

FINAL

LEBANON PLANNING BOARD
Regular Session
Monday, March 14, 2022, 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 (City Council Rep), Gregorio Amaro, Kim Chewning, Tom Martz, Kathie Romano, Jeremy Rutter, Laurel Stavis, Thomas Jasinski (Alternate), Cori Hirai (Alternate)

MEMBERS ABSENT: None

STAFF PRESENT: David Brooks (Planning Director), Tim Corwin (Senior Planner)-Remote, Brian Vincent (City Engineer)

1. Call to Order

Chair Garland called the meeting to order at 6:31 PM.
Tom Jasinski was appointed to replace Laurel Stavis until her arrival.

2. Notice of Regional Impact

The following applications were received by the Planning and Development Department on or before March 14, 2022:

Recreo, LLC and City of Lebanon, 2 Mascoma Street & 12 S. Park Street (Tax Map 91, Lots 254 & 253), zoned LD: Request for a Boundary Line Adjustment. PB2022-16-BLA

Recreo, LLC, 2 Mascoma Street (Tax Map 91, Lots 254), zoned LD: Request for Site Plan Review to construct two apartment buildings containing a total of 150 units along with associated site improvements, including on-site parking, entry plazas and landscaping. PB2022-17-SPR

Woodrow Fitness, LLC, 12 Lafayette Street (Tax Map 10, Lot 11, Plot 500), zoned IND-L: Request for Site Plan Review to construct 25,700 sq ft +/- of outdoor tennis courts as an accessory use for the River Valley Club fitness center. PB2022-18-SPR

Mr. Brooks recommended that none of the applications has the potential for regional impact.

A MOTION by Matthew Hall that the applications above have no potential for regional impact.

The motion was seconded by Jeremy Rutter.

****The MOTION was approved (9-0).***

3. Public Hearing Items

A. Robert & John Oakes, 92 Riverside Drive (Tax Map 111, Lot 16), zoned RL-1: Request for Site Plan Review to construct a +/-26,176 sq. ft. commercial self-storage unit facility

together with related site improvements. PB2022-06-SPR - Continued from February 23, 2022

Kim Chewning recused herself. Cori Hirai was appointed to replace Ms. Chewning.

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

Mr. Nash stated that he had addressed all the items in the Staff Memo but the Fire Department's comments.

Chair Garland noted that there was insufficient time for the Board to review all the materials submitted, which were received on the morning of the meeting.

Laurel Stavis arrived at 6:36 PM.

Mr. Corwin stated that the previous Fire Department issue has been resolved. There are other materials that Staff needs time to review.

Mr. Brooks suggested that the hearing could be continued to April 11, 2022.

***A MOTION by Kathie Romano to continue the hearing of Robert & John Oakes, 92 Riverside Drive (Tax Map 111, Lot 16), zoned RL-1, to April 11, 2022, at 6:30 PM.
The motion was seconded by Jeremy Rutter.***

****The MOTION was approved (9-0).***

Kim Chewning returned to the Board.

- B. 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 28, 2022

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

Chair Garland thanked the Staff and Board for finding letters and news from 1987 that created the foundation for the condition imposed on Unifirst for quarterly groundwater testing. He added that the split vote on the approval motion at the previous meeting made the postponement necessary until a full board could hear the case for amending or removing the condition.

Mr. Corwin noted that there was material in the packet from 1987 Planning Board minutes that included the Valley News articles found by Mr. Jasinski, which supported the applicant's position that the condition was imposed due to the news from Vermont at the time. The testing was lowered to twice a year in 1997 based upon a letter from the City Engineer to the Public Works Director to support the change from quarterly to biannual testing as the result of a Zoning Board decision. Mr. Brooks stated that the Zoning Board decision supported the ability of the Public Works Director to adjust the testing schedule.

Mr. Vincent stated that no other laundry that does not do dry cleaning has been subject to such testing.

Mr. Rosengarten read a statement regarding the history and practice of Unifirst's environmental practices

and the context of the condition for groundwater testing.

Mr. Hall inquired if the City agrees with removing the condition. Mr. Vincent stated that there are no objections from Public Works.

Ms. Romano inquired if Public Works could override the Planning Board's decision. Mr. Corwin stated that they could not reduce the Planning Board's requirements unless the Board incorporates a mechanism for Public Works to do so. Mr. Brooks detailed the Zoning Board's decision on testing. A subsequent Planning Board approval incorporated the Zoning Board's decision, thereby accepting the Department of Public Works oversight of the testing. Ms. Romano expressed confusion over the number of wells and the frequency of testing. Mr. Corwin confirmed that Public Works could change those parameters based on the earlier decisions.

Mr. Jasinski noted that item #3 in the Memo required testing every other year and asked if that would be eliminated. Mr. Rosengarten said they were doing the complete testing twice a year at present. Mr. Jasinski noted that the City was required to do the testing with Unifirst paying for it. Mr. Vincent stated that the applicant is doing and paying for all the testing, and the DPW reviews the testing results.

Ms. Romano stated that she is reluctant to remove the requirements. Mr. Vincent stated that the only item showing up over the years was some salt from winter parking lot treatment. Ms. Chewning inquired if Unifirst would be required to maintain the wells if testing was changed. Mr. Rosengarten confirmed that Unifirst would have to maintain the wells, and the City could test the wells. Mr. Vincent stated that a contamination issue would not be likely.

Ms. Hirai questioned the premise for the original testing. Mr. Rosengarten reviewed the history and process for managing outflow, asserting that the evidence shows a lack of need for the testing with all materials being used only inside the building. The building outflow is monitored monthly. Mr. Vincent described the impermeable barrier. Mr. Amaro expressed hesitancy in removing safeguards. Mr. Vincent stated that it would be unusual for such a condition to be imposed today.

Ms. Stavis inquired about the types of items that are cleaned at the facility. Mr. Rosengarten did not know all the types of items cleaned, but certain items were not allowed at the facility. Mr. Vincent commented on the list of things in the Industrial Discharge Permit, and biowaste was prohibited. He did not remember a violation to date.

Mr. Martz noted that some items are sent to the State of Maine that cannot be sent to the landfill in Lebanon. Mr. Vincent stated that it depends on the landfill permit. Ms. Romano asserted the need to protect the environment based upon past practices.

Mr. Hall suggested the Board should lean on the experience of the experts. Ms. Stavis inquired about Mr. Rosengarten's position. Mr. Rosengarten stated that he is a hydrogeologist, and his field is environmental science and groundwater. Ms. White spoke to what Unifirst washes, such as floor mats, uniforms, bar towels, restaurant garments, hospital laundry, etc. A company supplies specific formulas for each type of item. There are a dozen different formulas. The sludge is lint, oils and greases, suspended solids, and anything on the dirty laundry. The Lebanon landfill does accept such sludge, but it is cheaper to take the sludge to Maine rather than to the Lebanon landfill. The cleaned water goes into the city sewer. Ms. Hirai inquired about dumping of the sludge. Ms. White stated that the Industrial Waste Permit requires a manifest as proof of the final location that accepts the waste.

Chair Garland invited public comment. There was none. Chair Garland closed the Public Hearing.

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 to require the bi-annual collection and testing of water samples from the monitoring wells as identified in the February 28, 1997, memo from Bob Kline, City Engineer, to Ken Ryder, Director of Public Works.
2. The 1987 Notice of Decision, including all conditions of approval other than #D.2, shall otherwise remain in full force and effect, including #C.3 requiring all monitoring wells to be maintained in working order.

The motion was seconded by Jeremy Rutter.

***The MOTION was not approved (4-5).** Kathie Romano, Laurel Stavis, Gregorio Amaro, Tom Martz, and Kim Chewning voting against.

Ms. Romano expressed concern about removing things in perpetuity.

A MOTION by Kathie Romano 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:

3. The 1987 Notice of Decision condition of approval #D.2 is hereby amended to require annual collection and testing of water samples from the monitoring wells as identified in the February 28, 1997, memo from Bob Kline, City Engineer, to Ken Ryder, Director of Public Works.
4. The 1987 Notice of Decision, including all conditions of approval other than #D.2, shall otherwise remain in full force and effect, including #C.3 requiring all monitoring wells to be maintained in working order.

The motion was seconded by Laurel Stavis.

Several Board members expressed the need to maintain some degree of monitoring.

***The MOTION was approved (8-1).** Matthew Hall voted against.

- C. **New England School of the Arts (applicant) and HSD, LLC (property owner), 9 Hanover Street (Tax Map 91, Lot 243), zoned LD:** Request for a Conditional Use Permit per Section 307.4 of the Zoning Ordinance to convert a portion of the existing building to a secondary educational facility, proposed to be operated as the New England School of the Arts. PB2022-13-CUP

Carl Chambers and Jennifer Chambers, Head of the School and Associate Head respectively, appeared to speak on behalf of the application, with John Hochreiter or HSD, LLC (property owner) providing additional information remotely.

Mr. Corwin stated that Staff recommends that the application is complete enough for the Planning Board

to accept jurisdiction and commence review.

A MOTION by Matthew Hall that the Planning Board finds the application of New England School of the Arts (applicant) and HSD, LLC (property owner) for a Conditional Use Permit, PB2022-13-CUP, IS complete enough to accept jurisdiction and commence review.

The motion was seconded by Tom Martz.

****The MOTION was approved (9-0).***

Mrs. Chambers stated that they are proposing a secondary arts school for 50-100 students. Mr. Chambers added that they would be collaborating with other local organizations to provide an arts community, and they believe in a positive school culture, stewardship, and citizenship. At present, Mr. Chambers is the headmaster at another school.

Mr. Corwin noted that specific uses are permitted in certain districts. A secondary educational facility is not identified in the Lebanon Downtown District but can be authorized by the Planning Board under Section 307.4, and this application meets the applicable Sections of 302.4.D. Planning Staff would recommend that the applicants install a bicycle rack.

Ms. Stavis inquired about registration with the Secretary of State. Mrs. Chambers stated that the permits have been applied for and have been approved. The program of studies has also been approved.

Ms. Zook asked about the relationship between the school and the arts organizations in downtown. Mr. Chambers stated that it would be a lab type of school with a high level of rigor, like City School in NYC, where students work within the city for authentic. Mrs. Chambers noted that the unique aspect is the collaborative nature of the school with students as stewards of the arts. They are looking to build and develop character in the students.

Mr. Hall suggested that the applicant has satisfied the requirements for the Conditional Use Permit. Ms. Romano inquired if the other schools in that area have needed CUP's. Mr. Brooks stated that they are public schools, and that is a permitted use. Mr. Corwin noted that the charter school is an exempt use. Mr. Chambers stated that they would not be accepting the Education Freedom Account vouchers. They would be offering scholarships and would not be using public school funds.

Mr. Jasinski inquired about what portions of the building they would be using. Mr. Chambers stated that it would be the second floor.

John Hochreiter from HSD, LLC showed what portion of the building the school will occupy. Mr. Jasinski asked if it would be necessary to specify what area of the building will be used in the CUP. Mr. Corwin stated that it does need to be specified and would require an additional CUP if they expand to other areas of the building. Mr. Brooks noted the layout images in the packet. Mr. Chambers noted that it is mostly open space with some offices and conference spaces. Mr. Hall inquired if the Board could grant the CUP to allow future expansion.

Mr. Amaro inquired if they would cap the number of students. Mrs. Chambers stated that they are waiting for the Fire Department regulations on occupancy. Mr. Chambers noted that not all students would be in the building at the same time, with a number out in the community in different capacities. Mr. Amaro asked how they will decide on what students to accept. Mr. Chambers stated that they would rely on an interview process. Mrs. Chambers noted that it needs to be the right fit, and they are looking for students who embrace the mission.

Ms. Romano inquired if they would rent and what renovations they would need. Mr. Chambers noted that the State will tell them what improvements are required in the facility for safety and health. Ms. Stavis noted that it is a wonderful effort and suggested they reach out to the West Lebanon Revitalization Committee. Mr. Martz stated that it is exciting because there is much talent in the community and inquired about where students would find lunch. Mrs. Chambers noted that the State would make recommendations.

Members of other boards and commissions commented on the project. City Councilor Clifton Below, an abutter at 1 Court Street, noted several other educational groups in the area and that this use is highly compatible with the area. William Dunn from the Arts & Culture Commission and the Economic Development Commission noted that it would bring vibrancy and connection to the other areas of the arts in downtown, and Lebanon is the hub of the arts in the area.

Mr. Jasinski stated that it is a wonderful application, but there may be external impacts, such as parking. Mr. Chambers stated that they would encourage use of Advance Transit, rideshare, and bicycles. Mrs. Chambers stated that it is a different scale with a small group of staff and not all students at once. Mr. Chambers noted that it won't be excessive, and they are in favor of the bicycle rack. Ms. Hirai inquired how many cars would be on site daily. Mr. Chambers noted that many students would not be driving, and they would set expectations and monitor what is happening. There would be more foot traffic using restaurants, coffee shops, and other schools. Mr. Hochreiter stated that they would be renting space that had been used by another group, and that the need for parking would likely be no more than that required for the previous group.

Mr. Amaro inquired if this is an adequate amount of space. Mr. Chambers stated that this is where they are starting and would see where it goes. At a later time they may apply for another space.

Chair Garland closed the Public Hearing.

Read by Matthew Hall:

On March 14, 2022, at a duly-noticed meeting of the Lebanon Planning Board, there appeared Carl and Jennifer Chambers on behalf of New England School of the Arts (applicant) and John Hochreiter of HSD, LLC (property owner) regarding 9 Hanover Street (Tax Map 91, Lot 243), zoned LD. Applicant requests a Conditional Use Permit per Section 307.4 of the Zoning Ordinance to convert a portion of the existing building to a secondary educational facility, proposed to be operated as the New England School of the Arts. PB2022-13-CUP

I. FINDINGS OF FACT

Based on testimony given, application materials presented, and supporting documents submitted, the Planning Board makes the following findings of fact:

1. The subject property is a +/-0.10-acre lot currently improved with a 13,356 sq. ft. two-story commercial building constructed in 1901 (according to the City's assessing records). The applicant proposes to utilize the building for a secondary educational facility (the "New England School of the Arts"), as described in the application materials.
2. The applicant requests a Conditional Use Permit to operate a "secondary educational facility" as an "other use" in the LD District, per Sections 307.2 and 307.4 of the Zoning Ordinance.

3. Per Section 302.4.B of the Zoning Ordinance, the Planning Board may grant a Conditional Use Permit if it finds that the proposal meets the criteria set forth in Section 307.4 in addition to the Enhanced Performance Standards set forth in Section 302.4.D.

II. CONCLUSIONS OF LAW

As a result of the above findings of fact and based on testimony given, application materials presented, and supporting documents submitted, the Planning Board concludes the following with respect to the criteria set forth in Section 307.4 of the Zoning Ordinance and the Enhanced Performance Standards set forth in Section 302.4.D of the Zoning Ordinance:

1. The proposal **WILL** encourage the presence of the public in the Lebanon Downtown District and/or create regular and sustained opportunities for members of the public to utilize the Lebanon Downtown District. (Section 307.4.1)
2. The proposal **WILL NOT** be incompatible with abutting properties and uses. (Section 307.4.2)
3. The site **IS** suitable for the proposal. (Section 302.4.D.1)
4. The external impacts of the proposed use on abutting properties and the neighborhood **IS** commensurate with the impacts of adjacent existing uses or other uses permitted in the zoning district. (Section 302.4.D.2)
5. The criteria set forth in Section 302.4.D.3, 4 and 5 relate to new construction and, since no new construction is proposed, are inapplicable to the subject application.

III. DECISION

Now therefore be it resolved, the Planning Board, on this **14th day of March, 2022**, hereby **GRANTS** the request of New England School of the Arts (applicant) and HSD, LLC (property owner) for a Conditional Use Permit per Section 307.2 and 307.4 of the Zoning Ordinance to convert a portion of the existing building at 9 Hanover Street (Tax Map 91, Lot 243), zoned LD, to a secondary educational facility, proposed to be operated as the New England School of the Arts, PB2022-13-CUP, as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

1. The applicant shall install a bicycle rack on the mall or at the tunnel level, in coordination with the Planning and Development Department and the Department of Public Works.
2. The use is permitted to occupy any portion or all of the existing building.

The motion was seconded by Kim Chewning.

****The MOTION was approved (9-0).***

- D. **Novo Nordisk US Bio Production, Inc., 9 Technology Drive (Tax Map 145, Lot 3), zoned IND-L & IND-H:** Request for Site Plan Review to construct three (3) additions to the current existing building totaling approximately 13,000 square feet, and a Conditional Use Permit per Section 607.2 of the Zoning Ordinance to permit a reduction in the number of required parking spaces to be built. PB2022-12-SPR

Erin Flynn and Kaleb Moore appeared in support of the application.

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

A MOTION by Tom Martz that the application of Novo Nordisk is complete enough for the Planning Board to accept jurisdiction and commence review.

The motion was seconded by Jeremy Rutter.

****The MOTION was approved (9-0).***

Ms. Flynn displayed and described the location and current facility with the proposed additions.

Mr. Corwin reviewed the Staff comments. The applicant is still working on the stormwater management plan, and the general waiver request is one that is recommended by Staff. The other two waivers were explained.

Mr. Rutter inquired about the parking calculations. Mr. Moore explained the proposed parking. Mr. Rutter suggested confirming the number of spaces.

Ms. Romano inquired about stormwater management and maintenance. Mr. Vincent stated that DPW had reviewed and approved of the stormwater management plan. The operations and maintenance plan is going to be provided as a condition.

Chair Garland invited public comment. There was none.

A MOTION by Matthew Hall that for the application of Novo Nordisk US Bio Production, Inc., PB2022-12-SPR, the Lebanon Planning Board **APPROVE** waivers from the following sections of the Site Plan Review Regulations:

- General waiver of Article V and Article VI as those sections apply outside of the designated redevelopment area.
- Waiver of Section 5.1.E.16 – requiring a landscaping plan
- Partial Waiver of Section 6.6.C.1 and 2 – stormwater design requirements

The motion was seconded by Kathie Romano.

Mr. Jasinski inquired about the meaning of a partial waiver. Mr. Corwin stated there was a stormwater design, but some of the required items don't apply. Mr. Brooks noted that the packet includes a technical checklist of the information that has and has not been provided, which explains the partial waiver of the stormwater requirements. That document describes which parts are being waived.

****The MOTION was approved (9-0).***

Chair Garland invited public comment. There was none. The Public Hearing was closed.

A MOTION by Matthew Hall that the Lebanon Planning Board **APPROVE** the application of Novo Nordisk US Bio Production, Inc. for Site Plan Review to construct three (3) additions to the current existing building totaling approximately 13,000 square feet, and for a Conditional Use Permit per Section 607.2 of the Zoning Ordinance to permit a reduction in the number of required parking spaces to be built at 5 & 9 Technology Drive (Tax Map 145, Lot 3), zoned IND-L and IND-H, PB2022-12-SPR, as shown on a plan set titled “Novo Nordisk US Bio Production, Inc., Technology Drive – City of Lebanon,” prepared by Jacobs Engineering, dated February 28, 2022, project no. 63FHJKXX (12 sheets), including any and all submissions and testimony provided for and during the public hearing, subject to the following conditions:

Conditions to be Satisfied Prior to Application for a Building Permit

1. Provide the Planning and Development Department with a stormwater operation and maintenance plan for the property prepared in accordance with the requirements of Section 6.6 of the Site Plan Review Regulations, to the satisfaction of the City Engineer.
2. The applicant shall make the following revisions to the plan set to the satisfaction of the Planning and Development Department and the City Engineer:
 - a) The Site Information and parking calculations on the cover sheet shall be amended for consistency with the site plan approved for the subject property on September 13, 2021 (PB2021-26-SPR).
 - b) Add survey to the plan set and update Table of Contents and plan sheet numbers accordingly.
 - c) Add revised cover sheet and revised Sheet Leb-C-0-003 submitted at the March 14, 2022 hearing.
 - d) Amend the cover sheet to provide description of plan revisions (5.1.E.4.d).

The applicant shall provide the Planning and Development Department with one (1) full size copy of the revised plan set, and a digital copy of the revised plan set saved in a PDF-A format for archival purposes.

3. The applicant shall schedule and hold a pre-building permit application meeting with the Planning and Development Department, City Building Inspectors, City Engineer/Department of Public Works, and Fire Department, in order to help streamline the building permit review process and to review applicable code requirements.
4. The applicant shall obtain approval from the City Council or the City Manager’s office for any additional water and/or sewer flows in accordance with the applicable Chapter 136 and 182 of the City Code.
5. All engineering review fees shall be paid in full as required by Section 4.7.E.1 of the Site Plan Review Regulations.

Conditions to be Satisfied Prior to the Issuance of a Building Permit

6. The development 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 13, 2021. In accordance with RSA 674:39, the approved site plan shall be exempt from any future changes in impact fees and methodology for five years from the date of approval; however, any building permits which are issued after the end of that five-year period shall be fully subject to whatever impact fees and methodology are in effect at the time of building permit issuance.

7. All water and sewer fees shall be paid as set forth in City Code Chapter 68.
8. Prior to the start of any construction activities on the property, the applicant shall obtain or update (if appropriate) any required State approvals including, but not limited to, the following:
 - a) NHDES Sewer Connection Permit, if necessary

Conditions to be Satisfied Prior to the Issuance of a Certificate of Occupancy

9. The impact fee calculated pursuant to Condition of Approval #6 shall be paid.
10. All improvements depicted on the plan shall be completed and shall be constructed as depicted on the approved plan, including any modifications to the plan as may be approved by the Planning Board in accordance with the Subdivision Regulations and Site Plan Review Regulations.

General Conditions

11. The applicant shall obtain an Excavation Permit from the Department of Public Works for any site work in the public right-of-way prior to any work in the right-of-way.
12. All required landscape plantings shall meet the minimum size requirements for such plantings set forth in Section 6.2.B of the Site Plan Review Regulations at the time of installation.
13. The applicant shall implement and maintain NHDES Site Specific Best Management Practices before, during, and after construction.
14. The property owner is responsible for the maintenance and operation of the stormwater management system in accord with the O&M plan, and such responsibility shall run with the land. (Section 6.6.H.2.b of the Site Plan Review Regulations).

The motion was seconded by Tom Martz.

Mr. Hall inquired about noting the parking details. Mr. Corwin stated that it had already been noted.

****The MOTION was approved (9-0).***

4. Other Business

5. Approval of Minutes

A. February 14, 2022

A MOTION by Laurel Stavis to approve the Planning Board Minutes of February 14, 2022, as presented.

The motion was seconded by Jeremy Rutter.

****The MOTION was approved (9-0).***

6. Adjournment

***A MOTION by Matthew Hall to adjourn the meeting.
The motion was seconded by Tom Martz.***

****The MOTION was approved (9-0).***

The meeting was adjourned at 8:55 PM.

Respectfully Submitted,

Holly Howes
Recording Secretary