

TOWN OF AMHERST
Planning Board

September 7, 2022

DRAFT

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

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

Arnie Rosenblatt opened the meeting at 7:00pm. He explained that there will not be a public discussion this evening regarding the agenda item for amendments to the Town's ordinances and regulations. The Board will hear brief explanations on those items tonight and then decide if a public hearing in the future is warranted.

PUBLIC HEARINGS:

- 1. CASE #: PZ16130-080422 – EIP One Bon Terrain, LLC (Owner) & New England Facilities Solutions Corporation (Applicant); 1 Bon Terrain Drive, PIN #: 002-026-004. Non-Residential Site Plan-Sign Master Plan. To show the proposed signage for the site. *Zoned Industrial***

Arnie Rosenblatt read and opened the case. He noted that the applicant also has a compliance hearing tonight under the next agenda item.

Sam Foisie, Meridian Land Services, explained that the proposed monument sign is approximately 50 s.f. on either side. The regulations show a not to exceed size of 80 s.f., which this sign is well below. The overall height of the sign falls well below the allowable height of 15 s.f. The square footage of the directional sign is 15 s.f. and the square footage of the monument sign is just shy of 50 s.f. The regulation referencing height above the adjacent grade states that it cannot exceed 5' feet and there is approximately 2' of difference between the grade of the road and the grade of the sign. No wall signs are proposed at this time, but the tenants are reviewing the need for them. There was a question regarding if the proposed sign can withstand the 30lbs per square foot of wind loading. He stated that he believes this is a building permit issue and will be taken care of at the time of building permit. The sign wiring will conform to National Electrical Code, and this will be taken care of at the time of building permit. A landscape plan was not presented, although the elevations and sign package do have some landscaping shown. The applicant is aware that the base will need to be landscaped to shield it from view. He explained that there are two directional signs in the sign package, but only one shown on the plan. He showed a map that references where the second directional sign will be located, to direct truck deliveries to the back.

Tracie Adams asked if Nic Strong heard all of the data given and is accepting of it. Nic Strong stated that she heard it but that the numbers were not included in the packet for the Board. The Board may wish to see all of the numbers written down. Tracie Adams agreed with this.

Tom Silvia and Cynthia Dokmo had no questions at this time.

September 7, 2022

DRAFT

Bill Stoughton asked about lighting for the sign. He noted that the diagram shows external flood lights. He questioned if there could be a design that would project the light downwards only, such as dark sky lighting. John Hennessey, owner, stated that the former FW Webb sign was internally lit. The new proposed signs will have two face-mounted lights. If the Planning Board requires dark sky compliant lights, he will conform to that. Bill Stoughton stated that he would like to hear more from his colleagues on that option.

Bill Stoughton explained that one regulation requirement is that signs must be no less than 15' from any improvements. John Hennessey stated that this is the case. Bill Stoughton noted that another requirement is that a freestanding sign has to be at least 100' from any other freestanding sign. John Hennessey stated that the directional signs and the monument sign are located more than 100' from each other.

Chris Yates had no questions at this time.

In response to a question from Tom Quinn, Sam Foisie stated that he will show on the plan that the signs will be located more than 15' from any improvements, including the roadway.

Pam Coughlin and Dan LeClerc had no questions at this time.

There was no public comment at this time.

Tracie Adams stated that she would like to see all of the answers to the questions from this evening submitted in writing, to make sure the application is in compliance. Sam Foisie asked if submitting these answers to the Community Development Office for review could be a condition of approval. Tom Silvia stated that he does not view the items addressed this evening as very complicated compliance questions and he is thus happy to give the responsibility of reviewing the answers to Nic Strong. The Board was in agreement.

Bill Stoughton moved to approve case number CASE #: PZ16130-080422, EIP One Bon Terrain LLC, for the above cited Sign Master Plan at One Bon Terrain Drive Map 2 Lot 26-4, with the conditions set forth in staff report, with condition precedent #1 revised to say "Submission of revised plans in the number required by the Non Residential Site Plan Review regulations, and that include all of the checklist corrections and confirmation of all of the issues raised in the Compliance Hearing, any other corrections as noted in this hearing, and any waivers granted, all to the Community Development Office. Seconded by Tom Silvia.

Discussion:

Nic Strong asked when the Board was going to address the Findings of Fact.

Arnie Rosenblatt explained that the legislature promulgated and passed a number of pieces of legislation, all of which are intended to support increased development and to diminish the power of local planning boards to limit and control

September 7, 2022

DRAFT

development. One of the pieces of this legislation which is now required as of the end of August, is a requirement that planning boards provide a Finding of Fact with respect to any decision. If a Finding of Fact is not provided, any appeal is essentially automatically granted, and the Finding of Fact will be part of the basis for any appeal. The Planning Board has not faced this requirement until tonight and is working to determine how best to accomplish it.

Bill Stoughton AMENDED his motion to further move that the Board finds as fact that the application complies with the applicable requirements of the Sign Master Plan provisions of the Amherst Zoning Ordinance. Seconded by Tom Silvia

Motion carried unanimously 6-0-0.

2. **CASE #: PZ16131-080422 – EIP One Bon Terrain, LLC (Owner) & New England Facilities Solutions Corporation (Applicant); 1 Bon Terrain Drive, PIN #: 002-026-004. Non-Residential Site Plan – Compliance Hearing. To show the as-built conditions of the site in support of the project receiving a Certificate of Occupancy as required by the Amherst Non-Residential Plan Regulations, Section 7.1.C. Zoned Industrial**

Sam Foisie addressed the items that are still in process of being completed on the site. He noted that he will explain how these items do not affect the substantial completion of this application. The first item is the striping of the parking spaces and trailer spaces. This has not yet been completed. The binder course has been laid but the topcoat of asphalt has not yet been laid. This was delayed due to recent weather conditions. The lot is scheduled to be laid two Mondays from now and the striping will be done afterwards. The overall surface of the paved area is stable due to the binder course. Secondly, the light poles have not yet been installed due to supply issues. Those are expected to be installed in approximately 2 weeks. He stated that, regarding stormwater management, per Doug Brodeur's letter and his own visual inspection, the stormwater system is substantially complete and built per the plans. It looks as though the elevations are set and the stormwater will function as it was designed. Both proposed grates have been installed. The last item is the crab apple tree and associated island. During the construction process it was determined that the island for the crab apple tree could remain, along with the parking associated with that island. That area will be restriped with the others. Sam Foisie stated that the project is substantially complete to the point that the ground is stabilized, the site has been hydroseeded, and grass will likely begin to grow soon. The parking is complete, the curbing installed, the stormwater is located in the aprons, walkways are installed, and the septic is installed.

Pam Coughlin and Dan LeClerc had no questions at this time.

Tom Quinn stated that he would prefer a proper as-built plan, to verify that certain items are located at the correct elevations and completed as they should be. He does not feel he has enough information this evening to make that determination.

September 7, 2022

DRAFT

Chris Yates had no questions at this time.

Bill Stoughton stated that he feels similarly to Tom Quinn. He would like to see an as built that could address a number of the questions that he feels were not broached this evening. Currently, there is no record of the answers to these questions, and it may make sense for the Board to request the applicant come back in two weeks with a proper as built.

Cynthia Dokmo and Tom Silvia agreed with Bill Stoughton and Tom Quinn.

Tracie Adams stated that she would also like to see a traditional as-built plan.

Arnie Rosenblatt stated that he did not believe public comment was necessary at this time, as the Board seemed to be leaning in a certain direction.

Sam Foisie asked what level of as built the Board would like to see. Bill Stoughton suggested that the applicant work with Community Development to know what level would be appropriate. Tom Quinn stated that he would like to see the location of underground structures on the as-built plan as well.

**Bill Stoughton moved to continue this hearing to October 5, 2022, at 7pm, at Town Hall. Seconded by Cynthia Dokmo.
Motion carried unanimously 6-0-0.**

DESIGN REVIEW

- 3. PZ16159-081022 – Kevin Curran (Owner & Applicant), Pond Parish Road, Baboosic Lake Road & Grater Road, PIN #: 006-002-000, 006-007-000, 006-009-000–Subdivision Application Design Review. To depict the consolidation and conventional subdivision of Tax Map 6, Lots 2, 7 & 9 for Planning Board design review. *Zoned Residential/Rural***

Arnie Rosenblatt read the design review case information.

Cynthia Dokmo recused herself from this item.

Ken Clinton, Meridian Land Services, noted that, as this is a design review level meeting, it was noticed to the public but there is no binding discussion involved. He explained that his office, on behalf of Mr. Curran, sent out individual letters to abutters inviting them to contact the office directly from time of application through this evening. A set of proposed plans was also sent to direct abutters. Only one sent a general letter of information in response. He explained that he recently went before the Conservation Commission to present the plan and receive their comment or input. He noted that he has no issues with their comments.

September 7, 2022

DRAFT

Ken Clinton stated that this project is located on the east side of Town, fairly close to the Merrimack town line. It is bounded on the north by Baboosic Lake Road, and on the west by Pond Parish Road. The existing site contains three vacant lots. Combined acreage is approximately 160 plus or minus acres. The entire boundary survey has not yet been completed. There are three wetlands that have been identified across the site, along with the remains of the Truell mill site, archaeological work on which was underway.

Ken Clinton explained that Section A, located off Pond Parish Road, proposes seven frontage lots, consistent with the previous preliminary design. These frontage lots each have the required amount of net acreage and required frontage. There is an existing trail next to the area of the proposed Section B development. This area was previously proposed for all frontage lots off Baboosic Lake Road, however, he was concerned from sight distance and driveway access standpoints. Thus, it was decided to propose a short cul-de-sac serving seven lots, keeping all of the frontage along Baboosic Lake Road intact. Someone driving along the road would not notice that there were seven lots off the road. This is a much-improved design. Section C proposes 28 lots internal to the road system, as well as two lots positioned with frontage on Grater Road. Each one of these lots is designed to be a minimum of two acres net tract area and have the required frontage and setbacks. Ken Clinton noted that in the entire 160 acres worth of development, there is not a single wetland impact proposed. The project also does not anticipate buffer impacts at this time.

Ken Clinton stated that each lot will be served by individual wells and septic systems. This project is being proposed as a conventional subdivision design, so these are proposed to be public roads with underground utilities. There are a large number of trails that have been established on this property by private people without the full consent and knowledge of the landowner. Mr. Curran was adamant that trails be provided to move through the property. The trailhead on Pond Parish Road is proposed to lead to a trail from the west, through the nearby properties, paralleling the wetlands, wrapping around the lots on the cul-de-sac, and joining an existing trail on Town land, Lot 6-20. This then connects further into the Grater Woods property. There are also some trails to the north which cross Brett Vaughn's property, leading to Baboosic Lake. The proposal is to create a connector trail which will connect to the previously described east-west trail network. Although this is not the exact fashion in which people are currently using these trails, he stated that he believes it is a great compromise.

Sam Foisie addressed the proposed cul-de-sac geometry. He explained that the applicant will be seeking a waiver from the cul-de-sac geometry due to the fact that the regulations require a 120' radius, with 24' wide pavement and two-way directional travel. He explained that there is a similar cul-de-sac, or essentially a roundabout, located within the Town's industrial park which meets the same geometry proposed for this site. He met last week with Fire Chief Conley and DPW Director Eric Slosek to seek their support for a smaller turnaround area and was told that they do not have any opposition to it, as long as they visit the field to determine what design criteria they would prefer. Ken Clinton noted that he hopes the Town would consider adopting some additional examples of cul-de-sacs to provide better landscape layouts which fit the topography of the land. He referenced the town of Milford's regulations regarding a circular cul-

September 7, 2022

DRAFT

de-sac. He will continue to seek, through the Fire and DPW departments, support for several alternative designs that could be options for the Board to consider noting that Milford, Bedford, Merrimack and Hollis all had alternative options.

Sam Foisie explained that it was determined that most of the impervious area from the development, from the road, from the houses, from potential patios can be captured on site. However, there are some exceptions to that. For example, Lots C5 and C6 would be very difficult to capture stormwater from and would require individual stormwater systems. Capturing all stormwater on site and sending it to a master stormwater pond would require swales running down the road and down the property lines, as well as a swale running behind all the houses. This option would lead to a larger impact area and concern regarding maintenance of the swales. Instead, the proposal is to treat the roadway in a master system via swales, and to mitigate for the stormwater from the houses via individual stormwater systems. Those individual stormwater systems would be similar to septic systems, in that they would be specific to each house lot during construction, whereas a master system would make broad assumptions to capture impervious areas. The proposed option is less intrusive to the land and to the trail network, and less maintenance for the Town. Ken Clinton noted that the proposal is to treat the stormwater from the road, which will be turned over to the Town, and create individual systems for the majority of the lots. Some exceptions include the internal loops of Lots 25-28 and Lots 14-17. Due to their proximity to the road, the stormwater generated from those lots will automatically be collected into the master system.

Ken Clinton explained that the project proposes six Class A and four Class B reduced frontage lots. The Class B lots are A3 and A4 off Pond Parish Road, and Lots C5 and C6 off the internal road. Four Class A lots are proposed at the end of the main road complex, Lots C14, C15, C16 and C17, and two reduced frontage lots B3 and B4 off the short cul-de-sac road. He stated that there has been a fair amount of discrepancy recently regarding the interpretation for reduced frontage lots, but he fully believes the proposed lots are sized in accordance with the current ordinance and regulations. In his over 25 years of experience having applications come before this Board, he has proposed countless numbers of reduced frontage lots and they have all adhered to the two-acre net tract area, along with the frontage requirements. He stated that the regulations have never been interpreted to include a 10-acre lot requirement for a reduced frontage lot. Previous Planning Directors, or Zoning Administrators have held the same interpretation. He believes what is being proposed is fully in compliance with Amherst's ordinances and regulations.

Brad Westgate, Winer & Bennett, LLP, and the applicant's attorney addressed the reduced frontage lot regulations. He stated that he reviewed the zoning ordinance and the subdivision regulations. In the zoning ordinance, Section 4.3, C. regulates lot size and frontage requirements in the Residential/Rural Zone. It states that each new lot shall have a minimum frontage of 200' on a publicly maintained road, unless frontage has been approved and recorded as reduced frontage lots, in which event 35' shall be sufficient. He stated that nowhere else in the zoning ordinance does it state that a lot size greater than the minimum of two acres is required in the Residential/Rural Zone. Section 3.9 of the zoning ordinance discusses the context of the issuance

September 7, 2022

DRAFT

of building permits relative to lots on a road, including reduced frontage lots. It also references a note tying into Section 5-2 of the Subdivision Regulations. Section 5-2 of the Subdivision Regulations is the predecessor to Section 213 of the subdivision regulations and Section 5-2 appears to have been adopted by the Planning Board in 1986. The key provisions in Section 5-2 pertaining to reduced frontage lots, is the same as Section 213.2 in the current Subdivision Regulations. Attorney Westgate stated that this speaks to Ken Clinton's note that there has been a consistent interpretation regarding presentation of plans for reduced frontage lots before this Board over many years. Those regulations do not require 10 acres as a minimum lot size but allow for the two-acre minimum as the zoning ordinance provides for. Section 213.2, E. in the Subdivision Regulations states that no subdivision plan providing for reduced frontage lots shall be approved unless the total acreage of such plan is a minimum of 10 acres for each reduced frontage lots, so that 20 acres could produce two frontage lots, etc. He believes this is supported by the dependent clause in Section 213.2, E., that no subdivision plan providing for reduced frontage lots shall be approved unless the total acreage of such plan is a minimum of 10 acres for each reduced frontage lot. The overall plan acreage determines what is allowed. The zoning ordinance was adopted by the voters, whereas the Subdivision Regulations and their interpretation are a function of this Board. Thus, allowing the Subdivision Regulations to supersede the zoning ordinance requirements for minimal dimensional elements such as lot frontage and lot area would effectively frustrate the will of the voters. The total acreage on the design review plan set is approximately 156.6 acres, which would generate a possibility of 15 reduced frontage lots. Only 10 are being proposed at this time.

Arnie Rosenblatt explained that the Board is not making a decision tonight, but Board members may make non-binding comments. This is to provide assistance to the applicant.

Pam Coughlin had no comments or questions at this time.

In response to a question from Dan LeClerc regarding blasting, Ken Clinton stated that there likely will be, but it is too early to determine how much or where.

In response to a question from Dan LeClerc regarding the well placement, Ken Clinton stated that well placement is mostly driven by Town regulations and DES regulations relative to septic designs. It is a common practice for well radii to enter a portion of the house, not necessarily the whole house, to keep it away from the septic tank.

In response to a question from Dan LeClerc regarding in which phases the site will be built out, Ken Clinton stated that he is looking forward to discussing that more during the application phase.

Tom Quinn stated that he personally believes the intent of the reduced frontage section of the zoning ordinance was to be able to access and use back lots. He does not believe the ordinance indicates that any particular parcel can have more than one Class A or more than one Class B reduced frontage lot. He noted that a number of the proposed reduced frontage lots are not back lots, as they directly abut the street. He is concerned regarding how the proposal will maintain

September 7, 2022

DRAFT

the spirit of the ordinance as far as that provision is concerned. He is also concerned whether the proposed corner lots comply with the recently enacted corner lot regulations which require 200' frontage on both roads. It would appear that some of the proposed corner lots do not comply with that, specifically Lots C24, B7, C19, and C10.

In response to a question from Tom Quinn regarding proposed cuts and fills on the property, Ken Clinton stated that it is too early to know the balance between these yet.

Tom Quinn expressed concern regarding proposed drainage systems which rely on homeowners for maintenance, especially around an important wetland area such as in this case.

Chris Yates asked if the homes proposed for these lots will be between 4,000 and 5,000 s.f in size. Ken Clinton stated that those are gross s.f. numbers, not necessarily footprint size. At this stage of the design, the plan is showing a variety of sized homes. This is only a design review level plan, to specifically target a handful of questions. A final design for a conventional subdivision is not restricted to a 2,000 s.f two-bedroom house or a 4,000 s.f. four-bedroom house. This will be dictated by the market. Chris Yates stated that his concern was with density and the steepness of some of the lots. He thought that the applicant was shoehorning a bunch of large homes into this pristine area.

In response to a question from Bill Stoughton regarding the size of the stormwater control features, Ken Clinton stated that these are all roughly sized based on preliminary evidence at this time.

In response to a question from Bill Stoughton, Ken Clinton stated that he does anticipate potential road design waivers being requested but does not anticipate additional waivers for driveway items at this time. Regarding the steepness of the proposed driveways, the driveways were placed in spots where it is believed they can be designed. Ken Clinton stated that, typically driveway designs are not necessary, except when leaving a public road. These can be supplied if required by the Board. Due to this being a conventional subdivision, the buyer has the choice to place the house on the lot as so chosen, thus, potential house, driveway, well, and septic locations are determined in the end by the buyer. Bill Stoughton noted that the driveways will need to meet the slope requirements of the Town. He will be looking for information during the application phase that lots can be accessed by driveways which comply with the Town standards.

Bill Stoughton stated that he appreciates the inclusion of the proposed trails and echoed the ACC comments regarding how access rights will be defined. He also agrees with the ACC concerns regarding water quality and quantity, and impact to wildlife habitat. He stated that he is not inclined to grant waivers to the proposed cul-de-sac if it is going to be maintained by the Town. He noted that it is easier to plow a wide radius circle than a narrow radius circle. Regarding the proposed stormwater systems, he is also concerned about the compliance issue on individual lots. He hoped the applicant is considering using stormwater management features that are easily maintained by a homeowner. He also acknowledged that taking compliance out of the hands of homeowners can result in a much greater disturbance to the land. Bill Stoughton thanked

September 7, 2022

DRAFT

Attorney Westgate for his interpretation of the ordinance but stated that he does not read the regulations the same way. He reads them as requiring 10 acres for each reduced frontage lot. He noted Section G, which essentially states that the use of reduced frontage lots should be restricted where they would be in conflict with the long-range plans of the Town. The Town's long-range plan does and will value retaining open space and retaining habitat. As indicated by the ACC that is a great concern particularly on this property as it links existing conservation areas. He would thus be disinclined to allow reduced frontage lots that were less than 10 acres.

Bill Stoughton stated that a Planned Residential Development (PRD) would allow more latitude on frontage requirements. The Board cannot vary the frontage requirements of the ordinance; that would have to be approved by the Zoning Board. He urged the applicant to consider looking into a PRD application, as it would be very good for the Town and possibly very good for the applicant. The Board does have provisions for density bonuses, in a discretionary fashion. He noted that an abutter letter regarding potential impacts to the Baboosic Lake Road drainage system was submitted and he would like to examine the impacts to public roads in general as part of this project. He would like to be sure that sight lines and the widths of the construction of the road are adequate. Bill Stoughton stated that he believes this application will require some phasing. He would also like to have a site walk at the appropriate time.

Regarding studies, Bill Stoughton stated that he believes it will be important to have a traffic study, and that this uses no-build traffic increase factors that are consistent with the actual experience and applies peaking factors consistently and appropriately for the build and no-build conditions. He noted that this is a criticism of a previous traffic study that the Board did not catch but another traffic analyst did. He noted that there are some abutters who are worried about the adequacy of the water supply and the potential impact on their water supply, so he would thus anticipate that a hydrogeological study would be required. An environmental impact study, given the nature of this property, will also likely be required to address any endangered species or habitat impairment. Drainage will presumably be addressed by the stormwater management plan. Bill Stoughton stated that he would plan to ask DPW whether a study of potential safety, drainage, or other improvements to public roads should be required so that the Board may determine whether an offsite exaction should be assessed based on the impacts of this development. He would not require a fiscal impact study for this project, but if one were required he would review it carefully.

Tom Silvia emphasized that the three potential waiver items previously mentioned, cul-de-sac design, stormwater, and reduced frontage, should comply with the Town's overall ordinances as written. He stated that he also agrees with the 10-acre interpretation of the reduced frontage lots. He stated that there is a significant elevation change on this property, which adds complexity to the water and overall stormwater situations. Thus, testing of the quantity and quality of water available will be a concern. Tom Silvia stated that the plan seems to pack as many lots as possible on the property, and some of the lots look like they are too small to account for the water issues. When reviewing the overall Master Plan of Amherst, he believes that the proposal is looking to benefit the current owner without necessarily benefiting the Town. He would like some type of balance in the plan that takes this into account. Article 1 Section 201.2 of the

September 7, 2022

DRAFT

Subdivision Regulations talks about the objectives of a subdivision. The first point is to maintain a rural character. This plan does not seem to do so. The second point is to preserve those areas of the site that have the highest ecological value. The third point is to locate buildings on those portions of the site that are most appropriate for development. Point four is to preserve historic, archaeological, and cultural features. Point five is to create contiguous networks of open spaces or greenways. While he appreciates the trails being provided as part of this plan, he would like to examine other options which may maximize the benefits to the Town. The sixth point is to reduce impacts on water resources, and the seventh point is to reduce the number of roads and sidewalks, or stormwater management structures. The final point is to minimize the impact of the residential development on the municipality. Tom Silvia stated that he would like to have more discussion regarding how this proposal can achieve these objectives.

Tracie Adams emphasized reviewing the objectives mentioned by Tom Silvia. She also emphasized contiguous open space or greenways linked by common open spaces within the subdivision to open spaces on adjoining lands whenever possible. She stated that she appreciates that the applicant is working on the trails on this property. The ACC expressed concern about the natural habitat and fragmentation of it, so keeping the area contiguous and flowing would be best. The ACC also expressed concern for water quality and quantity which will continue to be a concern for the Board as well. Tracie Adams stated that the Board will likely be requiring all of the associated studies to be performed. She would also appreciate a site walk. She is concerned regarding traffic safety leaving the site onto the curve of Baboosic Lake Road. She is in agreement regarding the applicant complying with Town ordinances in terms of the cul-de-sac, stormwater management, and the reduced frontage lots. She is interested in what DPW, and the Fire Department think about the proposed cul-de-sac arrangement. She would like to see more information regarding the individual stormwater management systems proposed and the reduced frontage lots.

Arnie Rosenblatt stated that there will be a site walk of this project as it moves further along, and all will be invited. He stated that he will likely wish to require all studies, including the fiscal impact study. Ken Clinton noted that all studies are currently underway.

Arnie Rosenblatt asked for public comment and noted that this is a fluid, evolving process. With respect to this project, he believes everyone recognizes this is at the very beginning stages, and whatever application is ultimately presented is likely to be materially different from what is being seen now. General comments can be made, but he asked the public to keep in mind that they will have other chances to comment in the future.

Brian Cullen, 7 Parker Farm Lane, thanked Kevin Curran for allowing use of the property, whether knowingly or not, for almost two decades. This should not be overlooked. The proposed addition of a trail on the site is a huge thing. However, if the Town wants this to be a true wildlife corridor it needs to be a lot wider. Some of the proposed lots hug that trail and it is in a very steep section. He noted that most of the wetland surveying carried out by Meridian was completed in the summer during one of the largest droughts. He suspected, if carried out at a different time, the wetlands would be considerably more pronounced.

TOWN OF AMHERST
Planning Board

September 7, 2022

DRAFT

Mark Bender, Grater Road, asked about the entrance to the site from Baboosic Lake Road. Ken Clinton stated that access is west of the woods road, approximately 85-100' after it. Mark Bender noted that this is a low point in the property so drainage and stormwater management would come into play. He echoed the call for a traffic study, both regarding traffic volume and traffic safety.

Doria Brown, 7 Grater Road, explained that she would like the Town to consider potentially conserving this land because it is a wildlife corridor. She noted that this area is not vacant in terms of wildlife. She urged that affordable housing options be considered.

Thea Kepka, 6 Pond Parish Road, stated that she will be directly impacted by lots A1 and A3. She asked about the scenic road setback requirements in this area, as she believes these require 100' setbacks and it seems that the plan shows only 50' setbacks. She noted that, as a former plow driver, cul-de-sacs leave nowhere to put snow and they reduce the buffer between the lots around the cul-de-sac. She stated that it would be nice to see the cul-de-sac area stay wooded. She also asked about a set of covenants for the subdivision.

Susan Langlois, 2 Pond Parish Road, stated that the 30-mph speed limit on Pond Parish Road does not make it safe for walkers and bicyclists. She would be very interested in a traffic study as part of this project.

Kelly Mullin, 48 Christian Hill Road, stated that she is concerned regarding the potential for 5,000 s.f. homes as part of this project. She stated that she hears a lot of chatter in town from people criticizing the Planning Board for not supporting affordable, workforce housing. The community needs to know that workforce housing comes with a whole different set of requirements that most developers do not want to comply with because it's very costly to them. Amherst needs affordable housing. People need to realize that the Planning Board cannot make a developer build affordable housing if they do not want to.

Debra Rodd, 23 Pond Parish Road, echoed previous comments regarding a traffic study. She stated that she believes there is another development being proposed in the County Road/Spring Road area with possibly another 44 homes. Pond Parish Road is used as a cut through to go to Manchester, Nashua, and Route 101A. She is concerned about the impact of traffic in that area that could impact the whole section of Town when viewed cumulatively with other proposed projects.

Charlotte Locke, 21 Pond Parish Road, echoed the suggestion for a water supply study because larger homes often times are paired with higher water usage. Through climate change, she believes that the area may see more droughts and is concerned about the water tables and the aquifers.

Arnie Rosenblatt stated that the applicant will be back before the Board at some point in the future. He thanked everyone for their comments.

September 7, 2022

DRAFT

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

**4. PZ16160-081022 – Vonderosa Properties LLC (Owner & Applicant), County &
Cricket Corner Roads, PIN #: 004-122-000 - Subdivision Application. Proposed five
(5) lot existing road frontage residential subdivision. Zoned Residential/Rural**

Arnie Rosenblatt read and opened the case. He explained that the Board will first determine completeness of the application. If it is complete, a public hearing will be held. He asked Nic Strong is the application is complete. Nic Strong stated that the required items have been submitted.

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

Motion carried unanimously 6-0-0.

Cynthia Dokmo recused herself from this item.

Chad Branon, civil engineer with Fieldstone Land Consultants, and applicant Brett Vaughn, with Vonderosa Properties LLC, addressed the Board. Chad Branon stated that the request is for approval to subdivide Tax Map parcel 4-122 into five conventional lots. This property is located on the south side of the intersection of Cricket Corner Road and County Road. The subject property consists of 23.427 acres and has 1,154 linear feet of frontage along Cricket Corner Road, and approximately 374' feet of frontage along County Road. The site is bordered by Cricket Corner Road to the north, County Road to the northeast, and residential properties to the east, south, and west. This property is located in the Residential/Rural district where the minimum lot size is two acres of non-wetland, non-floodplain, and steep slopes less than 20%, and the frontage requirement is 200' along a Class V or better roadway. The topography of this site generally slopes from a high spot on the property along the back slopes, generally to the roads in the northwest and northeast direction. There is one jurisdictional wetland complex that bisects the lot, which generally runs from south to north. These wetlands are significantly less than 50' in width, and so classified under the Wetlands Regulations as requiring a 25' buffer and a 50' building setback. The wetland drains under Cricket Corner Road through a 15" high density polyethylene culvert.

Chad Branon explained that the proposal for this project is to develop the site into five conventional lots. On the west side would be Lot 4-122, which is proposed to be a 3.239-acre lot with 202 linear feet of frontage. Next is Lot 4-122-1, which is proposed to be 3.65 acres in size with about 257 linear feet of frontage along Cricket Corner Road. Lot 4-122-2 is proposed to be a 7.796-acre property with 206' of frontage along Cricket Corner Road. The fourth lot, 4-122-3, is a 3.84-acre lot that has approximately 268 linear feet of frontage along Cricket Corner Road. The final frontage lot has frontage along Cricket Corner Rd and County Road and is proposed to be a 4.926-acre lot with 593 linear feet of frontage along the existing roadways. All of the lots meet the dimensional standards. Test pits have been completed on all the lots. The soils on this

September 7, 2022

DRAFT

site are very good and well drained. The proposal is that all lots will be serviced by underground electric and communications. The houses have been placed carefully to fit in with the topography of the site and the existing features of the land. There are no proposed wetland impacts or buffer impacts associated with this development. The proposed layout will maintain and embrace the character along this section of roadway. All of the lots will be serviced by individual driveways and driveway design plans were submitted as part of this package. Sight line profiles, showing that each of the driveways will meet the 300' of sight distance requirement in both directions, were also submitted. This development does require phasing, as outlined in Section 3.19 of the zoning ordinance. This development would have to occur over a two-year period.

Chad Branon explained that the applicant previously requested waivers for studies and was unsuccessful, ultimately leading to this application being deemed as incomplete at that time. Since that time all of the studies have been completed. The applicant has submitted a fiscal impact study, environmental impact study, a traffic analysis prepared by VHB, a water supply study, and a hydrogeological study which touches on the water supply as well as potential impacts. The office also prepared a stormwater management report, which essentially follows the driveway design and house layouts. There is a detailed stormwater design for this project that incorporates seven bioretention areas, which are essentially infiltration areas that meet the Town standards and specifications. Those areas will address the qualitative and quantitative impacts of stormwater thereby mitigating all stormwater impacts. The report shows reductions in the peak rates during the 1" storm event, as well as the 2-, 10-, 25-, and 50-year storm events. The other studies completed by professionals in the industry support the concept and the goal to create oversized lots to minimize impacts to buffers and sensitive areas to the extent possible. The project tries to avoid some slopes but does contemplate some of the steeper slopes for driveway designs.

Arnie Rosenblatt stated that the Board will now have the opportunity to ask questions and make comments. The Board will then hear from abutters and interested parties. The Board will make a determination as to what action, if any, it wants to take, including the possibility of scheduling a site walk.

Tracie Adams stated that the ACC expressed concerns about water quality and quantity and recommended rigorous testing. She asked what the applicant is doing to address these concerns. Chad Branon stated that he did not receive direct comments from the ACC as it relates to this project because no impacts are proposed to the buffer area. He noted that the proposal is for a frontage subdivision and that lower maintenance stormwater practices are being proposed on each lot. There will be a stormwater management component for each homeowner. It will be important to reference the Stormwater Inspection and Maintenance Program which is required for each of those practices and to make sure that gets relayed to the homeowners.

Tracie Adams noted that DPW Director Eric Slosek expressed concern regarding achieving sight distance and that this would be contingent on removing or maintaining vegetation on a nearby private property, Lot 4-116. There was a recommendation to grant an easement for maintaining that vegetation. Chad Branon stated that he had no issue with this recommendation.

September 7, 2022

DRAFT

Tracie Adams mentioned that the staff report listed concerns about the stormwater management inspection and maintenance on page 6. Chad Branon explained that it will be listed in the deeds that there is an ongoing inspection and maintenance requirement for each unit.

Tracie Adams stated that, under the legal review, there may be some documents not yet submitted for review. Chad Branon stated that the driveway access and drainage easement documents may need to be updated and finalized.

Tracie Adams asked about how the stone walls on site will be managed. Chad Branon stated that the project proposes to maintain the stone walls as much as possible, to maintain the rural character. The access to the site will need to go through a section of stone wall, but the plan is to utilize those stones and possibly round them into the driveway to maintain the look and character. The proposal is to maintain all the walls possible, while still meeting appropriate access standards.

Tracie Adams asked about the specific ways to manage certain wildlife species mentioned in the report. Chad Branon explained that the driveway designs propose a fence on the downhill side, closest to the sensitive areas. The applicant has reviewed all of the proposed conditions and plans on implementing them as part of the plan.

Tracie Adams noted that the hydrogeological evaluation stated that the New Hampshire Water Well Association recommends a safe yield of four gallons per minute over four hours, or 960 gallons. She asked how the proposed water system for the units compares to that. Chad Branon stated that he believes the yield actually is not required to be that high as long as there is ample storage in the well casing. The well reports will be submitted to DES as required. The reports do not show any issues with this property being able to supply the water based on the bedrock information. The proposed wells will not have a negative impact on any surrounding properties based on the reports.

In response to a question from Tracie Adams regarding comments or questions from neighbors concerning water issues or other items, Chad Branon stated that he has not personally received any feedback from neighbors to his office relative to this project.

Tom Silvia stated that the staff report mentions that the Stormwater Report needs to be reviewed by the Town Engineer and he would like to see that occur. The hydrogeological report states that the wells should be 400-500' deep and he asked this was part of the plan. Chad Branon explained that the information provided shows that the surrounding wells are on average approximately 400' deep. Chad Branon stated that he has never seen a plan that stipulates required depth. The wells will likely be in the 350-400' range.

Tom Silvia asked about the fiscal impact study being initially completed for six units. Chad Branon agreed that this was completed when the proposal was initially for six units. He would be willing to have professionals write a letter addressing the revision from six to five units but

September 7, 2022

DRAFT

believes that the fiscal impact study as written adequately addresses the typical concerns. Tom Silvia noted that the fiscal impact study uses a calculation to determine how many students could be in the schools. For approximately 20 bedrooms on this site, the study showed three students at the Amherst Middle School and one at Souhegan High School. Tom Silvia stated that four students for 20 bedrooms seems like a very low number. Tom Silvia stated that he does not believe a revised study is necessary and this also points to some of the concerns the Board has about the methodology for fiscal studies.

Tom Silvia stated that the staff report mentions having Town Counsel review the driveway agreement, and he would like to see that as well. Regarding questions about the Environmental Study, Chad Branon stated that Section 6 of the GZA report lists findings and conclusions and then focuses on different elements. One of these is recommendations based on potential threatened/endangered species. There are no issues with these recommendations, and they will be implemented, with notes added to the plan.

Tom Silvia asked about submittal of evaluation information for the Wetland and Watershed Conservation District. Chad Branon stated that note 6 on the plan addresses how that evaluation was completed. A letter addressing this may also be provided. Tom Silvia asked about Section 4.01 of the regulations regarding wetland areas. Chad Branon stated that, based on the dimensional study, the wetlands onsite are classified as "other," which has a 25' buffer and a 50' building setback. This is adhered to on the site. The only area that it could get larger would be on the very southern corner of the property, where no development is proposed. There is less than an acre of wetland on this site.

Bill Stoughton stated that he would like a site walk. Bill Stoughton asked about the frontage of Lot 4-122-4, which is a corner lot. Chad Branon explained that the lot has 204.6' across the frontage of Cricket Corner Road, meeting the requirements. Bill Stoughton stated that he would like to see this clearly shown on the plan.

Bill Stoughton asked about the sight distance and clearing of vegetation on a nearby lot. Chad Branon explained that, per a visual test in the field, the sight distance in this area is 300'. He believes the DPW Director was suggesting that this can change overtime, as the understory changes, so the landowner needs to be able to perform some selective cutting to maintain that sight distance. The landowner of Lot 4-122-1 will be allowed to clear land on the property across the street to maintain the sight distance. Bill Stoughton stated that he believes this is unworkable because maintaining that sight distance and safety of the road is a Town responsibility. Bill Stoughton stated that either the Town needs to be responsible for clearing this land, or there needs to be a different driveway layout. Chad Branon stated that sightline easements are not an uncommon practice, but he is not opposed to the Town maintaining the easement instead. Bill Stoughton stated that he is not okay with imposing an obligation on a lot owner or on the Town. He would like a solution in which the driveway sightline is clear with the normal maintenance that DPW does. Bill Stoughton noted that there was recently a fatality just half a mile down the road from here because these roads are winding and hilly and he does not want to see these

September 7, 2022

DRAFT

conditions made worse through this project. Chad Branon confirmed that there is adequate sight distance from the other shared driveway.

In response to a question from Bill Stoughton regarding the steep slopes for the driveway of Lot 4-122-4, Chad Branon explained that there is a short section which will parallel the steep slope section. The Town's driveway standard is 8% and this design meets the 8% requirement.

In response to a question from Bill Stoughton, Chad Branon stated that this project does not require an Alteration of Terrain (AoT) permit but does require State Subdivision Approval for all lots that are under 5 acres.

Bill Stoughton noted that the wetland soils information was excluded from the stormwater analysis. Chad Branon explained that the stormwater systems were modeled to the wetlands on site. All the water on site will be treated before it gets to the wetland soils.

Bill Stoughton asked about the cleanup percentages for sediment, nitrogen, and phosphorus for the stormwater features. Chad Branon stated that those were not included, but generally bioretention areas are very high for removal amounts.

Bill Stoughton asked about the maintenance requirements for the stormwater features. Chad Branon stated that Section 3.3 of the report contains the Stormwater Maintenance Manual which addresses all of the components. Each part of the system has its own incremental inspection requirements or recommendations which trigger maintenance needs. Bill Stoughton stated his concern with requiring homeowners to do anything more than minimal maintenance on stormwater features. Bill Stoughton noted that new owners may want to install pools, patios, etc. These may not be enough to trigger a new stormwater application but may alter the original analysis. He would like the plan to be clear regarding the square footage of impervious area for the driveway. Chad Branon noted that there is a strong stormwater practice, not usually embraced locally, which minimizes land alteration, minimizes impacts, and allows for use of buffer areas/undisturbed areas/woodland areas. This particular subdivision provides a lot of buffering and natural vegetation to sensitive areas. He asked the Board to consider allowing a patio to sheet flow onto a yard and then into a woodland area where there are underlying soils that are well drained, instead of cutting trees and routing this flow to a stormwater practice.

Bill Stoughton noted that over 60% of Lot 4-122-2 is steep slopes. He questioned if this is an appropriate lot for subdivision. He stated that he will likely have a number of conditions to any approval of this application and asked Nic Strong to provide the applicant with the water quality and quantity conditions which were proposed for the Clearview project.

Chris Yates had no questions at this time.

Tom Quinn stated that he supports third party review of the submitted reports. He asked the applicant to review the shared driveway sight line item. He would also like a site walk.

TOWN OF AMHERST
Planning Board

September 7, 2022

DRAFT

Dan LeClerc agreed with Bill Stoughton regarding the shape of the lots and the driveway layout running along the shared lot line. He stated that these are awkwardly shaped properties. The slopes may have an impact on this as well.

Pam Coughlin agreed with her colleagues regarding the driveway issue. She asked if the layout could be changed. There could be issues with plowing this driveway.

Arnie Rosenblatt asked for public comment. He noted that there will be a site walk of this project and does not believe the Board will be making a decision on this item this evening.

Dave Williams, 56 County Road, expressed concern regarding approval of this one piece of the Hazen land, instead of viewing the entire area and potential impacts cumulatively. There are wetlands and vernal pools in this area, and there could be many additional school children added into the system. Approving each of these pieces individually could eventually lead to a much larger 50-unit subdivision.

John Coulter, 23 Cricket Corner Road, stated that there is no real sight distance along Cricket Corner Road where the driveway is proposed. He asked about a traffic study for the project and also a search for vernal pools across the street. Chad Branon stated that a vernal pool study on the property was conducted in the spring. This project does not propose any development across the street.

Lisa Jones, 35 Thornton Ferry Road I, stated that as a finding of fact, per Amherst Subdivision Regulations Article 2 Section 206.1, no subdivision of land shall be made or land cleared for conversion purposes and no land in any subdivision shall be sold or offered for sale or lease, and no street or utility construction shall be started until a final design plat prepared in accordance with the requirements of the regulations has been approved by the Board and other required permits have been issued. She stated that no approvals have been granted for this parcel 4-122. The applicant has formally and openly engaged in marketing and offered the lots for sale. She noted that, during a recent conversation with the owner, he confirmed that he already has a reserved contract on two lots to build one home, and he's engaged in land clearing. She questioned if the applicant was in compliance with Subdivision Regulations Section 206.1. She noted concerns for water resources. According to the Amherst Watershed and Wetland resource map, there is a wellhead located on this property. Per the State's Groundwater Protection Act Section 485.C.5, all groundwater is classified for the purpose of prescribing protections and management practices. Some of the areas of this site are classified as Class A, the most protected groundwater. She stated that, according to the Fieldstone existing conditions plan, this entire parcel contains steep slopes and very stony terrain. There is a real possibility that blasting is going to be required for this project, leading to an increased potential for contamination and consequences for groundwater. She also questioned if some of these lots are truly in compliance with less than 20% slope.

Howard Muscott, 48 County Road, stated that the proposed application represents one proposed subdivision, but it is clear that this developer intends to propose significant development on

September 7, 2022

DRAFT

most, if not all, of the seven parcels recently purchased. He respectfully requested that the Planning Board treat this five-lot conventional subdivision not as a solo application, but as part of a larger development by gathering all the necessary data and completing any relevant reports and studies to understand the full impact on Amherst and the regional impacts to the adjacent towns of Merrimack and Milford. He stated that he believes these studies will reveal significant impacts to Town services, public safety, and the clean, safe water supply. Building upwards of 40-50 homes on this parcel will require massive upgrades to County Road, resulting in millions of dollars in cost, likely putting tremendous stress on public safety and resources, and putting the clean drinking water at risk. He stated that he believes there will be significant impact to the schools, given the size of the houses proposed. If assuming approximately two children from each home and the cost per pupil to educate a student in 2021/20222 in Amherst being about \$22,000, this equates to an annual cost of approximately \$44,000 per home. This results in an annual school deficit of \$33,000 per household that will have to be made up by the taxpayers. Based on the information provided, this development might contain 44 homes at approximately \$700,000 each, resulting in an annual deficit of \$1.45M, which pales in comparison to the one-time impact fee of \$7,000 that developer will pay. There would also need to be capital improvements to support these increased costs.

Kelly Mullin, 48 Christian Hill Road, stated that the schools are ready to burst at the seams and have significant maintenance costs that cannot be accommodated. This proposal may incur new transportation and road issues, and increased need for services such as Fire and Fire Rescue. The Town cannot accommodate the number of developments currently being proposed across Town. She urged the Planning Board to consider all of the developments, as they consider each development application, because if all of the developments get approved she is unclear how anyone in the Town will be able to afford to live. She stated that this is not about being a NIMBY but about creating a balance.

There was no other public comment at this time.

In response to a question from Arnie Rosenblatt, Nic Strong stated that the deadline for final action for this application is December 11, 2022.

In response to a question from Bill Stoughton regarding land clearing or selling of lots, Brett Vaughn stated that he received permits to clear the lot in question. The website shows that he is working with the Planning Board to create this development. There are no purchases and sales at this time. Bill Stoughton stated that any concerns of this sort from the public should be addressed with the Community Development Office.

Chad Branon asked if the stormwater report will be sent to the Town Engineer. Arnie Rosenblatt stated that the Board will need to decide if it wants any of the studies reviewed by a third party. Tom Quinn suggested that he would like to see a third-party review of traffic, stormwater/drainage, and hydrogeological studies. Bill Stoughton stated that he would like to see third party reviews of the stormwater and fiscal impact reports because he disagrees with the reasonableness of many of the assertions made in it. He would also like to see the driveway

September 7, 2022

DRAFT

agreement reviewed by Town Counsel. Tracie Adams stated that she would like to see a third-party review of the stormwater, hydrogeological, and traffic impact studies.

Arnie Rosenblatt stated that he believes he is capable himself to review the assertions made in the fiscal impact study. Bill Stoughton stated that there would be no expert opinion in the record. In response to a question from Arnie Rosenblatt, Bill Stoughton confirmed that his concern is that, as a fact finder, even if the Board concludes that underlying assumptions of an expert's report are so flawed that the Board does not deem it to be credible that, without an opposing report, the Board cannot reach a conclusion that is inconsistent with what it believes is a flawed report.

In response to a question from Tom Quinn, Chad Branon stated that his office prepared the fiscal impact study, as it has for many other developments. Tom Quinn stated that a third-party review might be helpful from someone who does this full-time as a job.

Arnie Rosenblatt asked if the Board believes this development needs to be reviewed in a larger context, with respect to the entirety of the property it is associated with. Bill Stoughton explained there is common ownership in the same area for lots all slated to be developed at some time. He does not think the Board should ignore the combined effect. The next slated development cannot ignore the traffic contributed by this project. The developer should be put on notice now that this is what the Board will expect for future proposals.

Tom Quinn stated that turning down this application based on reviewing the whole area cumulatively, could cause problems for the Board because it would be considering theoretical development. Arnie Rosenblatt stated that he believes Bill Stoughton is saying to let the developer know that these potential cumulative impacts will need to be considered for future applications.

**Tracie Adams moved that the Board require a third-party review of the hydrogeological study. Seconded by Tom Quinn.
Motion carried 5-1-0 [B. Stoughton against].**

**Tracie Adams moved that the Board require a third-party review of the stormwater management report. Seconded by Bill Stoughton.
Motion carried unanimously 6-0-0.**

**Bill Stoughton moved that the Board require a third-party review of the fiscal impact study. Seconded by Tom Quinn.
Motion failed 2-3-0 [C. Yates, T. Silvia, and T. Adams against].**

In response to a question from Arnie Rosenblatt, Nic Strong stated that she will need to find a consultant to complete the hydrogeological study review. This may be possible within a month. Chad Branon stated that he would like to come back before the Board in early October to at least discuss the stormwater management review and the site walk.

September 7, 2022

DRAFT

Bill Stoughton moved to continue this application to October 5, 2022, at 7pm, at Town Hall. Seconded by Tracie Adams.

Motion carried unanimously 6-0-0.

Bill Stoughton moved to schedule a site walk of this property on September 19, 2022, at 4:30pm, off Cricket Corner Road. Seconded by Tracie Adams.

Motion carried unanimously 6-0-0.

OTHER BUSINESS

5. Discussion regarding suggestions for amendments to the Town's ordinances and regulations

Arnie Rosenblatt noted that the normal cutoff time for Board meetings is 10pm. He is concerned with taking up this issue at this time.

Bill Stoughton stated that he believes it is important to have the proposed Planning Board ordinances heard in time, so that the public can move forward with petitions, if they so choose.

The Board discussed the lateness of the hour and being able to reasonably hear each suggestion this evening. It was determined that a special meeting would be required to fit in this discussion and the Board members determined that Friday, September 16th was good for all.

Tracie Adams moved to continue this item to September 16, 2022, at 5pm, at Town Hall. Seconded by Bill Stoughton.

Motion carried unanimously 6-0-0.

6. Minutes: August 17, 2022; non-public minutes of July 6, August 3, & August 17, 20223

The Board tabled discussion on these minutes to a future meeting.

7. Any other business that may come before the Board

Chris Yates moved to adjourn at 10:35pm. Seconded by Tom Quinn.

Motion carried unanimously 6-0-0.

Respectfully submitted,
Kristan Patenaude