tom Quinn asked about erosion control methods. Tom Carr stated that they will run down the lot line, to the Clark Ave. right of way, and around the site. Access to the site will be from the back. Some excavated soil will be removed, but not a significant amount.

Tom Silvia had no questions or comments at this time.

In response to a question from Bill Stoughton, Tom Carr stated that he has no objections to the conditions set forth in the Staff Report and has no issue with following the suggestions outlined by the Heritage Commission and Recreation Department.

Bill Stoughton noted that the requested waiver is due to being unable to meet clean up percentages and separation from the mean high-water table. Tom Carr concurred.

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

Tracie Adams opened the floor to public comments. There were no public comments at this time.

Bill Stoughton moved to grant the requested waiver to the stormwater regulations with the findings that granting the waiver will not impair achieving the spirit and intent of these regulations and that compliance with these regulations is not

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reasonably possible given the specific circumstances relative to the CUP and the conditions of the land for which the CUP is requested, and that the proposed substitute solution is consistent with the goals of the regulations and is in the best interest of the Town. Seconded by Tom Quinn.

Voting: 6-0-0 motion carried.

Bill Stoughton moved that the Board finds the application satisfies the criteria of Section 4.11 I. 1. of the Zoning Ordinance, addressing the findings required for approval of a Conditional Use Permit in the Wetlands and Watershed Conservation District; and, further, to approve Case # PZ15482-030922 for David & Ellen Constant, for a Conditional Use Permit for site improvements in the WWCD at 32 Clark Ave, Tax Map 25 Lot 42, as shown on the plan dated March 3, 2022, with the conditions set forth in the Staff Report, and the additional conditions subsequent:

- That the applicant comply with the written comment of the Heritage Commission and the Recreation Department

Seconded by Tom Quinn.

Voting: 6-0-0 motion carried.

CONCEPTUAL DISCUSSION:

4. CASE #: PZ15483-030922 – Flint Development c/o John Puent, VP of Construction (Applicant) & TANA Properties Limited Partnership (Owners); 11 Northern Blvd/Bon Terrain Drive, PIN #: 002-026-000 & 002-012-002. Non-Residential Site Plan Application Conceptual Consultation. To construct a 1.4m s.f. freight terminal and warehousing facility with associated parking, truck storage yard, and ancillary improvements. Zoned Industrial.

Tracie Adams read and opened the case. Tracie Adams noted that a conceptual application means that any comments made by Board members, or the applicant are not to be beholden to.

Doug Brodeur, Meridian Land Services, presented to the Board. He explained that the project location is along the front of Hertzka Drive. This is comprised of two lots, Map 2-26 which is zoned Industrial, and Map 2-12-2 which is zoned Rural/Residential. The site was formerly Merrimack Sand and Gravel and operated as a gravel pit until approximately 2003. The applicant intends to develop a 1.4M s.f. New England Commerce Center for a freight facility. This is not intended to be something similar to an Amazon fulfillment center. A late submittal today to the Board from Flint Development shows the market need for single 1.2M s.f. building or larger. The market is moving toward large warehouses for freight shipping. Four variances have been applied for: a use variance within the Rural/Residential zone, height variance, floor area ratio, and a variance to allow for a CUP to be granted in the Wetland Watershed Conservation District for impacts relative to building and parking lot. He believes the last item is within the ordinance and does not need a variance. The current site is occupied by piles of sand, and several utilities. There is a water main from Pennichuck and a gas line that service the nearby Summerfield development. All utilities will be rerouted. The water tower and associated antennae will remain on site.

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Doug Brodeur explained that much of the land north and east of the site is vacant, or used for utility infrastructure, or commercial offices. Peacock Brook shields many of these uses from the residential area. Peacock Brook is a tributary to Pennichuck Brook, a NH Class A waterbody, of which there are only six in the State. These are classified as some of the highest-ranking waters in NH. There are onsite wetland systems, including a 5.5-acre wetland system which connects to Peacock Brook, and a wetland channel.

Doug Brodeur stated that there are several items the developer is seeking the Board's input on at this time, before making a financial commitment: wetland buffer impacts relative to the CUP, rare/threatened/endangered species habitat onsite, potential offsite improvements, a joint site walk with the Conservation Commission, and application fees. He explained that the wetland buffer impacts proposed are at four different locations on site. More stormwater ponds than needed are being shown on the current plan. The total amount of buffer impacts proposed on site is 3.4 acres out of 47 total acres of the site, and the total amount of wetland impacts is approximately 2,000 s.f. The first buffer impact area is in a manmade excavated wetland, 15'x35', which he does not believe constitutes a buffer by definition and is 1 acre in area. The second impact area is adjacent to Peacock Brook, impacts proposed of approximately 1 acre. Retaining walls with guardrails are proposed to minimize impacts to the buffers. The last buffer impact area is a wetland crossing which will be upgraded to an open-bottom box culvert, with impacts of approximately ½ acre. There is a fourth area of impact will also have approximately a 1-acre impact. There are two additional crossings onsite which will be removed.

Doug Brodeur stated that a Supreme Court ruling stated that NH Fish & Game has consultative review on projects regarding threatened and endangered species. An environmental study was conducted through GZA which will be shared with the Board once completed. Simply because the habitat exists for a certain species on site, does not mean it will be found on site. There are no known occurrences of these species found via the NHB. It takes a long time for a gravel pit to restore itself once it is no longer in use. It will likely take 50-100 years for this area to become a mature oak pine forest again.

Doug Brodeur stated that the applicant has contracted with Greeman-Pedersen, Inc., to provide a traffic impact analysis. Preliminary findings show, to 15-years out, that all intersections analyzed will still operate at a high level of service, aside from the Route 101A/Route 122 intersection, which already has existing issues. A meeting will be set up with NH DOT, Traffic Bureau, and the Town to discuss this item. DPW has sent along some comments regarding the local roads, which this proposal may impact further. \$626,000 of impact fees are estimated at this time. Some of these funds could be used to upgrade Northern Boulevard and Bon Terrain. The applicant has some funding to help with these items but cannot improve them completely as part of this project.

Doug Brodeur noted that the estimated site plan fees for this project are over \$215,000. He believes this is excessive. These should cover the reasonable expenses to the Town and not be a

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revenue generating source. He noted that this may not be in the purview of the Planning Board, but instead the Board of Selectmen.

Cynthia Dokmo stated that there are concerns from nearby abutters. She asked how the effect of this huge building and parking of large trucks on site can be mitigated for these neighbors. Doug Brodeur stated that the Summerfield development is located to the south of this site. The closest house is located approximately 450' away, through woods. There is an open space buffer between the site and Summerfield, which originally came from the owner of this site. There is a heavily forested buffer to another unit, situated approximately 300' away. There are additional concessions that can be made to residents if they are reasonable.

In response to a question from Cynthia Dokmo regarding noise mitigation, Doug Brodeur stated that the site will have tractor trailer storage, providing some noise buffering to the neighbors. He will take up other ideas with the applicant.

Cynthia Dokmo stated that she believes a site walk will be necessary.

In response to a question from Chris Yates regarding if this site will be running 24/7, Doug Brodeur stated that the end user is yet unknown, but typically trucks come all through the day and are loaded throughout the night. Doug Brodeur stated that he believes the Board has leeway on hours of operation.

Chris Yates stated that there will be many Amazon-type trucks coming/going from this site. Doug Brodeur stated that this is not true. He has spoken many times with his client, who expressed that there will not be an Amazon warehouse on this site. This site will service primarily tractor trailers or UPS/FedEx trucks. Chris Yates stated that "last mile distribution" means sprinter-style vans, putting a heavy traffic load onto Route 101A. Doug Brodeur stated that this will not be a fulfillment center with small vehicles. This site design has been based off a warehouse, a change in this would require a change in use and a different application.

Chris Yates stated that there are 350 tractor trailer parking spaces proposed on site. A laydown yard that large will mean workers parking there and idling overnight. He is not convinced with who the tenant will be. Doug Brodeur stated that his client is seeking 12 prospective tenants in the New England area (such as R&L Carriers, XPO Express, etc.). Chris Yates stated that he would like to see more information on traffic generation for the next meeting.

Bill Stoughton asked if a survey of this property for endangered species has been completed. Doug Brodeur stated that a preliminary survey has been completed and shown to the Conservation Commission. It did not note any threatened/endangered species, but it was completed in February. It focuses on finding the habitat for these species, not the species themselves. Generally, if Fish & Game sees that the habitat is present on site, it will assume that the species is either present or will be at some future point. There will be a follow-up study in June. A rare plant study will be needed as well. A preliminary meeting with Fish & Game will be set up within the next couple of weeks.

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698

699 In response to a question from Bill Stoughton regarding if the wetlands have been graded, Doug
700 Brodeur stated that a current wetland delineation was done, along with a functions and values
701 assessment. Peacock Brook is a high value system, and most of the wetlands on site are high
702 functioning. The wetland channel will have a 100' buffer. The only wetland with little-to-no
703 value is the small, manmade excavated wetland. An assessment on vernal pools will also be
704 completed in the future.

705

706 In response to a question from Bill Stoughton, Doug Brodeur stated that the building is estimated
707 to have a height of 50'. This is below the Industrial zone allowed height, but above that of the
708 Rural/ Residential zone allowed height.

709

710 In response to a question from Bill Stoughton, Doug Brodeur stated that the estimated value of
711 the site, once built out, is likely over \$100M.

712

713 Bill Stoughton stated that a project of this scale would have a potential positive outcome. It
714 would be a significant increase to the tax base, likely with relatively light demands on many
715 Town services. All other things held constant (which, of course, they cannot be), a \$100 million
716 project would result in a measurable property tax decrease for the average residential home of
717 approximately \$400/year.

718

719 Bill Stoughton stated that his concerns fall in three major areas.

720 1) Traffic and Roads. He suspects this project would greatly alter the traffic on 101A in Amherst,
721 Merrimack, and Nashua, and potentially the traffic on 101 throughout the region and on Route
722 13 in Milford and Brookline. The Board will need to look carefully at the traffic impacts and will
723 be looking to the applicant to ameliorate those impacts. He is concerned that traffic impacts will
724 be so great that they cannot be ameliorated satisfactorily. There are already very heavy volumes
725 and traffic light delays at certain times of day on 101A. The Board will also need to address
726 substantial improvements to the Town roads in the immediate area, especially Northern Blvd,
727 which appears to be unable to handle this project in its current state. The Board will need to
728 consider asking for prohibitions on offsite parking of trucks awaiting time slots at the facility. He
729 also questioned whether the noise levels will be at levels that would be more objectionable than
730 other potential uses of this property.

731

732 Bill Stoughton asked if the water on site will be able to be infiltrated. Doug Brodeur stated that
733 he believes this will be able to occur, and he does not believe there will be an issue on this site
734 with PFAS. If there is PFAS in the soil, it will enter the water system each time it rains. He noted
735 that one of the best things that has been stated to do with PFAS is dilute it, as it is considered a
736 "forever chemical."

737

738 2) Groundwater Quality Impacts. Bill Stoughton reiterated the concerns voiced by the ACC. He
739 has read the applicant's letter to the ACC and, to be frank, the measures it proposes are much
740 closer to the minimum requirements the Board would expect of any developer than they are to a
741 model response. He would hope to see a much more robust proposal to minimize impacts

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wherever possible and to provide beneficial improvements where impacts cannot be avoided. He suggested that there is considerable value in remediating and improving the shoreline of Peacock Brook. He encouraged the applicant to work closely and cooperatively with the ACC and community groups to come up with a plan that gains their support. He noted that under the ordinance, manmade wetlands are not regulated. That does not affect what the State may require.

3) Air Quality Impacts. Bill Stoughton stated that he is concerned about the degradation of air quality if over 300 parked diesel tractors are permitted to idle in the parking lot for hours and hours. The particulates released by idling diesels are known to be harmful to human health. In his view, the applicant will need to address this to present an acceptable proposal.

4) He is also concerned whether the Town fire equipment is adequate to address potential issues with this building. The Town only has one ladder truck and he questioned whether that is sufficient to protect life and property with a building of this scale. While this building will likely be sprinkled, this is still a concern.

Bill Stoughton stated that, to respond to one of Doug Brodeur's questions, the Planning Board does not determine how impact fees will be used. That is the responsibility of the Board of Selectmen. The Board of Selectmen does not yet have a policy regarding spending these fees and has not yet expended any fees collected.

Tom Silvia asked where the trucks for this site are coming from/going to. Doug Brodeur stated that this will depend on the end user. The closest building similar to this is located in Raymond, NH. This could be the largest distribution center in NH, aside from the Amazon building being considered in Hudson. The applicant sought three different sites in southern NH to place this proposed building, including Durham and Amherst. There is very flat land area along 101A that affords itself to large buildings. The area is a deep sands glacial sandplain outwash and is on a productive aquifer.

Tom Silvia stated that he has many concerns regarding traffic, noise, etc. with this proposed to be the largest distribution center in NH.

In response to a question from Tom Quinn, Doug Brodeur stated that there is no intention to store fuel on this site. The smaller building will be marketed as a separate building, not part of the proposed facility, or it may be used for additional parking area. He stated that there may be approximately 100 employees of the site.

Tom Quinn stated that this site has sat empty for a long time, and it would be nice to have something occur there. However, he has many concerns regarding proximity to the neighbors, traffic, etc. There are also residences near Hertzka Drive/Old Nashua Road. Doug Brodeur stated that truck traffic can be restricted down Hertzka Drive.

Tom Quinn stated that he would be more excited about this project if it was smaller and further away from the abutters. Doug Brodeur stated that his client originally wanted a 1.8M s.f.

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building, which he believed could be completed and approved through the State, but possibly not through the Town process.

Tracie Adams opened the floor to the public.

Steve Nelson, 9 Beacon Lane and President of the Summerfield Condo Association, stated that none of the abutters were notified regarding this proposal. This area has sat undeveloped for decades. This is commercial property, but houses have been built around it over time, so the character of the area has changed. Noise and light pollution are a concern. Without a clear tenant, it is unknown as to how the area will be used and how many trucks will be onsite. There is concern regarding the trucks accelerating/decelerating and using their jake brakes on occasion. The trucks will need to be cleaned off when covered with snow, which will also create a lot of noise. This could bring a lot of pollution to Peacock Brook. There are beavers and fish in the area that could be impacted from diesel fuel and antifreeze. Traffic is also a concern, as Northern Blvd will be mainly used to access the site, which will then empty onto Route 101A. He asked if there is an alternative to be built, such as an office park, affordable housing, or a solar farm. He is not sure if the proposal is the right fit for Amherst.

Barbara Staffiere, 9 Crystal Lane, stated that she is concerned about noise pollution, light pollution, wildlife, and traffic. She is concerned about hearing the noise from back-up beeping all night long, along with idling. She noted that Doug Brodeur mentioned redirecting of some Summerfield utilities, with no disruption to residents. She has concerns regarding this. She invited Board members to come tour the property.

Richard Bagley, 10 Summerfield Way, stated that the number of tractor trailer spaces listed on the plan is approximately 700. This could have a huge impact on air pollution while idling.

Deb Keough, 16 Summerfield Way, echoed the sentiments of her neighbors. She added that the Conservation Plan for Amherst from 2015 showed the highest ranked wildlife habitat in NH and the biological region along the perimeter of this area. This is the beginning of a pine barrens habitat, after being left uninhabited for a number of years. There are bobcats, owls, fox, and beaver in the area. This behemoth of a building would block her view of this area. She asked about the carbon footprint. She does not believe this fits in with the Town of Amherst.

Dewitt Taylor, 5 Crystal Lane, stated that he would potentially lose money on the value of his property from this proposal. He stated that he believes, with the potential value of this building, it is not being built on spec and an end tenant is likely already known. He asked who will control what will exist in this building and the hours of operation. There are a number of mitigation efforts that could be put in place to help control some of the noise concerns.

Eleanor Chmiel, 17 Summerfield Way, asked why a warehouse can be built in the residential/rural zone.

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Will Ludt, 3 School Street, stated that four years ago there was an application to construct a furniture storage warehouse across the street on Bon Terrain Drive. That is a 70-80 bay warehouse, and this will be placed right near it. He believes the traffic study will be telling.

Barbara Dalton, 14 Summerfield Way, stated that Summerfield is approximately 16 years old, with 77 homes, and the average taxes paid by a unit are approximately \$10,000/year. None of these units have children and the roads are not plowed by the Town. She stated that the residents haven't asked a lot from the Town but were asking the Board to help them now, as this proposal is not what they moved here for.

Attorney Morgan Hollis, representing the applicant, stated that he is hoping to hear feedback from the Board regarding the CUP. There will be a permit needed to fill the manmade wetland and encroach in the buffer areas. It is not clear under the ordinance if these can be done through a CUP only. This can be done if the proposed use is a driveway or passageway but is unclear regarding a building or parking area. A variance is being requested from the ZBA to allow the fill to be listed in a CUP category, which would then come before the Planning Board. He asked if the Board believes this variance is necessary. The ZBA meeting on April 19, 2022, will be noticed to abutters.

Bill Stoughton stated that he believes, under the wetlands ordinance, if the area discussed was manmade, then it is not considered a wetland and not under the purview of the ordinance; thus, a CUP is not needed to fill it. Doug Brodeur noted that there are also buffer impacts proposed to wetland area #3. Bill Stoughton stated that the provision under the ordinance is quite broad.

Tracie Adams reiterated that this was a non-binding discussion between the Board and applicant.

OTHER BUSINESS:

5. Minutes: March 16, 2022

Tom Silvia moved to approve the meeting minutes of March 16, 2022, as written.

Seconded by Chris Yates.

Voting: 6-0-0 motion carried.

6. Any other business to come before the Board

Tom Silvia moved to adjourn at 10:46pm. Seconded by Tom Quinn.

Voting: 6-0-0 motion carried unanimously.

Respectfully submitted,
Kristan Patenaude

Minutes approved: May 4, 2022