

FINAL

LEBANON PLANNING BOARD
Regular Session
Monday, May 8, 2023, 6:30 PM
Council Chambers, City Hall
or Remote Via Microsoft Teams
LebanonNH.gov/Live

MEMBERS PRESENT: Jeremy Rutter (Vice Chair), Karen Zook (City Council Rep) - remote, Kim Chewning, Bruce Garland, Kathie Romano, Laurel Stavis

MEMBERS ABSENT: Matthew Hall (Chair)

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

1. Call to Order

Vice Chair Rutter called the meeting to order at 6:32 PM.

Vice Chair Rutter announced that there are two new members of the Planning Board in attendance and awaiting official swearing in before taking their seats on the Board at the next meeting.

2. Notice of Regional Impact

The following applications were received by the Planning and Development Department on or before May 8, 2023:

Choice Storage, LLC, 0 Etna Road (Tax Map 126, Lot 17), zoned IND-L & RL-3: Request for Site Plan Review for a contractor's yard, consisting of pads/terraces, contractor equipment and other associated drainage and site work. **PB2023-21-SPR**

XYZ Dairy, LLC, 0 River Park Drive (Tax Map 44, Lots 21-30 & Tax Map 44, Lot 7), zoned IND-L: Request to amend the previously approved site plan for the River Park development (PB2021-29-EXT). **PB2023-22-EXT**

XYZ Dairy, LLC, 173 N. Main Street & 0 River Park Drive (Tax Map 44, Lots 21-30 & Tax Map 44, Lot 7), zoned IND-L: Appeal of administrative decision per Section 3.1.B of the Site Plan Review Regulations. The applicant is appealing the decision that minor site plan is required for a temporary restaurant use and temporary water and sewer connections. **PB2023-23-AAD**

Mr. Corwin stated that Staff recommends none of the above applications has the potential for regional impact.

A MOTION by Bruce Garland that none of the above applications has the potential for regional impact.

The motion was seconded by Laurel Stavis.

****The MOTION was approved (5-0).***

Mr. Reichert stated that items E and F need to be postponed to June 12, 2023.

A MOTION by Bruce Garland to postpone items E and F to June 12, 2023, at 6:30 PM.

The motion was seconded by Kathie Romano.

****The MOTION was approved (5-0).***

3. Public Hearing Items

- A. Vincent & Tarah Cantore, 121 Slayton Hill Road (Tax Map 134, Lot 10), zoned RL-2:**
Request for approval of a proposed three (3)-lot Minor Subdivision. **PB2023-13-MIN**

Mr. Corwin stated that this application needs to be postponed to June 12, 2023.

A MOTION by Laurel Stavis to postpone the application of Vincent & Tarah Cantore, 121 Slayton Hill Road (Tax Map 134, Lot 10), zoned RL-2, to June 12, 2023.

The motion was seconded by Bruce Garland.

****The MOTION was approved (5-0).***

- B. 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 - Application postponed from February 13, 2023.**

Dan Nash of Advanced Geomatics & Design appeared in support of the application. Mara Robinson, landscape designer, appeared online.

Mr. Nash reported on the progress on the site plan since the previous meeting.

Mr. Corwin stated that they are recommending third party inspection for this project and provided additional information regarding the site plan.

The Board members discussed the landscaping plans. Mr. Corwin stated the landscaping requirements under the current regulations. Mr. Nash explained the waiver from including landscaping outside the site area.

Mr. Nash questioned the need for third party inspection given the nature of the project. Mr. Vincent stated that there is a sidewalk installation and drainage that need oversight. Mr. Garland noted the previous requirement for test pits. Mr. Vincent stated that those requirements were met.

Mr. Rutter invited public comment. There was none.

The waiver requests were explained and discussed.

A MOTION by Bruce Garland that for the application of Cicotte Properties, LLC, PB2023-01-SPR, the Lebanon Planning Board **APPROVE** waivers from the following sections of the Site Plan Review Regulations:

- **Article V Submission Requirements** – *application submission requirements*

- **Section 6.5.D.5** – requiring sidewalks along the property’s frontage
- **Section 6.2.E.3** – requiring landscape islands between double rows of parking

The motion was seconded by Laurel Stavis.

**The MOTION was approved (5-0).*

Ms. Zook joined the meeting remotely.

Mr. Vincent noted the need for third party review.

Vice Chair Rutter closed the Public Hearing.

A MOTION by Bruce Garland that the Lebanon Planning Board **APPROVE** the application of Cicotte Properties, LLC, PB2023-01-SPR, for Site Plan Review to expand the paved area to increase the vehicle storage area for the existing vehicular sales use at 175 Heater Road (Tax Map 64, Lot 30), zoned IND-L, as shown on a plan set titled “Volvo/Volkswagen of Lebanon – Site Plan Amendment,” prepared by Advanced Geomatics & Design, dated November 14, 2022, last revised April 24, 2023, PN: 20-011 (14 Sheets), including any and all submissions and testimony provided for and during the public hearing.

In support of its decision, the Board finds that the applicant has submitted plans, testimony, technical data, information, reports, and studies that together satisfactorily demonstrate compliance with the applicable requirements of the Site Plan Review Regulations, except as may reasonably be addressed through the imposition of certain conditions of approval, set forth below, and except as may have been waived pursuant to Section 7.1.

This approval is subject to the following conditions:

General Conditions

1. It shall be the applicant’s responsibility to be familiar with and aware of these conditions of approval, and it shall be the applicant’s responsibility to satisfy these conditions of approval and to satisfy them within the relevant timeframes outlined below.
2. “Active and substantial development,” as defined in Section 8.4.A.1 of the Site Plan Review Regulations, shall be achieved within two (2) years of the date of this approval (8.4.A.2), subject to an extension if applied for by the applicant and if approved by the Planning Board per Section 8.4.A.3. If active and substantial development is not achieved within two (2) years of the date of the Planning Board’s approval, the development shall be subject to any changes in the City’s land use regulations.
3. “Substantial completion,” as defined in Section 8.4.B.1 of the Site Plan Review Regulations, shall be achieved within five (5) years of the date of this approval. If substantial completion is not achieved within five (5) years of the date of the Planning Board’s approval, the development shall be subject to any changes in the City’s land use regulations.
4. 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.

5. The applicant shall implement and maintain NHDES Site Specific Best Management Practices before, during, and after construction.
6. 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).

Conditions to be Satisfied Prior to Any Construction Activities

7. The applicant shall make the following revisions to the plan set to the satisfaction of the Planning and Development Department:
 - a) Add the Wetland Delineation Plan dated February 27, 2022 and the Sheet C-5 Heater Road Sidewalk Plan dated April 26, 2023 to the plan set and update the Table of Contents and plan sheet pagination accordingly.
 - b) Add one linden or elm tree along the northwest perimeter of the new parking area to replace the existing tree that has been removed.
 - c) 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.

8. The applicant shall apply for and obtain a Building Permit (if required by the Building Code) and a Zoning Permit per Section 901.1 of the Zoning Ordinance.
9. The applicant shall obtain a Driveway Permit and, for any site work in the public right-of-way, an Excavation Permit from the Department of Public Works prior to any work in the right-of-way.
10. All engineering review fees shall be paid in full as required by Section 4.7.E.1 of the Site Plan Review Regulations. (*Note: applicant can request an invoice from the Department of Public Works*).

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

11. Prior to the start of any construction activities on the property for which construction inspection is required pursuant to this decision or any applicable ordinance or code, the City shall retain the services of an independent third-party inspector, for which the applicant shall be responsible for all inspection fees related to (a) on-site work related to temporary sedimentation and erosion control, and drainage improvements, and (b) all off-site work within the City's right-of-way, in accordance with Section 8.2 of the Site Plan Review Regulations. The applicant shall provide funding for inspection services in a form and amount acceptable to the City and shall sign an Infrastructure Inspection Agreement.

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

12. Third-party engineer inspection reports and as-built drawings provided by the applicants (PDF format and CAD .dwg format, using the NH State Plane Coordinate System) shall be reviewed and approved by the City Engineer.

13. All improvements depicted on the plan set (as modified pursuant to Condition of Approval #7) 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 Site Plan Review Regulations.

The motion was seconded by Laurel Stavis.

****The MOTION was approved (5-0).***

- C. **Upper Valley Technology Park LLC, 0 Plainfield Road (Tax Map 131, Lot 3), zoned IND-L:** Request for a Conditional Use Permit per Section 501.4 of the Zoning Ordinance and for Minor Subdivision approval of a proposed 3-lot Industrial Planned Unit Development (IPUD). The proposal is intended to supersede and replace the 3-lot IPUD approved on December 19, 2022 (PB2022-51-CUPMIN). **PB2023-16-CUPMIN**

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

A MOTION by Bruce Garland that the application of Upper Valley Technology Park LLC, 0 Plainfield Road (Tax Map 131, Lot 3), 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 – Ms. Stavis, Mr. Garland, Mr. Rutter, Ms. Chewning, Ms. Romano, Ms. Zook

Voting Against – None

****The MOTION was approved (6-0).***

Adam Morse of Engineering Ventures and Robert Wells representing the owner appeared in support of the application.

Mr. Morse stated that the potential buyer for the property wishes to see a building envelope. The slope and wetlands are being eliminated from the plan.

Mr. Wells commented on the plan for above ground power lines to avoid going through the wetlands. Mr. Corwin explained that there was no need for a waiver. Mr. Wells noted that the underground lines would cause substantial delays for special equipment and adding that all of Airpark Road has overhead power. Mr. Corwin stated that legal counsel found that the plan satisfies the requirements.

The Board members received clarification on several other issues.

Vice Chair Rutter invited public comment.

Maryann Mastro of Ward 2 commented on the requirement for underground power and the cost of a delay in construction.

Ms. Romano asked for clarification on requirement for underground power. Mr. Morse stated that 5-10 feet would be required within the wetlands to install the transformer.

Mr. Rutter took a straw vote regarding requiring that power be underground, and the board members expressed that preference unanimously (6-0).

Mr. Wells stated that the potential buyer is under time constraints, and overhead power could be temporary and later be converted to underground when the equipment is available. Mr. Corwin stated that the City would hold security to make that an option.

Vice Chair Rutter closed the Public Hearing.

A MOTION by Bruce Garland that the Lebanon Planning Board **APPROVE** the application of Upper Valley Technology Park, LLC, for a Conditional Use Permit per Section 501.4 of the Zoning Ordinance and for Minor Subdivision approval of a proposed 3-lot Industrial Planned Unit Development (IPUD), PB2023-16-CUPMIN, as shown on a plat titled “Subdivision Plat for Upper Valley Tech Park LLC Planned Unit Development,” prepared by Latitudes Land Surveying, dated April 2, 2023, project no: 22015, 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, technical data, information, reports, and studies – variously prepared by a professional civil engineer, professional traffic engineer, and a licensed land surveyor – that together satisfactorily demonstrate compliance with the applicable requirements of the Subdivision Regulations and the Planned Unit Development regulations of the Zoning Ordinance, 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 revise the subdivision plat to the satisfaction of the Planning and Development Department and the City’s legal counsel, as follows:
 - a. Contact the Police Department to obtain addresses for each lot and add to the plat.
 - b. Identify how the open space will be physically delineated in accordance with Section 501.1.F.7.b of the Zoning Ordinance.
 - c. Provide date and description of any revisions made (9.5.A.1).
2. The applicant shall provide a digital record drawing of the revised subdivision plat (Cad .dwg format using NH State Plane Coordinate system or an alternative approved by the City’s GIS Coordinator).
3. All outstanding engineering review fees shall be paid in full as required by Section 4.7.E.1 of the Site Plan Review Regulations.
4. The Declaration of Restrictive Covenant shall be reviewed by the City Attorney and shall be revised to the satisfaction of the City Attorney.

General Conditions

5. The plat, as revised per condition of approval #1, shall be recorded simultaneously with the Declaration of Restriction Covenant, as may be revised per condition of approval #4, in accordance with Planning & Development Department procedures.

6. Recording of the plat as revised per condition of approval #1 above shall satisfy condition of approval #10 as set forth in the March 20, 2023 Notice of Action for PB2023-07-SPR and condition of approval of approval #10 as set forth in the January 23, 2023 Notice of Action for PB2022-53-SPR.
7. Applicant may choose to install pole mounted transformers and overhead power connections along Airpark Road for Lots 1 and 2 on a temporary basis in order to facilitate the timely development of these lots pursuant to the March 20, 2023 Notice of Action for PB2023-07-SPR and the January 23, 2023 Notice of Action for PB2022-53-SPR, provided that a) the applicant provides security in a form acceptable to the City attorney and in an amount necessary to install permanent underground electricity for Lots 1 and 2, b) the applicant enters into a security agreement with the City, and c) the permanent underground electrical improvements are made within one (1) year of the issuance of a temporary certificate of occupancy for the buildings on each lot.
8. 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.
9. 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 Laurel Stavis.

Roll Call Vote:

Voting in Favor – Ms. Stavis, Mr. Garland, Mr. Rutter, Ms. Chewning, Ms. Romano, Ms. Zook

Voting Against – None

**The MOTION was approved (6-0).*

A MOTION by Bruce Garland that the Lebanon Planning Board authorizes the Chair to sign the subdivision plat for Upper Valley Technology Park, LLC, PB2023-16-CUPMIN, as revised pursuant to the Board's conditions of approval.

The motion was seconded by Kathie Romano.

Roll Call Vote:

Voting in Favor – Ms. Stavis, Mr. Garland, Mr. Rutter, Ms. Chewning, Ms. Romano, Ms. Zook

Voting Against – None

**The MOTION was approved (6-0).*

- D. **One Mechanic Street, LLC and FSP LLC, 1 Mechanic Street (Tax Map 91, Lot 264) and 0 Foundry Street (Tax Map 91, Lot 262), zoned LD:** Request per Section 213.8.B of the Zoning Ordinance to waive the public school impact fees for an approved 18-unit multi-family conversion (PB2020-29-SPR & PB2022-54-SPR). **PB2023-14-SPA**

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

A MOTION by Bruce Garland that the above application 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 – Ms. Stavis, Mr. Garland, Mr. Rutter, Ms. Chewning, Ms. Romano, Ms. Zook

Voting Against – None

****The MOTION was approved (6-0).***

Mr. Jeremy Katz, Manager of One Mechanic Street LLC, appeared in support of the application.

Mr. Katz stated that the units will be studio apartments for single occupancy, and he is requesting relief from school impact fees.

Mr. Corwin stated that the Board is allowed to grant a waiver from the school impact fees based upon the size of the units, which must be under 500 sq. ft. Sixteen of the eighteen units meet that criterion. Although the Board members expressed concern over the potential for more similar projects to avoid school impact fees, the unit size was established and allows the waiver.

Mr. Katz noted that the proposal has been for this size unit since 2019 and cannot imagine more than one or possibly two adults would occupy the studio apartments. Mr. Corwin suggested that only the sixteen units could fall under that waiver and those that don't meet the requirement would still have to be subject to the school impact fees. Mr. Rutter suggested that the amount be prorated for the two units that do not meet the requirement.

Mr. Rutter invited public comment.

Maryann Mastro of Ward 2 inquired about the off-site parking and legal approval. Vice Chair Rutter confirmed that the issue was already settled.

Judy Ryder, Ward 2, appreciated the comments regarding the housing situation and noted the likelihood that there may be a child in the efficiency apartments.

Mr. Garland noted that the use of "may" for the Board's discretion in waiving the school impact fees gives the Board that option.

Vice Chair Rutter closed the Public Hearing.

Mr. Corwin noted that condition #7 covers the prorating of the impact fees.

Mr. Rutter took a straw vote regarding the prorating of the two larger units. The Board indicated their approval unanimously (6-0).

A MOTION by Bruce Garland that the Lebanon Planning Board **APPROVE** the application of One Mechanic Street, LLC regarding 1 Mechanic Street (Tax Map 91, Lot 264), zoned LD, PB2023-14-SPR, requesting a waiver per Section 213.8 of the Zoning Ordinance of the public school impact fees for an approved 18-unit multi-family conversion (PB2020-29-SPR & PB2022-54-SPR), including any and all submissions and testimony provided for and during the public hearing. In support of its decision, the

Board finds that the applicant has submitted testimony and information that together satisfactorily demonstrate compliance with the applicable requirements of Section 213.8.B of the Zoning Ordinance. The Board's approval is subject to the following conditions:

1. The applicant shall satisfy and comply with the Planning Board Notice of Action for PB2020-28-SPR, dated November 23, 2020, and all conditions of approval thereof except as provided in Condition of Approval #2 below, and with the Planning Board Notice of Action for PB2022-54-SPR, dated December 12, 2022, and all conditions of approval thereof.
2. Conditions #7 and #11 set forth in the Planning Board Notice of Action for PB2020-28-SPR, dated November 23, 2020, are hereby stricken and replaced with the following:

The development shall be subject to City of Lebanon Impact Fees, pursuant to Section 213 of the Zoning Ordinance, except that payment of public impact fees is waived pursuant to Section 213.8 of the Zoning Ordinance for all residential units that have a gross living area of 500 sq. ft. or less. The Impact Fee shall be calculated based on the Impact Fee Schedule adopted on August 13, 2018, and shall be paid prior to the 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.

The motion was seconded by Laurel Stavis.

Roll Call Vote:

Voting in Favor – Ms. Stavis, Mr. Garland, Mr. Rutter, Ms. Zook

Voting Against – Ms. Chewning, Ms. Romano

**The MOTION was approved (4-2).*

- E. **NH Group, LLC (applicant), 369 Miracle Mile LLC & Seacoast Motorcycle Leasing, Inc. (property owners), 369 Miracle Mile (Tax Map 103, Lot 11) & 351 Miracle Mile (Tax Map 103, Lot 9), zoned GC:** The applicant requests a Conditional Use Permit pursuant to Section 607.5.A of the Zoning Ordinance to allow off-lot parking at 351 Miracle Mile to meet the minimum parking requirements of NH Group, LLC's proposed charity gaming center at 369 Miracle Mile (PB2023-04-SPR). **PB2023-18-CUP – Continued to 6/12**
- F. **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 - Continued from March 20, 2023 – Continued to 6/12**
- G. **Irving Oil Marketing (applicant), Rancho Lebanon, LLC & Cobalt Prop NH Corp (property owners), 200 South Main Street (Tax Map 114, Lot 5) & 206 South Main Street (Tax Map 115, Lot 1), zoned GC:** Request for Site Plan Review to construct a +/-4,465 sq. ft. convenience store on the site of a closed laundromat at 200 South Main Street

and five (5) fuel dispenser islands with an overhead canopy on the site of a closed convenience store at 206 South Main Street, together with shared access and associated site improvements. For the proposed convenience store at 200 South Main Street, the applicant also requests a Conditional Use Permit per Section 607.5 of the Zoning Ordinance to allow off-site parking at 206 South Main Street. **PB2023-15-SPR**

Nicole Duquette and Traffic Engineer Heather Monticup of GPI, Jennifer Daigle of Irving, and Atty. Maria Dolder appeared in support of the application.

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

A MOTION by Bruce Garland that the application of Irving Oil Marketing (applicant), Rancho Lebanon, LLC & Cobalt Prop NH Corp (property owners), 200 South Main Street (Tax Map 114, Lot 5) & 206 South Main Street (Tax Map 115, Lot 1), zoned GC, is complete enough for the Planning Board to accept jurisdiction and commence review.

The motion was seconded by Laurel Stavis.

Roll Call Vote:

Voting in Favor – Ms. Stavis, Mr. Garland, Mr. Rutter, Ms. Chewning, Ms. Romano, Ms. Zook

Voting Against – None

****The MOTION was approved (6-0).***

Ms. Duquette described Irving's redevelopment of the site, the location, and existing buildings. She also provided a history and the new plan for the site including stormwater management, drainage, and landscaping. Ms. Duquette also described the waivers.

Ms. Monticup described the traffic study encompassing all aspects of the site.

A MOTION by Bruce Garland to extend the meeting to 10:00 PM.

The motion was seconded by Laurel Stavis.

Roll Call Vote:

Voting in Favor – Ms. Stavis, Mr. Garland, Mr. Rutter, Ms. Chewning, Ms. Romano, Ms. Zook

Voting Against – None

****The MOTION was approved (6-0).***

Mr. Corwin commented on several conditions of approval.

Atty. Dolder provided information regarding all leases and the ability to use the properties.

Mr. Garland inquired about site remediation. Ms. Daigle described the process for investigating and remediating the site before any construction begins. Ms. Stavis inquired about remediation of the Kleen Laundry site. Ms. Daigle stated that it was a drop off site with no chemicals used. Ms. Stavis inquired about seating. Ms. Daigle noted that there would be outdoor seating and there may be indoor seating from an independent food company. Ms. Romano inquired about protection from vehicles for the outdoor seating. Ms. Daigle stated that bollards would be along the sidewalk in the parking area

Mr. Rutter invited public comment.

Judy Ryder, Ward 2, asked if they could increase the width of the entrances. Ms. Duquette stated that they are 31 feet wide and would be sufficient.

Ms. Romano expressed concern over traffic backing up at left turn light.

A MOTION by Bruce Garland that for the application of Irving Oil Marketing, PB2023-15-SPR, the Lebanon Planning Board **APPROVE** waivers from the following sections of the Site Plan Review Regulations:

- **Section 6.2.B.1**
- **Section 6.2.B.2**
- **Section 6.2.B.10**
- **Section 6.2.E.1**
- **Section 6.2.E.7**
- **Section 6.7.B.2**

A General waiver from having to satisfy the Site Plan Review Regulations outside the portion of the property that is proposed to be developed.

The motion was seconded by Kathie Romano.

Roll Call Vote:

Voting in Favor – Ms. Stavis, Mr. Garland, Mr. Rutter, Ms. Chewning, Ms. Romano, Ms. Zook

Voting Against – None

***The MOTION was approved (6-0).**

3. MOTION RE: CONDITIONAL USE PERMIT

Date: May 8, 2023

A MOTION by Bruce Garland that the Lebanon Planning Board **APPROVE** the application of Irving Oil Marketing, PB2023-15-SPR, for a Conditional Use Permit per Section 607.5 of the Zoning Ordinance to allow off-site parking at 206 South Main Street, in connection with the applicant's proposed convenience store use at 200 South Main Street (Tax Map 114, Lot 5), as shown on a site plan set titled, "Proposed Retail Motor Fuel Outlet Site Redevelopment Plans," prepared by Greenman-Pedersen, Inc., dated March 9, 2023, revised April 27, 2023 (20 sheets). 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 §607.5.A of the Zoning Ordinance:

1. The minimum number of required off-street parking spaces as calculated per Section 607 **CANNOT BE** feasibly be accommodated on-site (§607.5.A.1)
2. The off-lot uses to be served are allowed uses in the zoning district in which the off-lot parking areas will be located. (§607.5.A.2)
3. The off-lot parking areas **ARE** in an appropriate location for the uses served by the parking and will not be detrimental to abutting properties. (§607.5.A.3)
4. Such parking arrangements **WILL BE** either permanently deeded and recorded or conveyed by an irrevocable 99-year lease or some other legal instrument, acceptable to an attorney representing the City, that will ensure that such parking arrangement will remain as long as the need exists. (§607.5.A.4)
5. The off-lot parking **WILL NOT** constitute a hazard to traffic or pedestrians. (§607.5.A.5)

Now therefore be it resolved, the Planning Board, on this **8th day of May, 2023**, hereby **GRANTS** the request of Irving Oil Marketing for a Conditional Use Permit per Section 607.5.A of the Zoning Ordinance, as set forth above and per testimony, plans, and materials submitted in connection with PB2023-15-SPR, and per the following condition:

1. The applicant shall provide the Planning and Development Department with appropriate documentation in accordance with Section 607.5.A.4 of the Zoning Ordinance.

The motion was seconded by Kim Chewning.

Roll Call Vote:

Voting in Favor – Ms. Stavis, Mr. Garland, Mr. Rutter, Ms. Chewning, Ms. Romano, Ms. Zook

Voting Against – None

****The MOTION was approved (6-0).***

Vice Chair Rutter closed the Public Hearing.

A MOTION by Bruce Garland that the Lebanon Planning Board **APPROVE** the application of Irving Oil Marketing (applicant), Rancho Lebanon, LLC & Cobalt Prop NH Corp (property owners), regarding 200 South Main Street (Tax Map 114, Lot 5) & 206 South Main Street (Tax Map 115, Lot 1), zoned GC, PB2023-15-SPR, for Site Plan Review to construct a +/- 4,465 sq. ft. convenience store on the site of a closed laundromat at 200 South Main Street and five (5) fuel dispenser islands with an overhead canopy on the site of a closed convenience store at 206 South Main Street, together with shared access and associated site improvements, as shown on a plan set titled set titled, “Proposed Retail Motor Fuel Outlet Site Redevelopment Plans,” prepared by Greenman-Pedersen, Inc., dated March 9, 2023, revised April 27, 2023 (20 sheets), including any and all submissions and testimony provided for and during the public hearing.

In support of its decision, the Board finds that the applicant has submitted plans, testimony, technical data, information, reports, and studies that together satisfactorily demonstrate compliance with the applicable requirements of the Site Plan Review Regulations, except as may reasonably be addressed through the imposition of certain conditions of approval, set forth below, and except as may have been waived pursuant to Section 7.1.

This approval is subject to the following conditions:

General Conditions

1. It shall be the applicant’s responsibility to be familiar with and aware of these conditions of approval, and it shall be the applicant’s responsibility to satisfy these conditions of approval and to satisfy them within the relevant timeframes outlined below.
2. The development is subject to the Site Plan Review Regulations adopted May 13, 1991, last revised January 23, 2023, and the Zoning Ordinance adopted January 16, 2013, last amended March 14, 2023, which are the regulations in effect at the time the application was submitted.
- 3.A building permit must be applied for *and issued* within two (2) years of the date of this approval (4.10.A), subject to an extension if applied for by the applicant and if approved by the Planning Board per Section 4.10.B.

4. “Active and substantial development,” as defined in Section 8.4.A.1 of the Site Plan Review Regulations, shall be achieved within two (2) years of the date of this approval (8.4.A.2), subject to an extension if applied for by the applicant and if approved by the Planning Board per Section 8.4.A.3. If active and substantial development is not achieved within two (2) years of the date of the Planning Board’s approval, the development shall be subject to any changes in the City’s land use regulations.

5. “Substantial completion,” as defined in Section 8.4.B.1 of the Site Plan Review Regulations, shall be achieved within five (5) years of the date of this approval. If substantial completion is not achieved within five (5) years of the date of the Planning Board’s approval, the development shall be subject to any changes in the City’s land use regulations.

6. 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.

7. The applicant shall implement and maintain NHDES Site Specific Best Management Practices before, during, and after construction.
8. Edge-of-disturbance fencing shall be installed and maintained before and during any site work, to be verified by the City Engineer or City’s third-party inspector on site.
9. 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).

Conditions to be Satisfied Prior to Application for a Building Permit and Prior to the Start of Any Construction Activities

10. Applicant shall satisfy all conditions of the off-lot parking Conditional Use Permit approved by the Planning Board on May 8, 2023 (PB2023-15-SPR).
11. For review and approval by the City’s legal counsel, prepare and record a cross easement agreement or similar legal agreement between the subject property to ensure access to shared facilities (e.g., shared vehicular access, dumpster access, stormwater facilities, etc.).
12. Applicant shall obtain a Floodplain Permit from the Floodplain Administrator and shall verify with the Building Inspector that development complies with the applicable floodplain-related requirements of the Building Code.
13. To the satisfaction of the Fire Department, the applicant shall revise the plan set to provide the requisite 10 feet of clearance between the building and the underground propane tanks.
14. The applicant shall provide a letter or certification from the engineer of record or other qualified design professional confirming that the approved plan set meets the accessibility standards of the State of New Hampshire Building Code.
15. 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.

16. 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.
17. All engineering review fees shall be paid in full as required by Section 4.7.E.1 of the Site Plan Review Regulations. (*Note: applicant can request an invoice from the Department of Public Works*).

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

18. Prior to the start of any construction activities on the property for which construction inspection is required pursuant to this decision or any applicable ordinance or code, the City shall retain the services of an independent third-party inspector, for which the applicant shall be responsible for all inspection fees related to (a) on-site work related to sewer, water, temporary sedimentation and erosion control, and drainage improvements, and (b) all off-site work within the City's right-of-way (including but not limited to water, sewer, driveways, drainage), in accordance with Chapters 136 and 182 of the City Code and Section 8.2 of the Site Plan Review Regulations. The applicant shall provide funding for inspection services in a form and amount acceptable to the City and shall sign a Water & Sewer Extension and Infrastructure Inspection Agreement in accordance with Chapters 136 and 182 of the City Code.
19. 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 12, 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.
20. All water and sewer fees shall be paid as set forth in City Code Chapter 68.
21. Prior to the start of any construction activities on the property, the applicant shall obtain or update (if appropriate) any required State approvals.
22. 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, and construction or installation of any new driveway(s) shall also require a Driveway Permit from the Department of Public Works.

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

23. The impact fee calculated pursuant to Condition of Approval #19 shall be paid.
24. Third-party engineer or design engineer inspection reports and as-built drawings provided by the applicants (PDF format and CAD .dwg format, using the NH State Plane Coordinate System), including tie sheets, shall be reviewed and approved by the City Engineer prior to acceptance of any utility improvements by the City.
25. 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 Site Plan Review Regulations.

The motion was seconded by Kathie Romano.

Roll Call Vote:

Voting in Favor – Ms. Stavis, Mr. Garland, Mr. Rutter, Ms. Chewning, Ms. Romano, Ms. Zook

Voting Against – None

**The MOTION was approved (6-0).*

A MOTION by Bruce Garland to extend the meeting to 10:10 PM.

The motion was seconded by Laurel Stavis.

Roll Call Vote:

Voting in Favor – Ms. Stavis, Mr. Garland, Mr. Rutter, Ms. Chewning, Ms. Romano, Ms. Zook

Voting Against – None

**The MOTION was approved (6-0).*

4. Other Business

- A. **Upper Valley Technology Park, LLC, 0 Plainfield Road (Tax Map 131, Lot 3), zoned IND-L:** Review of a minor alteration to an approved site plan (PB2023-07-SPR) per Section 9.2 of the Site Plan Review Regulations

Civil Engineer and owner Adam Morse and property representative Robert Wells appeared in support of the application.

Mr. Corwin noted that there are changes that can be approved administratively, but the Board can weigh in on the decision.

A MOTION by Bruce Garland that the Board accepts the minor modifications as approved by the City Administration.

The motion was seconded by Laurel Stavis.

Roll Call Vote:

Voting in Favor – Ms. Stavis, Mr. Garland, Mr. Rutter, Ms. Chewning, Ms. Romano, Ms. Zook

Voting Against – None

**The MOTION was approved (6-0).*

5. Approval of Minutes

- A. March 20, 2023

A MOTION by Laurel Stavis to approve the Planning Board Minutes of March 20, 2023, as presented.

The motion was seconded by Bruce Garland.

Roll Call Vote:

Voting in Favor – Ms. Chewning, Mr. Garland, Mr. Rutter, Ms. Zook, Ms. Romano, Ms. Stavis

Voting Against – None

**The MOTION was approved (6-0).*

6. Adjournment

A MOTION by Bruce Garland to adjourn the meeting.

The motion was seconded by Kathie Romano.

Roll Call Vote:

Voting in Favor – Ms. Chewning, Mr. Garland, Mr. Rutter, Ms. Zook, Ms. Romano, Ms. Stavis

Voting Against – None

****The MOTION was approved (6-0).***

The meeting was adjourned at 10:07 PM.

Respectfully submitted,

Holly Howes

Recording Secretary