FINAL

LEBANON PLANNING BOARD
Regular Session
Monday, December 13, 2021, 6:30 PM
City Council Chambers, City Hall
or Remote Via Microsoft Teams
LebanonNH.gov/Live

MEMBERS PRESENT:	Bruce Garland (Chair), Matthew Hall (Vice-Chair), Karen Zook (Council Representative), Kim Chewning, Joan Monroe, Jeremy Rutter, Laurel Stavis
MEMBERS ABSENT:	Gregorio Amaro, Kathie Romano, Michael Smith (Alternate)
STAFF PRESENT:	David Brooks (Planning Director), Tim Corwin (Senior Planner), Brian Vincent (City Engineer)

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1. Call to Order

Chair Garland called the meeting to order at 6:30 PM.

2. Notice of Regional Impact

The following applications were received by the Planning and Development Department on or before December 13, 2021:

Brady Sullivan Prospect Hills, LLC, 0 Prospect Street (Tax Map 108, Lot 2), zoned R-3: A request to amend the approved plan for Phase II of the Prospect Hills planned unit residential development, to allow construction to proceed in phases per Section 7.13 of the Subdivision Regulations. PB2021-37-FMAJA

Cicotte Properties, LLC & J.M. Cicotte, 175 Heater Road & 30 Little Heater Road (Tax Map 64, Lot 30 & Tax Map 78, Lot 61), zoned IND-L: Request for approval of a Boundary Line Adjustment between lands located at 175 Heater Road & 30 Little Heater Road. PB2022-01-BLA

Edwards Properties, LLC, 9 Pershing Street (Tax Map 78, Lot 48), zoned IND-L: Request for a Conditional Use Permit to convert a previously approved contractor's yard to a car wash. PB2022-02-CUP

Trustees of Dartmouth College, 56 Etna Road (Tax Map 50, Lot 28), zoned IND-L: Request for Site Plan Review to construct a 19,672 SF building to serve as the central storage for library books and records management. PB2022-03-SPR

Chaloux, LLC, 25 & 0 Labombard Road (Tax Map 61, Lot 25 & Tax Map 51, Lot 15), zoned IND-L: Request for approval of a Boundary Line Adjustment between lands located at 25 & 0 Labombard Road. PB2022-04-BLA

Chaloux, LLC, 25 & 0 Labombard Road (Tax Map 61, Lot 25 & Tax 51, Lot 15), zoned IND-L: Request for Site Plan Review to construct a 10,000 SF climbing gym building, with 540 SF yoga studio and 235 SF retail space, including site improvements consisting of a new parking lot,

sidewalks, patio, sewer and water utility connections, and stormwater improvements. PB2022-05-SPR

Robert & John Oakes, 92 Riverside Drive (Tax Map 111, Lot 16), zoned RL-1: Request for a Site Plan Review to construct 26,176 SF of mini-storage warehouse with attendant pavement and access. PB2022-06-SPR

Mr. Brooks stated that the Planning Department has reviewed the applications and recommended that none of them has the potential for regional impact.

A MOTION by Matthew Hall that none of the above applications has the potential for regional impact. The motion was seconded by Laurel Stavis.

****The MOTION was approved (7-0)***.

3. Public Hearing Items

A. **Mount Support Development, LLC (applicant) and Sylvia D. Lahaye Revocable Trust & Pat Lumber Jack, Inc. (property owners), 402 & 392 Mount Support Road (Tax Map 24, Lots 9 & 10), zoned R-1:** Request for Site Plan Review to construct a proposed 4-building multi-family development consisting of 204 dwelling units, together with parking, utilities, landscaping, access, and other related site improvements. PB2021-33-SPR - ***Completeness review only on 12/13/2021, public hearing to commence on 1/10/2022***

Mr. Corwin stated that the Planning Staff recommends the application is complete enough for the Planning Board to accept jurisdiction and commence review.

A MOTION by Jeremy Rutter that the application of Mount Support Development, LLC (applicant) and Sylvia D. Lahaye Revocable Trust & Pat Lumber Jack, Inc. (property owners), 402 & 392 Mount Support Road (Tax Map 24, Lots 9 & 10), zoned R-1 is complete enough for the Planning Board to accept jurisdiction and commence review.

The motion was seconded by Kim Chewning.

****The MOTION was approved (7-0).***

A MOTION by Matthew Hall to open the Public Hearing and continue it to January 10, 2022, at 6:30 PM.
The motion was seconded by Jeremy Rutter.
The MOTION was approved (7-0).

Chair Garland brought up the issue of a site visit. The applicant stated that the property lines are generally defined, but the building locations have not been defined. The Chair asked that the applicant consider staking out the building locations, driveways, and other features.

B. **SPNH Mount Support, LLC, 343 Mount Support Road (Tax Map 24, Lot 1), zoned R-1 & RL-3:** Request for a Minor Subdivision to create two parcels. PB2021-36-MIN

Planning Staff recommends that the application is complete enough for the Planning Board to accept jurisdiction and commence review.

A MOTION by Jeremy Rutter that the Lebanon Planning Board finds the application of SPNH Mount Support, LLC, for a proposed two (2)-lot Minor Subdivision of 343 Mount Support Road (Tax Map 24, Lot 1), PB2021-36-MIN, IS complete enough to accept jurisdiction and commence review.

The motion was seconded by Kim Chewning.

****The MOTION was approved (7-0).***

Dave Fenstermacher of VHB and Don Smith attended in support of the application.

Mr. Fenstermacher stated that SPNH Mount Support is ready to move forward. Mr. Smith noted that they would be focusing on the front parcel for the apartment complex. There are no plans or drawings for the back property.

Mr. Fenstermacher described the map of the property with wildlife corridors and the location of the approved apartment complex. There is no planned access to the back of the property.

Mr. Corwin noted that Staff received comments from the Lebanon Fire Department giving approval of acceptable access to the proposed complex. A proposed additional condition of approval was described.

Ms. Monroe inquired about the location of the driveway. Mr. Fenstermacher described the driveway access to the complex. Ms. Monroe expressed concern over the location of wetlands and stressed the need for a site walk for any future development.

Chair Garland noted the Conservation Commission's discussion of the intent of the property for public use of the trails as an asset to the City. The Conservation Commission had recommended setting the remaining acres aside for conservation. Mr. Smith stated that the trail system is indicated, and a parking area would be provided.
Ms. Monroe recommended inviting the members of the Conservation Commission to join the Planning Board for the site walk. She added that biking often does not have a positive impact on the trails.

Chair Garland invited public comment. There was none.
Ms. Monroe inquired if the number of units was still appropriate after dividing the property, noting that it is a very large piece of land. Mr. Corwin confirmed that the parcel is sized to accommodate the density of the approved complex. It is important to be very cautious when affecting the border of such a natural setting.

Chair Garland closed the Public Hearing.

A MOTION by Matthew Hall that the Lebanon Planning Board **APPROVE** the application of SPNH Mount Support, LLC, for a proposed two (2)-lot Minor Subdivision of 343 Mount Support Road (Tax Map 24, Lot 1), PB2021-36-MIN, as shown on a plat titled "Subdivision Plan, Map 24, Lot 1," prepared by Vanasse Hangen Brustlin, Inc. (VHB), dated August 26, 2021, last revised November 22, 2021, including any and all supplemental submissions and testimony provided during the public hearing, with the following conditions to be satisfied prior to the signing and recording of the plat:

Conditions to be Satisfied Prior to the Signing and Recording of the Plat

1. The applicant shall provide a revised plat depicting the following changes to the satisfaction of the Planning and Development Department:

    a. Add a note to the effect that if and when constructed, the driveway for Lot 24-1-100 must be constructed within the easement area, that no other access drives or curb cuts are permissible, that prior to construction all required state and local permits are obtained, and that the driveway design and construction meet all applicable local regulations at the time of construction.

    b. Add a note to the effect that approval of this subdivision by the Planning Board does not imply that required development permits will be granted by other reviewing agencies.

    c. Add a note indicating that the plat was approved pursuant to the City of Lebanon Subdivision Regulations last revised June 28, 2021.

2. The applicant shall provide one hard copy of the revised plat and a digital record drawing (Cad .dwg format using NH State Plane Coordinate system or an alternative approved by the City's GIS Coordinator).

General Conditions

3. Future development on the new lots shall be subject to City of Lebanon Impact Fees, pursuant to Section 213 of the Zoning Ordinance. The Impact Fee shall be calculated at the time of Building Permit issuance based on the Impact Fee Schedule adopted on October 12, 2021, and such fees shall be due and payable at the time of issuance of a Certificate of Occupancy. In accordance with RSA 674:39, any building permits which are issued after five years from the date of approval shall be fully subject to whatever impact fees and methodology are in effect at the time of building permit issuance.

4. All future construction shall substantially conform with and shall be subject to the requirements and specifications of the recorded plat. (Section 7.9.A.2)

The motion was seconded by Jeremy Rutter.
****The vote on the motion was (6-1).*** Joan Monroe voted against.

A MOTION by Matthew Hall that the Lebanon Planning Board authorizes the Chair to sign the Minor Subdivision plat for SPNH Mount Support, LLC, PB2021-36-MIN, titled "Subdivision Plan, Map 24, Lot 1," prepared by Vanasse Hangen Brustlin, Inc. (VHB), dated August 26, 2021, last revised November 22, 2021, as such plat may be amended in accordance with the Planning Board's approval.

The motion was seconded by Jeremy Rutter.

The MOTION was approved (7-0).

C. **Brady Sullivan Prospect Hills, LLC, 0 Prospect Street (Tax Map 108, Lot 2), zoned R-3:** Pursuant to Section 14.1.B.1.c of the Subdivision Regulations, a request for an extension of time to achieve active and substantial development of Phase II of a project identified as Prospect

Hills, a 171-unit Planned Unit Residential Development located off Moulton Drive and Prospect Street, Tax Map 108 Lot 2 (phase 2) and Lot 14 (phase 1). PB2021-02-EXT - Continued from November 22, 2021

Attorney John Cronin and John Rokeh of Rokeh Consulting attended in support of the application.

Mr. Corwin stated that the application for the phasing plan is complete enough for the Planning Board to accept jurisdiction and commence review.

A MOTION by Laurel Stavis that the phasing plan application is complete enough for the Planning Board to accept jurisdiction and commence review.

The motion was seconded by Matthew Hall.

****The MOTION was approved (7-0).***

Mr. Rokeh spoke in favor of a phasing plan as the best way to continue the project and noted that they are still asking for an extension. He presented the details of the phases to begin in April of 2022, which includes the new sewer and water connections from Phase One. The proposed improvements for each phase were described in detail.

Chair Garland inquired about the number of units in each phase. Mr. Rokeh provided the unit counts and noted that the timeline could be accelerated if work is completed ahead of schedule. The active and substantial dates for each phase were discussed.

Ms. Monroe suggested clarification of the phase designations.

Mr. Hall inquired about the Staff's opinion of the phasing plan. Mr. Corwin stated that it provides some flexibility within the conditions. Mr. Hall noted that dates for security need to be provided for each phase. Mr. Brooks stated that the bond should be posted before the start of work. Mr. Hall also discussed the dates related to each phase with Mr. Rokeh.

Ms. Stavis inquired about the detail of the plan. Chair Garland stated that it is still the same plan that was approved in 2014. Ms. Stavis inquired about the life of a detention pond. Mr. Rokeh stated that the life should be fifty years and noted that the State DES is more vigilant regarding maintenance of detention ponds. Ms. Stavis also inquired if there are any requirements for detention ponds. Mr. Vincent stated there are specifications for detention basins as approved in 2014, and all were reviewed and approved at that time. Operation and maintenance were also approved, and stormwater management applies. The detention system must be maintained to avoid problems.

Mr. Brooks stated that each phase would require a performance security for each pod of units.

Ms. Monroe noted that ponds have been used for about 20 years, and design confirmation and maintenance are very important.

Mr. Rutter questioned the lack of an item "D". Mr. Brooks stated that the phases could be labeled on the plan and a condition could be added stating that there is no "D".

Mr. Brooks inquired about the need for a retaining wall near any of the stormwater ponds. Mr. Rokeh stated that they would not need them.

Chair Garland invited public comment.

Cori Hirai of Ward 1 noted that multiple community members had concerns about the project overall and asked if those are being considered. Chair Garland stated that members of the homeowners' association had been present at a prior meeting, and the application was approved in 2014.

Ms. Monroe noted that adjustments may need to be made due to environmental changes in the future.

Chair Garland inquired about the applicant's plans for permits and discussion with contractors. Mr. Rokeh stated that they are ready with permits, and phasing gives more flexibility. They can use Lebanon contractors when dealing with the smaller phases and are confident that they can begin work.
Mr. Cronin noted the need for the extension before they can finalize a contractor.

Mr. Corwin shared the city attorney's opinion that the Board needs to find that there is good cause to grant the extension but doesn't have to specifically identify or agree on the details of the good cause. The prepared draft motion includes a generic statement regarding good cause.

There was a general discussion of the issue of good cause. Mr. Cronin stated that the detail of good cause for an extension doesn't need to be there. Mr. Brooks suggested that the Board should include a statement regarding good cause because that is the standard in the Board's own regulations and that was the directive of the Housing Appeals Board. He noted that the Planning Board didn't specify why it denied the application last March, and the Housing Appeals Board asked the Planning Board to hold a new hearing to focus on good cause. If the Planning Board denies the application again, it must specify why. If the Planning Board finds there has been good cause, it doesn't need to specify the details but rather indicate that it finds good cause based on the totality of circumstances. The combined motion would be simpler if there are 4 favorable votes.

Chair Garland conducted a straw poll of the Board members regarding moving forward with the project in a combined motion.

Results of the straw poll:
In favor - 4
Against - 3

Chair Garland invited public comment. There was none, and the public hearing was closed.

A MOTION by Matthew Hall that the Lebanon Planning Board, having considered the evidence presented by the Applicant, and in light of the instructions in the Housing Appeals Board's Interim Order in this matter, finds that the totality of the circumstances warrants a conclusion that there is good cause to grant an extension for Phase II of the Prospect Hills development (Tax Map 108, Lot 2), originally approved as PB2016-22-EXP-FMAJ, and therefore hereby **APPROVES** the application of Brady Sullivan Prospect Hills, LLC, for an extension of time pursuant to Section 14.1.B.1.c of the Subdivision Regulations to achieve active and substantial development, PB2021-02-EXT, and also **APPROVES** the application to amend the approved plan to allow construction to proceed in phases per Section 7.13 of the Subdivision Regulations as shown on the plan sheet titled, "Overall Development Phasing Plan, Prospect Hill – Phase 2," dated October 5, 2011, last revised December 1, 2021, prepared by Rokeh Consulting, LLC, Job No. 2010.0023 (attached hereto as Exhibit A) and as set forth in the phasing schedule titled, "Prospect Hill Phase 2 – Construction schedule for Phasing Plan 2021," (attached hereto as Exhibit B), PB2021-37-FMAJA, including any and all supplemental submissions and testimony provided during the public hearing, with the following conditions:

1. The phasing plan shall be revised to change the label of Phase 2 "C-F" to Phase 2 "C, E, and F".

2. The applicant shall comply with all applicable conditions of the Planning Board's prior Notices of Action for the Prospect Hills development, including but not limited to, the Notice of Action dated November 14, 2016, PB2016-22-EXT-FMAJ.

3. With respect to the **Phase 2A** site improvements, the applicant shall be required to (a) achieve Active and Substantial Development or Building, as defined in Section 14.1.B.1 of the Subdivision Regulations, by *November 15, 2023*; and (b) achieve Substantial Completion, as defined in Section 14.1.B.2, by *November 15, 2026*.

4. With respect to the **Phase 2B** site improvements, the applicant shall be required to (a) achieve Active and Substantial Development or Building, as defined in Section 14.1.B.1 of the Subdivision Regulations, by *November 15, 2025*; and (b) achieve Substantial Completion, as defined in Section 14.1.B.2, by *November 15, 2028*.

5. With respect to the **Phases 2C, 2E, and 2F** site improvements, the applicant shall be required to achieve Substantial Completion, as defined in Section 14.1.B.2, by *November 15, 2029*.

6. The applicant shall work with the City Engineer to ensure that there are no dead-end water mains because of the proposed phasing and that drainage and wastewater are properly accommodated for each phase.

7. Within 60 days of this approval, the applicant shall update all Subdivision Agreements, Security Agreements, and other documents, as necessary, to reflect the dates of the extended and phased approval (per Section 14.1.B.1.c of the Subdivision Regulations).

8. Within 60 days of this approval and prior to the issuance of any permits and prior to the start of any construction activities or site work on the property, the applicant shall, pursuant to Sections 7.10 and 14.5 of the Subdivision Regulations, enter into a new Performance Security Agreement and provide security necessary for the completion of all Phase 2A required improvements and utilities. The Agreement shall specify that security for Phase 2B shall be posted by no later than *February 1, 2024*, and security for Phases 2C, 2E, and 2F shall be posted by no later than *February 1, 2026*.

The motion was seconded by Jeremy Rutter.

****The MOTION was approved (5-2). Kim Chewning and Joan Monroe voted against.***

4. Other Business

A. **SPNH Mount Support, LLC, 343 Mount Support Road (Tax Map 24, Lot 1), zoned R-1 & RL-3:** Review of a minor alteration to an approved site plan (PB2020-11-SPR) per Section 9.2 of the Site Plan Review Regulations.

Dave Fenstermacher of VHB and Don Smith appeared on behalf of the application.

Mr. Corwin stated that there are changes in density and lot lines but no design changes to what was approved a year ago. The driveway is now a shared driveway. The changes are primarily in calculations and do require approval. A motion is not required. The Board members agreed that the changes were acceptable.

B. **Execusuite, LLC, 2 Mascoma Street (Tax Map 91, Lot 254), zoned LD:** Conceptual review per Section 4.3 of the Site Plan Review Regulations for a proposed phased redevelopment of 2-acre parcel. Phase I: Construction of a 6-story, 72-unit apartment building & 17-car garage below. Phase II: Construction of a 6-story, 75-unit apartment building. Existing market to be renovated for restaurant/retail. Phase III: demo of existing market & replace with 70,000 SF of residential & 21,000 SF of restaurant/retail. PB2021-38-CON

Tim Sidore of Execusuite LLC, Jim Wasser of Studio Nexus Architects, and Will Davis of Execusuite, LLC attended in support of the application.

Mr. Sidore stated that Execusuite purchased the Lebanon Village Market property, which they view as ideal site for a mix of housing and retail. It is designed to maximize density to achieve Lebanon's downtown goals.

Mr. Wasser described the three phases, with Phases One and Two being interchangeable; Phase One is easier to construct, with Phase Two being constructed shortly thereafter. The buildings are oriented toward Colburn Park and provide an underground parking option.

Mr. Sidore stated that they want to bring a market back to downtown.

The Board members provided feedback on the issues of parking, the type of grocery options, green aspects of development, the character of downtown, and the need for affordable housing.

Mr. Brooks confirmed the capability to do a phased process, which requires knowing what the dates will be. If Phase Three is speculative, it may need an extension. If Phases One and Two are straightforward, then it makes sense to do a single approval or a phased approval. It is important to understand what the larger picture is that includes a Phase Three. The future of the fire station could create another phase beyond Phase Three

Mr. Sidore stated that they are looking for feedback to see if this development is what Lebanon wants and if it is in the spirit of downtown. He noted their success in White River Junction and the goal of bringing a successful project to downtown Lebanon.

Chair Garland noted that this particular property was cited when the Board reviewed the new regulations with density like this in downtown Lebanon.

The Board members noted that the project was commendable, and the brick would tie in with downtown. The topics of balconies and communal space were discussed. Mr. Sidore noted that balconies were useful for fresh air and there would be some communal space.

A MOTION by Matthew Hall to extend the meeting to 9:45PM.
The motion was seconded by Joan Monroe.

The MOTION was approved (6-1). Laurel Stavis voted against.

B. **Edwards Properties, LLC, 9 Pershing Street (Tax Map 78, Lot 48), zoned IND-L:** Conceptual review per Section 4.3 of the Site Plan Review Regulations for a proposed car wash. PB2021-39-CON

Dan Nash of Advanced Geomatics appeared on behalf of the application.

Mr. Nash acknowledged the enforcement action, and described the area as being commercial/industrial mixed with houses. The houses were being removed, and the entire site was refreshed. Some items should have gone through Site Plan Review. A Conditional Use Permit application has been submitted. The owner's goal is to change one building to a car wash, which would be for private use. Mr. Nash stated that it is a commercial transaction with the Volvo/Volkswagen dealership, and Joanna Cicotte owns both Edwards and the car dealership.

Chair Garland noted that the building looks bigger than a car wash. Mr. Nash stated that it is more of a detailing space with three bays for the dealership. Previously the dealership was using a maintenance bay on its own property for car washing.

Ms. Monroe suggested adding an electric vehicle charging station.

5. Approval of Minutes

A. November 8, 2021

A MOTION by Matthew Hall to approve the Planning Board Minutes of November 8, 2021, as presented.
The motion was seconded by Laure Stavis.

****The MOTION was approved (7-0).***

B. November 22, 2021

A MOTION by Matthew Hall to approve the Planning Board Minutes of November 22, 2021, as presented.
The motion was seconded by Joan Monroe.

****The MOTION was approved (7-0).***

Mr. Brooks thanked the Board members for the time they put in attending and doing homework, which is a tremendous task for them as volunteers. It is very important to the community.

Mr. Hall expressed thanks to the Staff. Having their support and advice is very helpful.

Ms. Monroe stated that she is not going to reapply for another term on the Planning Board.

6. Adjournment

A MOTION by Joan Monroe to adjourn the meeting.
The motion was seconded by Matthew Hall.

****The MOTION was approved (7-0).***

The meeting was adjourned at 9:37 PM**.**

Respectfully Submitted,

Holly Howes
Recording Secretary