**FINAL**

**LEBANON PLANNING BOARD**
**Regular Session**
**Monday, January 9, 2023, 6:30 PM**
**City Council Chambers, City Hall**
**or Remote Via Microsoft Teams**
**LebanonNH.gov/Live**

**MEMBERS PRESENT:** Matthew Hall (Vice-Chair), Douglas Whittlesey (Alt. City Council Rep), Kim Chewning, Thomas Jasinski (Alternate), Kathie Romano - remote, Jeremy Rutter, Cori Hirai (Alternate)

**MEMBERS ABSENT:** Bruce Garland (Chair), Karen Zook (City Council Rep), Laurel Stavis

**STAFF PRESENT:** Nathen Reichert (Planning Director), Tim Corwin (Deputy Planning Director), Brian Vincent (City Engineer)

---

## 1. Call to Order

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

Tom Jasinski was appointed for Bruce Garland and Cori Hirai for the Board vacancy.

Ms. Romano was attending remotely due to being out of town.

## 2. Notice of Regional Impact

The following applications were received by the Planning and Development Department on or before January 9, 2023:

**Upper Valley Technology Park, LLC, 0 Plainfield Road (Tax Map 131, Lot 3), zoned IND-L:** Request for Site Plan Review to construct a +/-6,000 sq. ft. building for a proposed food distribution and warehouse facility, together with associated site improvements. The development, which will be located on Lot 1 of a 3-lot industrial planned unit development approved on December 19, 2022, also requires an amendment to the Conditional Use Permit and Minor Subdivision approval for the Upper Valley Technology Park LLC Planned Unit Development (PB2022-51-CUPMIN). PB2023-07-SPR

**The Marek Lebanon, LLC, 343 Mount Support Road (Tax Map 24, Lot), zoned R-1:** Pursuant to Section 7.13 of the Subdivision Regulations, Applicant requests approval to occupy the multi-family building under construction at 343 Mount Support Road in phases. Site Plan approval for the development was originally granted on October 13, 2020 (PB2020-11-SPR). PB2023-08-SPR

**Lebanon School District SAU #88, 195 Hanover St Ext (Tax Map 64, Lot 33), zoned R-3:** Request for Site Plan Review to construct additions to the Lebanon High School and Elementary School building, together with associated site improvements. This application will be reviewed as a governmental use per NH RSA 674:54. PB2023-09-SPR

Mr. Corwin stated that Planning Staff reviewed the above applications and found that none have the potential for regional impact.

***A MOTION by Jeremy Rutter that the above applications do not have the potential for regional impact. The motion was seconded by Kim Chewning.***
***Roll Call Vote:***
***Voting in Favor – Councilor Whittlesey, Mr. Jasinski, Ms. Chewning, Mr. Rutter, Mr. Hall, Ms. Hirai, Ms. Romano***
***Voting Against – None***
****The MOTION was approved (7-0).***

**2. Public Hearing Items**

Vice Chair Hall invited Mr. Corwin to explain the status of the agenda items. Mr. Corwin stated that items A – E and H scheduled for completeness and/or hearings at this meeting would be postponed to the February 13, 2023 meeting, at which time there and should be sufficient time for them to be addressed.

A. **Chorro, LLC, 77 Bank Street (Tax Map 92, Lot 79), zoned R-O**: Request for site plan approval to convert the existing building to an 8-unit multi-family dwelling. **PB2022-47-SPR**

B. **Eric & Susan Cole, 162 Mechanic Street (Tax Map 105, Lot 14), zoned R-2:** Request for Site Plan Review to convert a portion of the existing multi-family dwelling to an office use. **PB2023-02-SPR**

C. **Cicotte Properties, LLC, 175 Heater Road (Tax Map 64, Lot 30), zoned IND-L:** Request for Site Plan Review to expand the paved area to increase the vehicle storage area for the existing vehicular sales use. **PB2023-01-SPR**

D. **NH Group, LLC (applicant), 369 Miracle Mile LLC (property owner), 369 Miracle Mile (Tax Map 103, Lot 11), zoned GC:** Request for Site Plan Review to convert the existing building into a +/-18,735 sq. ft. restaurant and indoor amusements use (charity gaming center), together with associated site improvements. PB2023-04-SPR

E. **Rock Ridge Lebanon, LLC, Old Pine Tree Cemetery Road (Tax Map 74, Lot 3, Plots 101-146), zoned RL-2 and RL-3:** Applicant requests an extension of time for the completion of the required infrastructure improvements for Phase 3 of the Rock Ridge planned unit residential development, originally approved by the Planning Board on July 7, 2005. **PB2023-05-EXT**

***A MOTION by Jeremy Rutter that Agenda items A, B, C, D, E, and H be postponed to the February 13, 2023, meeting at 6:30 PM.***
***The motion was seconded by Douglas Whittlesey.***
***Roll Call Vote:***
***Voting in Favor – Councilor Whittlesey, Mr. Jasinski, Ms. Chewning, Mr. Rutter, Mr. Hall, Ms. Hirai, Ms. Romano***
***Voting Against – None***
****The MOTION was approved (7-0).***

F. **NBKS, LLC, 68 Maple Street (Tax Map 73, Lot 7), zoned R-3:** Request for a Minor Subdivision of the subject property into two (2) lots. **PB2023-03-MIN**

Kevin Purcell and Wayne McCutcheon, surveyor, attended in support of the application.

Mr. Corwin stated that 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 NBKS, LLC, for a proposed two (2)-lot Minor Subdivision of 68 Maple Street (Tax Map 73, Lot 7), PB2023-03-MIN, IS complete enough to accept jurisdiction and commence review.***
***The motion was seconded by Cori Hirai.***
***Roll Call Vote:***
***Voting in Favor – Councilor Whittlesey, Mr. Jasinski, Ms. Chewning, Mr. Rutter, Mr. Hall, Ms. Hirai, Ms. Romano***
***Voting Against – None***
****The MOTION was approved (7-0).***

Mr. Purcell described the details of the subdivision. Mr. McCutcheon stated that the lot meets the Zoning requirements.

Mr. Corwin stated that he received a question from a Board member regarding nonconformities of the lot. It is currently a nonconforming use as a multi-family building with no density requirement in the R-3 District, and the proposed subdivision does not increase the nonconformity or create any additional one.

Mr. Rutter inquired about waiver requests. Mr. Corwin stated that the items are not applicable.

Mr. Whittlesey inquired if both properties would be using the same driveway. Mr. Purcell stated that the proposed driveway will have its own lot.

Ms. Romano asked to see the aerial view of the property and expressed concern that this nonconforming subdivision might start a rush on more such subdivisions. Mr. Corwin stated that any property owner with a double or larger lot can subdivide.

Vice Chair Hall invited Public Comment.

Bill Collishaw of 64 Maple Street commented that previous attempts for the same subdivision in previous years were denied. He inquired about what has changed and if it would be developed, noting that the Purcell land cuts through the rear of his garage. Mr. Corwin stated that the previous request was for a variance from the density requirements. Three years ago, the zoning ordinance was amended for R-3 District to eliminate density requirements. Mr. Purcell stated that they would not build anything that would infringe on the Collishaw's buildings. Mr. Jasinski noted that the building of a single-family building on the new lot would not come before the Board, only a multi-family building that would need a variance. Mr. Corwin stated that future issues from an abutter could come before the Board.

Greg Ericksen, 76 Maple St, inquired if it would be a single-family home. Mr. Purcell stated that it would be.

Ms. Romano noted that there is a 15-foot setback for a building from an abutter's property. Mr. Collishaw agreed.
Vice Hair Hall closed the Public Hearing.

***A MOTION by Jeremy Rutter*** that the Lebanon Planning Board **APPROVE** the application of NBKS, LLC, for a proposed two (2)-lot Minor Subdivision of 68 Maple Street (Tax Map 73, Lot 7), PB2023-03-MIN, as shown on a plat titled "Minor Subdivision Plan of Land Owned by NBSK, LLC," prepared by Wayne McCutcheon Associates, Inc., dated December 27, 2022, project no: 22-4054,8317, including any and all supplemental submissions and testimony provided during the public hearing.

In support of its decision, the Board finds that the applicant has submitted plans, testimony, and technical data prepared by a licensed land surveyor that together satisfactorily demonstrate compliance with the applicable requirements of the Subdivision Regulations except as may reasonably be addressed through the imposition of certain conditions of approval, set forth below.

This approval is subject to the following conditions:

**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. Per the City Assessor, identify Lot 1 as Tax Map 73, Lot 7, and identify Lot 2 as Tax Map 73, Lot 7, Plot 100.
   b. Identify the name of the County in which the subdivision is located. (8.2.A.1)
   c. Identify the date of the completion of the survey. (8.2.A.7)
   d. Provide the date and description of the plat revisions. (8.2.A.1)

2. The applicant shall provide 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, 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.

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), except that the proposed curb cut for Lot 2 may be relocated if approved by the Department of Public Works in connection with an application for a Driveway Permit.

***The motion was seconded by Kim Chewning.***

Ms. Romano also inquired about the numbers of the lots being the same. Mr. Corwin stated that is how it is indicated in the City records.

***Roll Call Vote:***
***Voting in Favor – Councilor Whittlesey, Mr. Jasinski, Ms. Chewning, Mr. Rutter, Mr. Hall, Ms. Hirai, Ms. Romano***
***Voting Against – None***
****The MOTION was approved (7-0).***

***A MOTION by Jeremy Rutter*** that the Lebanon Planning Board authorizes the Vice Chair to sign the

Minor Subdivision plat NBKS, LLC, PB2023-03-MIN, titled "Minor Subdivision Plan of Land Owned by NBSK, LLC," prepared by Wayne McCutcheon Associates, Inc., dated December 27, 2022, project no: 22-4054,8317, as revised per the Planning Board's conditions of approval.

***The motion was seconded by Cori Hirai.***
***Roll Call Vote:***
***Voting in Favor – Councilor Whittlesey, Mr. Jasinski, Ms. Chewning, Mr. Rutter, Mr. Hall, Ms. Hirai, Ms. Romano***
***Voting Against – None***
****The MOTION was approved (7-0).***

G. **Altaria Lebanon Park, LLC, NH Route 120 & Cavendish Court (Tax Map 10, Lots 26-34), zoned IND-L**: Pursuant to Section 7.13 of the Subdivision Regulations, Applicant requests approval to construct the 11-lot Altaria Planned Business Park development in phases. **PB2022-53-FMAJA - Continued from December 12, 2022**

Mr. Corwin stated that 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 Altaria Lebanon Park, LLC, NH Route 120 & Cavendish Court (Tax Map 10, Lots 26-34), zoned IND-L, is complete enough for the Planning Board to accept jurisdiction and commence review.***
***The motion was seconded by Kim Chewning.***
***Roll Call Vote:***
***Voting in Favor – Councilor Whittlesey, Mr. Jasinski, Ms. Chewning, Mr. Rutter, Mr. Hall, Ms. Hirai, Ms. Romano***
***Voting Against – None***
****The MOTION was approved (7-0).***

Mark Rosenshein of Trademark Partners, Atty. Nicholas Burke, Civil Engineer Kevin Worden, and Peter Knights of Icon Alliances appeared in support of the application.

Mr. Rosenshein described the history of the project and the need for phasing of the development rather than an requesting an extension to allow three years for completion of the remaining portions of the project.

Mr. Corwin stated that none of the current Board members or Staff were present when the original project was approved. He encouraged the Board members to ask questions.

Mr. Burke stated that no changes have been made to the regulations governing the project since the original approval. The only difference in the current timeline would be the completion date.

Mr. Worden provided an overview of the layout of the original project and the work completed to date.

Mr. Rosenshein noted that 222.8 acres of the property have been submitted for conservation easements by a deed to the Upper Valley Land Trust. Mr. Rosenshein commented on the waiver requests, stating that no modifications are planned for the project, and the phasing is the new request.

Mr. Corwin noted that there were no phasing options when the project was originally approved. All agreements would need to be approved, and the original site plan would remain in place with the addition of the phasing. The subdivision agreement and several performance agreements would need to be updated.

Mr. Rutter inquired about the reason for the phasing. Mr. Rosenshein explained the reasons why phased development was chosen to indicate realistic completion over time.

Ms. Romano inquired if this project was related to the Courtyard Marriott sale. Mr. Rosenshein stated that it was not. Ms. Romano asked if the aqua line indicated a road. Mr. Worden stated that it is a water line. Ms. Romano inquired about the replacement of trees in the residential area. Mr. Rosenshein stated that all landscaping was addressed, and the residential area was completed. This application deals with only the industrial and business side of the development.

Mr. Jasinski shared his understanding of the project. Mr. Corwin stated that no further extensions of substantial completion could be granted. To keep the approval alive, phasing would be the only solution. Mr. Burke noted that the original approval was unanimous, and the pandemic is what delayed the balance of the project from being completed.

Ms. Hirai suggested if phasing had been available when the project was originally approved, the developer could have chosen that based upon the size of the project. Mr. Knight stated that it has been phased in terms of construction. Mr. Corwin stated that phasing allows costs to be controlled with separate bonds for each phase.

Ms. Chewning inquired about the obstacles to progress. Mr. Rosenshein stated that the window started in 2017. The residential phase took two years to complete. When Covid hit, they couldn't advance the project, and the rebuilding of the Element Hotel also took resources. There is the ability to continue the project now and finish by 2025.

Mr. Knights described the sewage plan and the natural division of the two phases. Ms. Chewning asked for confirmation that no changes have been made to the project. Mr. Corwin stated that the only changes he cannot verify are the fire requirements. Mr. Rosenshein stated that they will have to meet the applicable fire code at the time of construction. Mr. Corwin stated that there are related requirements that must be satisfied, and if they were not, the application would have to come back to the Board.

Ms. Romano asked for confirmation of the sections displayed on the screen. Mr. Corwin confirmed that there will be funds held for both Phase 2 and Phase 3.

Mr. Jasinski confirmed the goal of the request.

Vice Chair Hall invited Public Comment. There was none.

Ms. Hirai asked for a more specific description of Phases 2 and 3 and an explanation of the reasons why the project was not completed in the first five years.

Mr. Rosenshein stated that the five-year period began December 29, 2017, with the first residential phase being generally completed by the end of 2019. Then COVID hit in early 2020, and it became very difficult to advance the project. They were also dealing with rebuilding the Element Hotel, which was being done by the same developer. Mr. Rosenshein asserted that they now could complete the project, which would best be managed in two phases. Mr. Worden explained the phases using colored images in the presentation. Mr. Worden stated that now they could do a phased project, which must include adhering to the original site plan. There would need to be a formal closing of Phase 1, and all future building would need to come before the Board, as would any application for an extension to roads, sewer, and water. The waiver request is from the submission requirements, a refiling of a new application, and the request for two phases.

Ms. Chewning stated that she was being asked to agree with what a previous Board approved without having all the information in front of her. Mr. Whittlesey stated that the regulations haven't changed, and they are still subject to the building regulations and codes. The timeline is shorter than many of the other large developments in the city, but he recommended that a clause should be included to nullify the waiver if something material has changed from the original site plan approval.

Mr. Rosenshein noted that the request is for completing infrastructure. Any building on the remaining lots would come before the Board for site plan review, as would any extension to roads, sewer, and water.

***A MOTION by Jeremy Rutter*** that the Lebanon Planning Board **APPROVE** the request of Altaria Lebanon Park, LLC, regarding application PB2022-53-FMAJA, for a partial waiver from the submission requirements of Section 10.4 of the Subdivision Regulations.
***The motion was seconded by Douglas Whittlesey.***
***Roll Call Vote:***
***Voting in Favor – Councilor Whittlesey, Mr. Jasinski, Mr. Rutter, Mr. Hall, Ms. Hirai, Ms. Romano***
***Voting Against – Kim Chewning***
***The MOTION was approved (6-1).***

Mr. Jasinski inquired about any future extensions. Mr. Corwin stated that there are standards the applicant would have to meet. Mr. Jasinski noted that dates would have to be determined for substantial completion of each phase.

Mr. Corwin suggested postponing a final decision until January 23 to allow for discussion with the applicant to determine new conditions of approval with completion dates.

***A MOTION by Jeremy Rutter to continue the hearing to January 23, 2023, at 6:30 PM.***
***The motion was seconded by Tom Jasinski.***
***Roll Call Vote:***
***Voting in Favor – Councilor Whittlesey, Mr. Jasinski, Ms. Chewning, Mr. Rutter, Mr. Hall, Ms. Hirai, Ms. Romano***
***Voting Against – None***
***The MOTION was approved (7-0).***

**4. Other Business**

A. **Irving Oil Marketing, 206 South Main Street (Tax Map 115, Lot 1), zoned GC**: Conceptual Review of a proposed redevelopment of the site, including a Retail Motor Fuel Outlet, a convenience store and 12 fueling locations. **PB2023-06-CON**

Jennifer Daigle representing Irving Oil, Engineer Nicole Duquette, and Attorney Maria Dolder appeared in support of the proposal.

Ms. Duquette described the redevelopment of the original site to include a gas station, convenience store, and EV charging. They would keep the sign and raze the two buildings currently on the site. An image of the new site was displayed. There will be waiver requests regarding perimeter landscaping and landscaping around the building to allow for a sidewalk and patio. Stormwater management is already in the plan with some underground.

Vice Chair Hall stated that the Board needs to know about traffic for the site, and the landscaping would likely require a waiver request. Mr. Jasinski suggested landscaping for 6, 7, or 8 feet rather than 5.

Ms. Hirai noted that the patio would be really close to the road with very low landscaping and suggested moving it to the other side. Ms. Daigle said they would look at screening or other options.

Mr. Whittlesey inquired about other options inside rather than just grab-and-go items. Ms. Daigle stated that no other retailers would be inside as presently envisaged, just a convenience store. They don't have an operator but maybe Circle K would be interested. Mr. Whittlesey noted that it is a very busy, loud traffic area, and the traffic pattern is very important. Ms. Duquette noted that they are already doing traffic counts.

Ms. Romano noted that traffic is a major factor, and she was glad to see stormwater management in process.

Ms. Hirai inquired about site remediation. Ms. Daigle stated that the tanks were removed when the site was decommissioned, and they have continued environmental monitoring.

Mr. Rutter inquired about additional signage. Ms. Dolder stated that there would be two signs, the high-rise already permitted and a second sign coming later that would comply with zoning. Mr. Rutter asked how close the location would be to I89. Ms. Duquette said it is about 100 feet from the highway ramp.

Ms. Hirai stated that she was excited about EV charging and attracting business to the mall.

Mr. Whittlesey asked for the zoning amendment wording related to signage. Mr. Corwin stated that the current proposal is that the high-rise signs near Exit 20 be permitted to remain, but a second sign currently is not allowed. The amendment would allow a second free-standing sign that meets the current requirements.

B. **Surplus Property Determination**: At the request of the City Manager, the Board will review whether certain City-owned properties are surplus to City needs pursuant to the City's Real Property Transaction Policy.

Mr. Reichert introduced the list of city-owned properties under consideration. The properties could be developed for housing, and the Board needs to consider whether the lots are needed by the City or if they can be sold. Mr. Reichert provided the background of the surplus properties.

Ms. Hirai noted that the airport sites are not suitable for housing and shouldn't be on the list.

Ms. Romano inquired if they would offer the properties to abutters first. Mr. Reichert stated that there is a procedure attached to the memo that requires offering them to abutters as part of the process. Mr. Rutter inquired why the City would offer them to abutters if new housing is needed. Mr. Reichert stated that they must follow the City policy. Mr. Rutter said that properties far away from current housing would not be desirable. Mr. Reichert noted that there are comments on some of the properties indicating issues.

Ms. Romano brought up two properties on Seminary Hill that were rezoned to CBD when the Recreation Department needed a location. She said she would be reluctant to make those properties available and recommended returning them to residential use to discourage a business going into an inaccessible corner property close to a busy intersection.

Mr. Jasinski questioned if this was the best way to incentivize housing development. He suggested it would be better to have the trees and open spaces.

Mr. Whittlesey provided background to the City Council's consideration of these properties. They have been talking about a variety of needs for different types of housing and the need for something between studio or one-bedroom units and large homes. The surplus properties may offer other options.

Ms. Romano noted that the same reasoning used for the earlier subdivision should be used when considering the future of these lots. It would be allowed for some lots, but others may not be appropriate for homes.

Mr. Reichert provided the background rationale for offering the lots that are buildable or suitable for some other use. He directed the Board members to the links to individual properties to see them and decide on whether the City should retain or sell them.

The Board members discussed several lots on the list. The discussion would be continued at a future meeting.

***A MOTION by Jeremy Rutter to extend the meeting to 9:45 PM.***
***The motion was seconded by Tom Jasinski.***
***Roll Call Vote:***
***Voting in Favor – Councilor Whittlesey, Mr. Jasinski, Ms. Chewning, Mr. Rutter, Mr. Hall, Ms. Hirai, Ms. Romano***
***Voting Against – None***
***The MOTION was approved (7-0).***

## 5. Approval of Minutes

A. December 12, 2022

***A MOTION by Jeremy Rutter to approve the Planning Board Minutes of December 12, 2022, as presented.***
***The motion was seconded by Cori Hirai.***
***Roll Call Vote:***
***Voting in Favor –Mr. Jasinski, Ms. Chewning, Mr. Rutter, Mr. Hall, Ms. Hirai, Ms. Romano***
***Voting Against – None***
***Abstaining – Councilor Whittlesey***
****The MOTION was approved (6-0-1).***

B. December 19, 2022 – Postponed

Following a discussion of several changes to the minutes, the approval of these minutes was postponed.

## 6. Election of Officers

Mr. Corwin entertained nominations for Chair.

***Tom Jasinski nominated Vice Chair Matthew Hall.***
***The nomination was seconded by Jeremy Rutter.***

***Roll Call Vote:***
***Voting in Favor – Councilor Whittlesey, Mr. Jasinski, Ms. Chewning, Mr. Rutter, Mr. Hall, Ms. Hirai, Ms. Romano***
***Voting Against – None***
***The MOTION was approved (7-0).***

Mr. Corwin entertained nominations for Vice Chair.

***Cori Hirai nominated Jeremy Rutter.***
***The nomination was seconded by Tom Jasinski.***
***Roll Call Vote:***
***Voting in Favor – Councilor Whittlesey, Mr. Jasinski, Ms. Chewning, Mr. Rutter, Mr. Hall, Ms. Hirai, Ms. Romano***
***Voting Against – None***
***The MOTION was approved (7-0).***

Mr. Corwin noted that the next two meetings will not be in City Hall, and information will be sent out as to the new location. He noted that more members are needed and asked the Board members to think of possible candidates.

**6. Adjournment**

***A MOTION by Cori Hirai to adjourn the meeting.***
***The motion was seconded by Jeremy Rutter.***
***Roll Call Vote:***
***Voting in Favor –Councilor Whittlesey, Ms. Hirai, Mr. Rutter, Ms. Romano, Mr. Hall, Mr. Jasinski, Ms. Zook***
***Voting Against – None***
****The MOTION was approved (7-0).***

The meeting was adjourned at 9:37 PM.

Respectfully submitted,

Holly Howes
Recording Secretary