FINAL

LEBANON PLANNING BOARD
MONDAY, FEBRUARY 28, 2022 - 6:30 PM
Council Chambers, City Hall or
REMOTE VIA VIRTUAL PLATFORM
LebanonNH.gov/LIVE

MEMBERS PRESENT:	Bruce Garland (Chair), Matthew Hall (Vice-Chair), Tom Martz, Kathie Romano, Jeremy Rutter, Laurel Stavis, Cori Hirai (Alternate), Thomas Jasinski (Alternate)
MEMBERS ABSENT:	Karen Zook (City Council Rep), Gregorio Amaro, Kim Chewning
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.

Tom Jasinski was appointed as a voting member for Kim Chewning, and Cori Hirai was appointed as a voting member for Gregorio Amaro.

2. Public Hearing Items

A. **Unifirst Corporation, 125 Etna Road (Tax Map 26, Lot 6), zoned IND-L:** Site Plan approval for the existing industrial laundry facility was granted on March 3, 1987. Applicant requests removal of the Planning Board's condition of approval requiring bi-annual groundwater monitoring. PB2022-08-SPA -postponed from February 14, 2022

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

A MOTION by Matthew Hall that the Lebanon Planning Board find the application of Unifirst Corporation (PB2022-05-SPA) IS complete enough to accept jurisdiction and commence review.

The motion was seconded by Jeremy Rutter.
****The MOTION was approved (8-0).***

David Rosengarten of Fuss & O'Neill Consulting Engineers and Sarah White, Environmental Compliance Officer for Unifirst, appeared in support of the application.

Ms. White stated that after thirty years of groundwater monitoring, nothing has changed. Mr. Corwin read the condition of approval from 1987. Mr. Hall inquired why the company was making application now to remove the condition. Ms. White stated that the company recently reviewed the testing.

Mr. Jasinski expressed concern that removing the condition from that site could create future problems if the property was sold. Mr. Vincent stated that there were no regulatory requirements for monitoring wells on this type of facility. It is usually where there is petroleum involved. Ms. White noted that none of the other Unifirst facilities have groundwater monitoring requirements.

Mr. Rutter inquired about the term, “specific conductivity,” and why the readings were elevated. Mr. Rosengarten explained that it is a measure of electric conductance of water and not an indicator of anything specific. Usually road salt causes high levels of conductivity and perhaps salt in the parking lot added to the level.

The Board members discussed the need for monitoring. Mr. Rosengarten noted that no dry cleaning is allowed at the site. The water is metered coming in, and sampling and metering is done going out. There are other systems in place and data that shows it is working. Mr. Corwin stated that conditions run with the land.

Mr. Martz inquired about the life of the facility. Ms. White stated that their first building in Massachusetts is 87 years old. Ms. Romano suggested monitoring once a year to reduce the cost. Ms. Stavis inquired about the reason for the original condition back in the 1980’s. Ms. White stated that Unifirst bought property in Vermont in the 1980’s. The groundwater in that property was already contaminated before the purchase. It was reported in the press, which affected the conditions for the New Hampshire site.

Mr. Hall observed that Unifirst has thirty years of data and have detailed all that was done, so their request makes sense.

Mr. Martz inquired about the cost of monitoring. Mr. Rosengarten stated it was in the thousands.

Ms. Romano asked if there are other sites in Lebanon that require monitoring. Mr. Vincent stated that there is nothing similar now, just petroleum-related facilities. Mr. Brooks noted that DES requires monitoring after a spill, which is usually done after the fact to keep track of it.

Chair Garland invited public comment. There was none.

A MOTION by Matthew Hall to waive portions of Sections 5 & 6 of the Site Plan Regulations.
The motion was seconded by Jeremy Rutter.

Mr. Jasinski questioned if those sections were waivable.

****The MOTION was approved (5-3).*** Voting against were Mr. Jasinski, Ms. Stavis, and Ms. Romano.

Mr. Rosengarten stated that everything happens inside the building. Ms. White explained the treatment of waste, noting that wastewater and groundwater are completely separate. Unifirst now has enough history to make the request.

Chair Garland closed the public hearing.

A MOTION by Kathie Romano to require groundwater testing once a year.
The motion was seconded by Tom Martz.

Mr. Hall inquired if they should strike the 1987 quarterly requirement or continue it, not amend it.
Mr. Martz noted that there are still questions.
Ms. Hirai stated that testing once a year doesn’t amount to anything. All the procedures in place have kept the groundwater safe.
Ms. Romano inquired if testing would be required once a year if a new owner takes the property.
Ms. White stated that Unifirst is required to do everything inside the building to limit interaction with the

outside, and the condition is superfluous.
***The MOTION was not approved (4-4).**

A MOTION by Matthew Hall that the Lebanon Planning Board **APPROVE** the application of Unifirst Corporation regarding 125 Etna Road (Tax Map 26, Lot 6), PB2022-05-SPA, to amend the Site Plan approval for the existing industrial laundry facility granted on March 3, 1987 (the "1987 Notice of Decision"), as follows:

1. The 1987 Notice of Decision is hereby amended to strike condition of approval #D.2 (requiring the quarterly collection and testing of water samples from on-site wells) in its entirety.

2. The 1987 Notice of Decision, including all conditions of approval other than #D.2, shall otherwise remain in full force and effect.

The motion was seconded by Cori Hirai.
***The motion was not approved (4-4).**

Mr. Corwin stated that the rules of procedure require continuing the application until there is a nine-member Board.
Mr. Rosengarten noted that there isn't documentation of the Vermont incident at present.
Ms. Hirai suggested contacting the historical society of Lebanon or newspaper articles confirming the Vermont property's effect. Mr. Brooks offered to look for the minutes from 1987.

Chair Garland reopened the Public Hearing.

A MOTION by Jeremy Rutter to continue the hearing to March 14, 2022, at 6:30 PM.
The motion was seconded by Tom Jasinski.
***The MOTION was approved (7-1). Mr. Hall voted against.**

B. **Edwards Properties, LLC, 9 Pershing Street (Tax Map 78, Lot 48), zoned IND-L**: Request for Site Plan Review to construct a parking lot for a proposed car wash use. PB2022-10-SPR - postponed from February 14, 2022

C. **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 -postponed from February 14, 2022

Both applications for Edwards Properties were considered together at this meeting.

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

A MOTION by Matthew Hall that the Planning Board finds the applications of Edwards Properties, LLC for a Conditional Use Permit, PB2022-02-CUP, and Request for Site Plan Review to construct a parking lot for a proposed car wash use. PB2022-10-SPR, ARE complete enough to accept jurisdiction and commence review.
The motion was seconded by Laurel Stavis.
***The Motion was approved (8-0).**

Johanna Cicotte, property owner; Dan Nash, Advanced Geomatics; and Atty. Barry Schuster appeared in support of the application.

Mr. Schuster stated that the lack of trust in the property owner is not accurate regarding permits. All demolition permits were approved and issued on 9/23/2021. Ms. Cicotte applied to the City Council to discontinue portions of roads, which were approved. The grit oil separator was approved for the car wash, and it was installed. The flood plain permits were applied for and approved, and the driveway permit was granted subject to site plan approval of the Planning Board. No state permits were required and will be filed when necessary. Ms. Cicotte was not told that paving could not be installed. Paving is not a structure, and she thought no permit was required. There was no egregious conduct on Ms. Cicotte's part.

Mr. Schuster asserted that washing vehicles is an automotive service, and there are 5 bays, which are noted under "services".

Mr. Corwin reviewed the Staff comments and waiver requests, noting a recommended restriction on overnight parking and the recommended conditions.

Mr. Brooks stated that the car wash use was not mentioned in the permit requested for the grit separator. Planning Staff was not aware of the intended use of the property until later in the application process. Chair Garland distributed his Edwards business model which was derived from statements by the applicant.

Mr. Schuster stated that the site in question will not become an accessory vehicle sales location, and there would be no overnight parking of vehicles of the adjacent dealership. Third party vehicles may be dropped off and parked overnight for detailing.

Chair Garland stated that understanding the business model would inform the need for parking.

Ms. Romano inquired if there would be only one drain for all 5 bays. Mr. Schuster explained that one bay would be for washing with the others for different stages of detailing.

Mr. Jasinski noted that there are two categories for the business of "personal" and "other commercial", and it should use the other commercial, which would allow 11 parking spaces. Mr. Schuster stated that it was based upon 5 service bays, which would allow 20 spaces.

Mr. Hall inquired about why such a large, paved area and so much parking is needed. Mr. Nash stated that other cars could be waiting for service, which would require the 4 spaces per bay for a total of 20 spaces. Mr. Vincent expressed concern about the lack of information regarding groundwater levels and test pits, and it should be part of the review process. Mr. Nash inquired if it would be a condition of approval, stating that it would not be possible to provide the information. Ms. Stavis noted that it is what the City Engineer is requesting. Mr. Vincent stated that the nature of the proposed stormwater practice makes it important to have adequate data supporting the positive effect of the system. The basis of the design depends on field work. If it is not favorable, the site would have to be raised up 2 feet. It is essential to show the condition of the ground. Ms. Romano noted that the site is a wet area, and stormwater management for this area is very important. Ms. Stavis inquired about the hours of operation. Ms. Cicotte stated that it would be 9 a.m. to 5 p.m. weekdays.

Mr. Schuster inquired about the concern for stormwater management. Mr. Vincent stated that additional impervious surface would need to be treated and peak flow managed. If it triggers site plan review, they will review it.

Mr. Rutter inquired about the plan for catch basins. Mr. Nash confirmed it would be the southeast one. Mr. Rutter noted the notation of "inlet plugged."

Ms. Cicotte described the work on drainage toward the Hypertherm property and the extensive work done to restructure failed drainage. She made every effort to do things the correct way to manage the flow of the stormwater.

Mr. Rutter inquired about the trees that showed in a previous image. Mr. Vincent noted that he did the landscaping review of the property in 2019, and it was approved.

Chair Garland stated that the standard is "automotive service," which allows 20 parking spaces. Mr. Jasinski asked for staff input. Mr. Brooks stated that the standard is important because it can require a conditional use permit. Mr. Jasinski inquired about the determination of automotive versus other commercial. There was a general discussion of the process of bringing in and accommodating the number of cars being serviced.

Mr. Hall suggested that washing a car is an automotive service.
Ms. Romano inquired of the applicant as to why the additional spaces are required. It is a very wet area with brook running through it, which is why stormwater is a concern.

Mr. Brooks discussed the discontinued roads.

Mr. Hall inquired if zoning determines parking. Mr. Corwin stated that there is flexibility in the automotive services category that encompasses different categories of car washes. Automotive services would be more accurate, because it is not a drive-thru like Jake's. Ms. Cicotte confirmed that washing cars is an automotive service. Ms. Stavis asked what the grand plan would be for the parcel of land. Ms. Cicotte explained the purchases of surrounding property and stated that there is no plan for the balance of the property. Ms. Stavis said the background is very useful.

Chair Garland invited public comment. There was none.

Mr. Corwin noted that the Chair prepared the document to summarize the previous testimony, and it should be clarified if it is not accurate at this time. Mr. Rutter inquired about the statement that there are no employees of Edwards Property. Mr. Schuster stated that they disagree with some of the prepared summary. Ms. Hirai noted that they already noted their disagreement.

Chair Garland inquired if they should continue the hearing. Ms. Romano stated that she would approve the automotive service category with concerns about the increased impervious surface. Mr. Hall inquired of Mr. Vincent whether there would be a condition regarding stormwater or if it should be settled up front. Mr. Vincent stated that if there was substantial change, it would have to come back to the Planning Board. Mr. Hall noted that it is unlikely there would be a great change in soils.

Mr. Corwin noted that this issue needs to be settled during site plan review and not left as a condition of approval. In the past, Staff would have to try to resolve these issues at the last minute and possibly hold up issuing a building permit. Ms. Romano noted that the goal of this meeting was to determine the standard to be used for determining parking. dragging it out is not fair to applicant

Chair Garland conducted a straw poll that the Board members would consider the car wash as an automotive service facility.
The vote was in favor (7-1).

Mr. Hall noted that, based upon the requirements, the Board should wait for stormwater information.

A MOTION by Tom Martz to continue the hearing to April 11, 2022, at 6:30 PM.
The motion was seconded by Laurel Stavis.
****The MOTION was approved (8-0).***

3. Committee Reports

A. Planning Board Subcommittees

--Planning Board Capital Improvement Program (B. Garland/L. Stavis/M. Hall/K. Chewing)

--Planning Board Development Regulations Update (M. Hall/K. Romano/J. Rutter/ VACANT)

B. City Council Subcommittees

--Class VI Roads Advisory Committee (VACANT)
--Lebanon Energy Advisory Committee (VACANT)

C. **Other Subcommittees:**
--City Council Representative (D. Whittlesey/K. Zook)
--Heritage Commission (J. Rutter)
--Pedestrian & Bicyclist Advisory Committee (G. Amaro)
--Upper Valley Lake Sunapee Regional Planning Commission (B. Garland)
--UV SubCommittee of the Connecticut River Joint Commissions (B. Garland)
--Upper Valley Transportation Management Association (VACANT)
--Mascoma River Local Advisory Committee (K. Romano)
--Steering Committee for the Implementation of the Master Plan (B. Garland/K. Chewning /VACANT/VACANT)
--West Lebanon Revitalization Advisory Committee (L. Stavis)
--Planning & Development Department – Task Status (D. Brooks/ M. Goodwin/T. Corwin/R. Owens)

4. Other Business

A. 2023-2028 CIP - review 2022 CIP and capital budget - Postponed

B. Memo to Planning Board Re: Satisfaction of Condition #3 of PB2012-30-SPA
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Mr. Brooks explained that there was a condition of approval in 2013 for Brady Sullivan to post money into an escrow account in lieu of some improvements being made. There was a time limit put on that condition, which was not met without an agreement between the homeowners' association and Brady Sullivan until recently. Staff considers that the condition is now satisfied. The Planning Board didn't need to be involved with activities in their open space. If the Board concurs, they can let them move on.
Ms. Romano, as a member of a homeowners' association, stated that creating open space that is available to anyone in the community causes issues over others going through their property.
Mr. Brooks stated that the Planning Board has no jurisdiction over a private community's open space, which is for people within the development. This development is not open to the general public.

A MOTION by Matthew Hall to extend the meeting to 9:45 PM.

The motion was seconded by Laurel Stavis.
****The MOTION was approved (8-0).***

C. Discussion re: NHMA Legislative Policy Proposals

Mr. Brooks stated that the City Council has been reviewing and commenting on the New Hampshire Municipal Association's (NHMA) policy positions for several years. Lebanon is part of NHMA's membership. The City Council has invited comments from other boards regarding policies that the public have positions on. A template exists for comments.

Chair Garland suggested changes on voting, which should be in person or mail in, not "absentee."
Mr. Jasinski inquired what might be relevant to the Planning Board. Mr. Brooks suggested that the section on Infrastructure, Development, and Land Use might be most relevant.
Mr. Brooks noted that the City Council needs Planning Board comments before March 16. Waiting to the March 14 meeting would make for a very quick turnaround. The invitation was to the Board as a whole and not individuals.

Ms. Stavis stated that the NHMA is a lobbying organization, which appears before Municipal and County Government where local land use board policies are determined. That is the place for input from communities through individual legislators. Ms. Stavis offered to conduct a session to share examples of legislation that would have significant impact for the community. It is a larger discussion than the Board can have at this time.

Ms. Romano suggested that State and municipal fire codes are not the same and could be clearer. Mr. Jasinski noted that feedback to City Council is not possible given the time available. Mr. Brooks stated that the Planning Board could pass this time. Mr. Stavis noted that other members of her committee are often proposing legislation to help their communities.

A MOTION by Cori Hirai to express appreciation to the City Council, but the Planning Board has no comments this year.
The motion was seconded by Tom Martz.
****The MOTION was approved (8-0).***

D. Recap Master Plan Update Process

Mr. Brooks circulated a memo regarding the Master Plan Update Process. The proposal is to work with individual boards to update chapters. SCIMP will be retired. Ms. Hirai looked at the proposed schedule for the chapters. Mr. Brooks stated that this would start with fewer chapters and gradually take on more as the process is clarified. Housing will be postponed this year due to the many discussions currently going on and the need to create a working group. The goal is to focus on specific actions and strategies.

5. Approval of Minutes

A. None

6. Adjournment

A MOTION by Matthew Hall to adjourn the meeting.
The motion was seconded by Cori Hirai.
****The MOTION was approved (8-0).***

The meeting was adjourned at 9:42 PM**.**

Respectfully Submitted,

Holly Howes
Recording Secretary