



**LEBANON PLANNING BOARD
JUNE 26, 2023 - 6:30 PM
COUNCIL CHAMBERS, CITY HALL OR
REMOTE VIA VIRTUAL PLATFORM
LEBANONNH.GOV/LIVE**

1. Call to Order

2. Public Hearing Items

- A. **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 June 12, 2023**
- B. **XYZ Dairy, LLC, River Park Drive (Tax Map 44, Lots 3 & 7, and Tax Map 44, Lots 21-30), zoned CBD, IND-L and R-3:** Request to amend the conditions of approval for the River Park development, approved by the Planning Board pursuant to Notices of Action dated September 9, 2019 for PB2018-34-and October 12, 2012 for PB2021-29-EXT. **PB2023-22-SPA - Continued from June 12, 2023**
- C. **XYZ Dairy, LLC, River Park Drive (Tax Map 44, Lots 3 & 7, and Tax Map 44, Lots 21-30), zoned CBD, IND-L and R-3:** Appeal of administrative decision to require Minor Site Plan Review per Section 3.1.C of the Site Plan Review Regulations for a proposed restaurant use. **PB2023-23-AAD - Continued from June 12, 2023**

3. Study Items

- A. Review of proposed amendments to the Site Plan Review Regulations re: electric vehicle (EV) charging infrastructure - **Continued from May 22, 2023**

4. Other Business

5. Committee Reports

- A. **City Council Subcommittees:**
 - Class VI Roads Advisory Committee
 - Lebanon Energy Advisory Committee
- B. **Other Subcommittees:**
 - City Council Representative
 - Heritage Commission
 - Pedestrian & Bicyclist Advisory Committee
 - Upper Valley Lake Sunapee Regional Planning Commission
 - UV Subcommittee of the Connecticut River Joint Commissions
 - Upper Valley Transportation Management Association
 - Mascoma River Local Advisory Committee

- West Lebanon Revitalization Advisory Committee
- Planning & Development Department – Task Status

C. Minor Site Plan Committee

6. Approval of Minutes

A. May 22, 2023

7. Adjournment

The order of agenda items is subject to change.

Meetings are open for in-person and remote attendance. Members of the public that wish to attend remotely may do so by going to LebanonNH.gov/Live where you will find instructions on how to enter the meeting. Members of the public will be able to participate and ask questions through the City's virtual platform or by phone. Please note: Should technical difficulties occur during the meeting that disrupts virtual or phone connection(s), the meeting will continue without remote access capabilities.



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

PLANNING BOARD

June 26, 2023 Meeting

Staff Memorandum – PB2022-04-SPR

cont'd from 2/13/23, 3/20/23, 5/8/23 & 6/12/23

APPLICATION INFORMATION

Agenda Item: 2.A

Application ID: PB2023-04-SPR

Application Type:

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

Property Location & Tax Map:

369 Miracle Mile (Tax Map 103, Lot 11)

Applicant/Property Owner:

NH Group, LLC/
369 Miracle Mile LLC

Zoning District: General
Commercial (GC)

Property Size:

+/-3.38 (per City Assessor's records)

Overlay Districts:

None

Future Land Use Map:

General Commercial

Staff Attachments:

LEGAL NOTICE

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

PLANS AND APPLICATION MATERIALS

New:

- ▶ June 16, 2023 e-mail from Deb Paduda
- ▶ June 17, 2023 e-mail from Heidi Conner
- ▶ Plan sheet C2.0 ("Site Layout Plan"), prepared by Engineering Ventures, PC, dated March 1, 2023, last revised June 20, 2023, EV Project #22506

Included with agenda packet for the 5/8/23 Planning Board meeting:

- ▶ Memo dated May 4, 2023 from Duane Egner, Lebanon Fire Department
- ▶ Letter dated May 16, 2023 from Jeffrey Dirk, PE, of Vanasse & Associates, Inc. (additional response to peer review of applicant's traffic study; 6 pages – *attachments omitted*)
- ▶ Memo dated May 19, 2023 from Jeffrey Santacruce, PE, of Weston & Sampson (response to 5/16/23 Jeffrey Dirk letter; 1 page)
- ▶ Other:
 - Undated letter from Philip Knotts, Merrimack Concert Assoc.
 - Letter dated June 6, 2023 from Katie Parent, YWCA of NH
 - May 8, 2023 e-mail from Susan Almy, resident
- ▶ Plan sheet C2.0 ("Site Layout Plan"), prepared by Engineering Ventures, PC, dated 3/20/23, last revised 5/25/23

Included with agenda packet for the 5/8/23 Planning Board meeting:

- ▶ Letters received in support of the project:
 - Letter dated January 18, 2023 from Randal Miles, VFW Post 808
 - Letter received February 13, 2023 from Roger Gillies, Lebanon Youth Baseball Association
- ▶ Excerpt from March 12, 2007 Planning Board meeting mins (2 pages)

- ▶ Memo dated February 6, 2023, from Jeffrey Dirk, PE, of Vanasse & Associates, Inc. (traffic impact study; 23 pages - queue analysis and attachments omitted)
- ▶ Memo dated March 14, 2023 from Jeffrey Santacruce, PE, of Weston & Sampson (traffic impact study peer review; 4 pages)
- ▶ Letter dated April 10, 2023 from Jeffrey Dirk, PE, of Vanasse & Associates, Inc. (response to peer review of applicant's traffic study; 6 pages – attachments omitted)
- ▶ Memo dated April 27, 2023 from Jeffrey Santacruce, PE, of Weston & Sampson (response to 4/12/23 Jeffrey Dirk letter; 7 pages)
- ▶ Memo dated April 12, 2023, from Adam Morse, PE, of Engineering Ventures, PC (stormwater management; 3 pages - *attachments omitted*)
- ▶ 1988 Gerrish Auto Show plan set (3 sheets)
- ▶ Plan set titled, "369 Miracle Mile Restaurant/Charity Gaming Center," prepared by Engineering Ventures, PC, dated January 23, 2023, revised March 20, 2023, EV Project #22506 (15 sheets)
- ▶ Plan sheet titled, "Fire Turning Plan," prepared by Engineering Ventures, PC, dated April 10, 2023, EV Project #22506
- ▶ Site renderings prepared by Mara Landscape Design, LLC (2 pages)
- ▶ Plan sheets C2.0 ("Site Layout Plan"), C2.1 ("Grading, Drainage and Utility Plan"), and C3.2 ("Stormwater Details"), prepared by Engineering Ventures, PC, dated 3/20/23, last revised 4/12/23

Included with agenda packet for the 2/13/23 Planning Board meeting:

- ▶ Application form (1 page)
- ▶ Memo dated January 23, 2023, from Adam Morse, PE, of Engineering Ventures, PC (project description; 3 pages)
- ▶ Application for Waivers dated January 23, 2023 (2 pages)
- ▶ Site Plan Review Regulations Technical Checklist (10 pages)
- ▶ Memo dated January 23, 2023, from Adam Morse, PE, of Engineering Ventures, PC (response to staff comments; 10 pages)
- ▶ Landscape renderings prepared by Mara Landscape Design, LLC (4 pages)
- ▶ Architectural plans and renderings prepared by SOSH Architects, dated January 23, 2023, #22015.05.001 (5 sheets)

On file at the Planning and Development Department and available for review upon request:

- ▶ Attachments to memo dated April 12, 2023, from Adam Morse, PE, of Engineering Ventures, PC (stormwater management; 21 pages)
- ▶ Restaurant and Charity Gaming Center - Stormwater Appurtenance Inspection and Maintenance Manual (7 pages)
- ▶ Lighting specifications by LSI Industries Inc (31 pages)
- ▶ Memo dated February 6, 2023, from Jeffrey Dirk, PE, of Vanasse & Associates, Inc. (queue analysis and attachments to traffic impact study; 96 pages)
- ▶ Letter dated April 10, 2023 from Jeffrey Dirk, PE, of Vanasse & Associates, Inc. (attachments to response to peer review of applicant's traffic study; 50 pages)

- ▶ Letter dated May 16, 2023 from Jeffrey Dirk, PE, of Vanasse & Associates, Inc. (attachments to additional response to peer review of applicant's traffic study; 50 pages)

STAFF COMMENTS

As recommended by staff and requested by the Board, attached is an updated site plan from the applicant depicting the proposed redevelopment at the subject property together with the off-site parking spaces at 351 Miracle Mile (which were approved by Conditional Use Permit at the Board's June 12th meeting).

The applicant has scheduled a meeting with the Lebanon Police Department for June 22nd to discuss the applicant's proposed security plan (a copy of which Planning staff expects to receive prior to the Planning Board's June 26th meeting). The Police Department will also have a representative present at the June 26th continued hearing to any questions the Board may have. In the meantime, the Police Department has provided Planning staff with the list of calls regarding the Lebanon Poker Room at 45 Hanover Street since 2020:

2020

City Ordinance- Mask Violation

Liquor Law Violations- anonymous tip underaged serving of alcohol; investigation showed unfounded, Poker room had kicked out a group of Dartmouth College kids and they called in the complaint

2021

Burglary Alarm

Disorderly Conduct-Past- patron had been refused service and then broke hand sanitizer on the wall when he was leaving

Burglary Alarm

Medical Call

Intoxication- staff refused service to intoxicated person and then called as they thought he may drive

Theft from tip jar

Medical Call

2022

Served arrest warrant on employee

Burglary Alarm

Medical Call

Unwanted Subject

2023

Medical Call

Unwanted Subject

MV theft- later discovered vehicle was left at a residence

Assault

Panic Alarm

Parking in Roadway Complaint

Finally, please note that staff has updated and revised the proposed conditions of approval (see below).

STAFF RECOMMENDATIONS

If the Planning Board moves to approve this request, then based on the information reviewed by City staff, the Planning and Development Department recommends that the Planning Board approve the application with the conditions noted below:

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 January 18, 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 as 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).
10. The ramp constructed located within the Miracle Mile right-of-way providing pedestrian access from the sidewalk to the site shall be maintained by the applicant in the event that the Department of Public Work determines that it is unable to do so for any reason.
11. The applicant shall comply with the Security Plan dated _____.

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

12. Applicant shall satisfy all conditions of the off-lot parking Conditional Use Permit approved by the Planning Board on June 12, 2023 (PB2023-18-CUP), except to the extent any such conditions are required to be satisfied prior to the issuance of a Certificate of Occupancy per the Conditional Use Permit Notice of Action.
13. Finalize the design of the sidewalk and ramp to the satisfaction of the City Engineer. The sidewalk shall be designed to allow a future sidewalk connection to the east of the subject property.
14. The applicant shall make the following revisions to the plan set to the satisfaction of the Planning and Development Department, City Engineer, and the Fire Department:
 - a) Depict the automatic fire sprinkler system fire department connection in a location that is readily visible and accessible.
 - b) Update the stormwater plan(s) to include all symbol descriptions.
 - c) Identify an ADA-accessible connection from the sidewalk ramp to the building.
 - d) Provide construction details for the sidewalk and ramp.
 - e) Incorporate all site-related recommendations of the traffic study.
 - f) Incorporate all other revised plan sheets and changes submitted during the course of the hearing and update all other plan sheets as necessary to reflect the changes.
 - g) Amend the cover sheet to provide description of all plan revisions (5.1.E.4.d).
15. The applicant shall provide a letter or certification from the engineer or record or other qualified design professional confirming that the approved plan set meets the accessibility standards of the State of New Hampshire Building Code.
16. 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.
17. 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.
18. 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*).
19. 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.

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

20. 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.

21. All water and sewer fees shall be paid as set forth in City Code Chapter 68.
22. Prior to the start of any construction activities on the property, the applicant shall obtain or update (if appropriate) any required State approvals.
23. 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

24. The trees at and along the access drive shall be pruned to the satisfaction of the Fire Department to help ensure safe and efficient access of emergency vehicles.
25. 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.
26. 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.

Attachments

cc: Stefan Huba, NH Group LLC (stefanhuba@p2e.com)
Jonathan Gengras, 369 Miracle Mile LLC (jonathan@gengras.net)
Adam Morse, PE, Engineering Ventures PC (adamm@engineeringventures.com)
File

From: [Deb Paduda](#)
To: [Tim Corwin](#)
Subject: [EXTERNAL] Leb poker room
Date: Friday, June 16, 2023 9:40:55 AM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Hi Tim,

Given the past history of this place we are quite concerned about the public safety issues .

Thank you. Deb Paduda

This email has been scanned for spam and viruses by Proofpoint Essentials. Click [here](#) to report this email as spam.

From: noreply@civicplus.com
To: [webmaster](#); [Beth Beraldi](#); [City of Lebanon-Planning](#)
Subject: [EXTERNAL] Online Form Submission #7561 for Boards and Committees Contact Form
Date: Saturday, June 17, 2023 3:17:47 PM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Boards and Committees Contact Form

Please complete this form to contact a City of Lebanon board or committee. Your submission will be received by a city staff member who will forward your communication to members of the board or committee you choose below. Please be aware that your submission will become part of the public record.

Visit our [Boards and Committees page](#) to find rosters, agendas, meeting details, and more. Please [contact the City Manager's office](#) if you have questions about this form.

(Section Break)

Your First Name	Heidi
Your Last Name	Conner
Contact Email Address	Conner.heidi@gmail.com
Contact Phone Number	2078380398

(Section Break)

Which board or committee do you wish to contact?	Planning Board
Please enter your comments:	I'm writing to share that I do not think a larger casino should be approved on miracle mile. It is disappointing that a number of variances were already approved for this project. We do not need to use our limited tax dollars to have our police respond to safety concerns generated by this business. How does this business enhance quality of life for the residents of Lebanon?
Do you need to attach a file?	No

C2 REPAIR AND ADJUST HEIGHT/LENGTH OF MASONRY WALL AS REQUIRED TO ACHIEVE GRADES

C5 GRANITE CURBING (TYP.)

C6 5' WIDE CONCRETE SIDEWALK OR AS NOTED (TYP.)

C7 ASPHALT PARKING AND DRIVE ACCESS

C8 ADA PARKING SPACES

C12 STAIRS

C13 BIKE PARKING

C14 LIGHT FIXTURE (TYP.)

C15 RAISE CURBING AS REQUIRED TO MATCH NEW GRADES

C16 REDJ-ROCK WALL WITH PEDESTRIAN RAILING

C17 PARKING LOT LEASE AGREEMENT FOR THE BENEFIT OF LOT 103-11 FROM LOT 103-9, PARKING SPACES TO BE STRIPED AS SHOWN.

C18 NO ACCESS SIGNAGE, EMERGENCY AND UTILITY/MAINTENANCE PERSONNEL ONLY

C19 SNOW STORAGE

C20 DUMPSTER ENCLOSURE

C21 DIRECTION OF TRAVEL (TYP.)

C22 VISION TRIANGLE (TYP.)

C23 LOADING DOCK

C24 TRUCK TURNAROUND AND LOADING AREA

C25 WALL MOUNTED VEHICLE CHARGERS (TYP.)

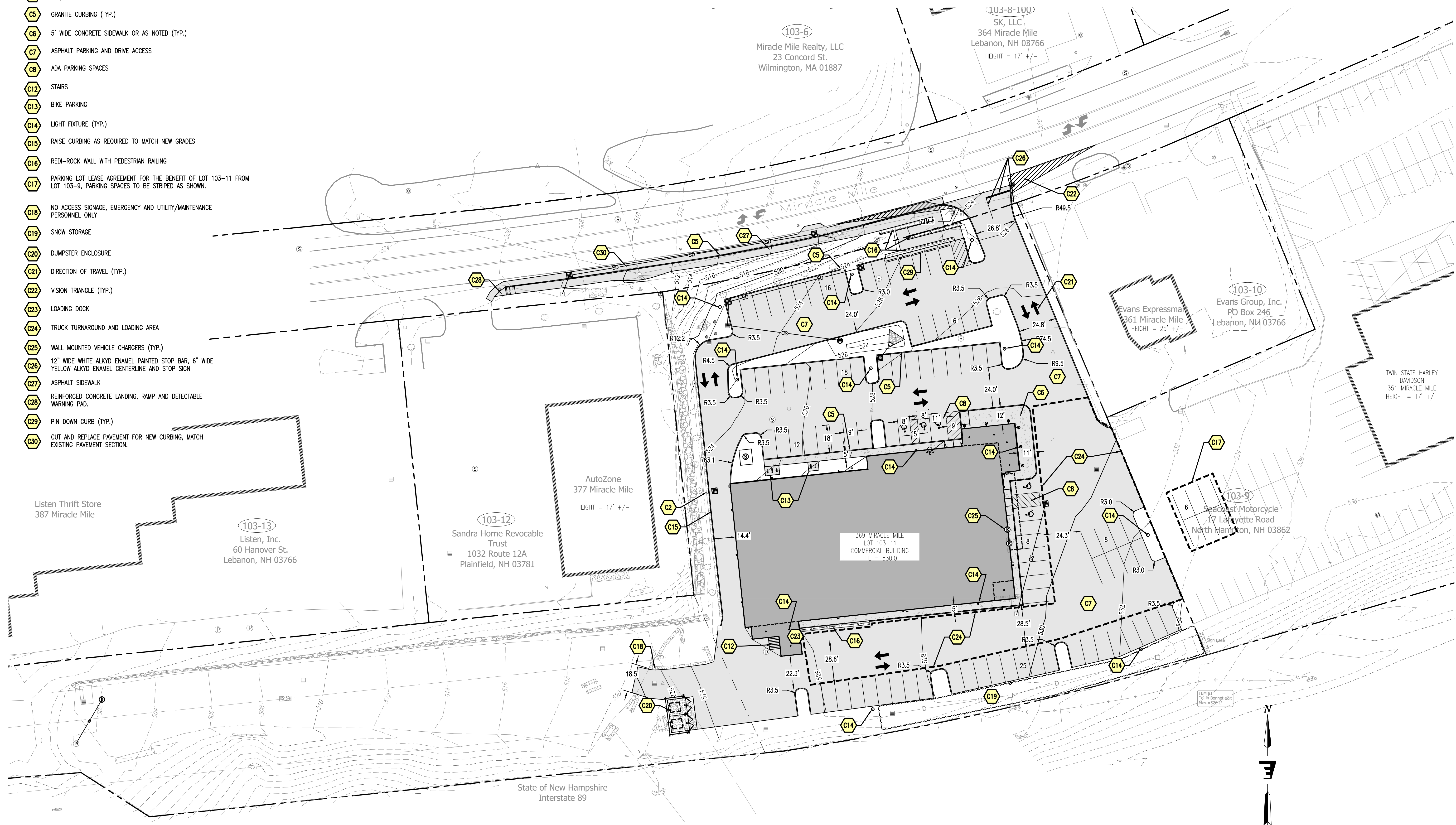
C26 12" WIDE WHITE ALKID ENAMEL PAINTED STOP BAR, 6" WIDE YELLOW ALKID ENAMEL CENTERLINE AND STOP SIGN

C27 ASPHALT SIDEWALK

C28 REINFORCED CONCRETE LANDING, RAMP AND DETECTABLE WARNING PAD.

C29 PIN DOWN CURB (TYP.)

C30 CUT AND REPLACE PAVEMENT FOR NEW CURBING, MATCH EXISTING PAVEMENT SECTION.



GRAPHIC SCALE

1 inch = 30 ft.
for sheet size 24" x 36"

ENGINEERING VENTURES PC 208 Flynn Avenue, Suite 2A, Burlington, VT 05401 • 802-863-6225 85 Mechanic Street, Suite E2-3, Lebanon, NH 03766 • 603-442-9333 414 Union Street, Schenectady, NY 12305 • 518-630-9614 www.engineeringventures.com		Stamp	
		No.	Date
Stefan Huba New Hampshire Group, LLC 887B Central Ave. Dover, NH 03820		1	EXPILED AND WITCH BRASS 4/12/2023
		2	ADDED SIDEWALK ALONG FRONTAGE 6/12/2023
		3	OFF LOT PARKING SHOWN 6/20/2023
Sheet Title: Site Layout Plan			
Project Title: 369 Miracle Mile Restaurant/Charity Gaming Center Lebanon, Grafton County, New Hampshire			
EV Project #		22506	
Drawn By:		AM	
Checked By:		KW	
Scale:		1" = 30'	
Date:		3/1/2023	
C2.0			



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

PLANNING BOARD

June 26, 2023 Meeting

Staff Memorandum – PB2023-23-AAD – *postponed from 6/12/23*

APPLICATION INFORMATION

Agenda Item: 2.C

Application ID#:
PB2023-23-AAD

Application Type:
Administrative Appeal

Property Location:
North Main Street,
West Lebanon

Property Owner/Applicant:
XYZ Dairy, LLC

Property Size:
+/-38.18 Ac. (combined tract)

Zoning District(s):

- Central Business District (CBD)
- Light Industrial (IND-L)
- Residential Three (R-3)

Overlay District:

- Wetlands Conservation District
- Flood Plain District

LEGAL NOTICE

XYZ Dairy, LLC, River Park Drive (Tax Map 44, Lots 3 & 7, and Tax Map 44, Lots 21-30), zoned CBD, IND-L and R-3: Appeal of administrative decision to require Minor Site Plan Review per Section 3.1.C of the Site Plan Review Regulations for a proposed restaurant use. PB2023-23-AAD

ATTACHMENTS

- ▶ Staff Memo prepared for the June 12, 2023 Planning Board meeting, with attachments (13 pages)
- ▶ E-mail from Chet Clem sent June 12, 2023 (2 pages)
 - First attachment to e-mail from Chet Clem sent June 12, 2023 (26 pages)
 - Second attachment to e-mail from Chet Clem sent June 12, 2023 (4 pages)
- ▶ Photos from applicant distributed at the June 12, 2023 Planning Board meeting (2 pages)

Attachments

cc: David Clem, XYZ Dairy, LLC (via e-mail)
Chet Clem, Lyme Properties (via e-mail)
Phil Hastings, Esq. (via e-mail)
File



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

PLANNING BOARD

June 12, 2023 Meeting

Staff Memorandum – PB2023-23-AAD

APPLICATION INFORMATION

Agenda Item: 3.D

Application ID#:
PB2023-23-AAD

Application Type:
Administrative Appeal

Property Location:
North Main Street,
West Lebanon

Property Owner/Applicant:
XYZ Dairy, LLC/Lyme Properties

Property Size:
+/-38.18 Ac. (combined tract)

Zoning District(s):

- Central Business District (CBD)
- Light Industrial (IND-L)
- Residential Three (R-3)

Overlay District:

- Wetlands Conservation District
- Flood Plain District

Attachments:

- Planning & Development Dep't e-mail correspondence with applicant (5 pages)

LEGAL NOTICE

XYZ Dairy, LLC, River Park Drive (Tax Map 44, Lots 3 & 7, and Tax Map 44, Lots 21-30), zoned CBD, IND-L and R-3: Appeal of administrative decision to require Minor Site Plan Review per Section 3.1.C of the Site Plan Review Regulations for a proposed restaurant use. PB2023-23-AAD

APPLICATION MATERIALS

- ▶ Application form (1 page)
- ▶ Letter from Chet Clem, Lyme Properties, dated April 23, 2023 (appeal of administrative decision; 1 page)
- ▶ Site sketch titled "XYZ Dairy, LLC Diner Pop-Up," dated April 20, 2023

COMPLETENESS REVIEW

This application has been reviewed in accordance with the Lebanon Site Plan Review Regulations. The Planning and Development Department recommends that the Board find that the application is complete enough to accept jurisdiction and to commence review.

BACKGROUND

On October 24, 2011, the Planning Board granted approval for a seven (7) phase development known as River Park. As approved, the development would consist of eight (8) non-residential or multi-family residential buildings totaling 839,145 square feet plus two parking garages for 1,393 vehicles on 7 parcels within the CBD and IND-L zoning districts. (PB2010-25-SPR).

The applicant was granted an extension to the approved site plan on September 9, 2013, and on June 8, 2015, the applicant was granted a site plan amendment for the layout of Lot 1, which included changes to the building footprint, parking layout, vehicular circulation, loading location of the building, landscaping, lighting, and the drainage and engineering of the site. (PB2015-10-SPA). On November 9, 2015, the applicant was granted additional time within which to obtain Building Permits for each approved development phase.

On September 9, 2019, the Planning Board approved an amendment to the site plan to, among other things, change the sequencing of the project phasing and increase the number of residential dwelling units from 80 to 125 in Building #8 (PB2018-34-SPA). The Notice of Action for this approval

was written to supersede and replace all prior Notices of Action relating to the River Park site plan approval. On October 12, 2021, the Planning Board approved a request to extend the phasing deadlines (PB2021-19-EXT).

APPLICATION OVERVIEW

On April 7, 2023, staff received the following request from the applicant via e-mail:

[Lyme Properties] would like to connect the River Park diner to the Cross Country Connector water and sewer on a temporary basis, and a modular bathroom facility for trail users, Diner visitors, and events.

This would re-utilize the 1920s Worcester Dining car for what they were built for originally: temporary food-service during the development of larger projects. It's a temporary structure, and TF Moran can prepare drawings.

Additional information and details related to the applicant's proposed use and improvements are set forth in the attached e-mail correspondence between staff and the applicant and in the attached letter from Chet Clem, Lyme Properties, dated April 23, 2023.

On April 10, 2023, staff made the following determination with respect to the applicant's proposed use and site improvements:

[Staff] is not familiar with the "River Park diner". If your proposal is to locate a refreshment stand/restaurant within the Central Business District portion of the River Park development, it would be an allowed use of the property, but would require minor site plan review per Sections 3.1.C.1 and 3.2 of the Site Plan Review Regulations. [...] Water, wastewater and the cross country connection will be evaluated by staff as part of the minor site plan review process.

Staff reiterated this determination on April 21, 2023, following additional correspondence from the applicant arguing that, *inter alia*, the proposed use already has site plan approval as part of the River Park development.

SITE PLAN REVIEW REGULATIONS

The Site Plan Review Regulations regulate "land development" which is defined in Article II ("Definitions") as follows:

A physical improvement or alteration to a lot, whether vacant or improved, and/or an increase in the size of a building, and/or a change of use to a non-residential, mixed use, or multi-family dwelling. The term "land development" does not include the following:

- The construction of one-family and two-family dwelling units or associated accessory uses [...]
- Repair or maintenance that does not result in any changes to the layout or design of the property [...]
- The following home-based businesses: [...]
- Buildings and structures in the Rural Lands (RL) One, Two, and Three zoning districts that are used for an agriculture use.
- Physical alterations to the natural landscape that are made independently of any development of the lot. Such physical alterations include but are not limited to logging and grading.

If a proposed improvement or use constitutes “land development”, staff must then determine whether the land development:

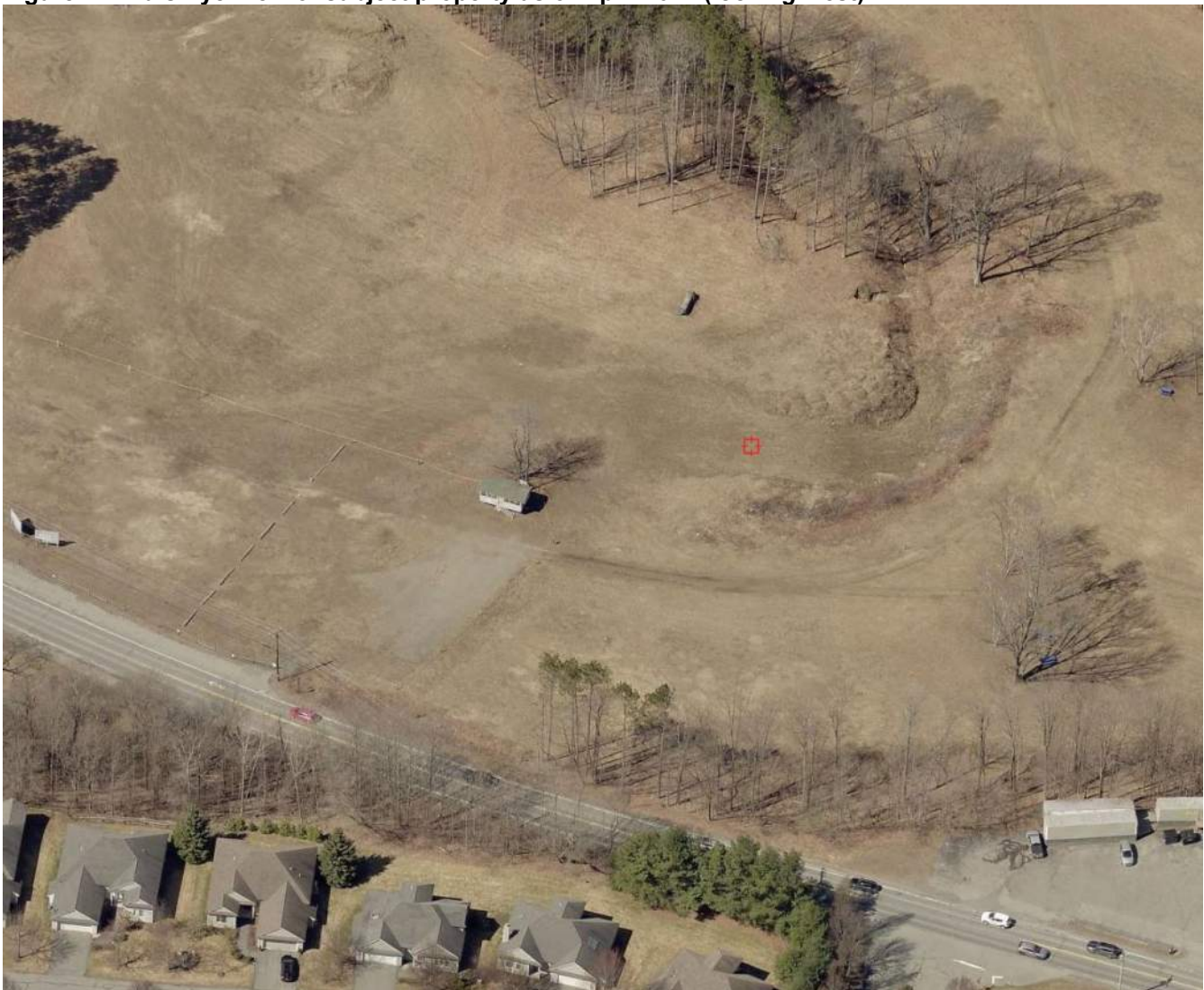
- Is exempt from site plan review (Section 3.1.B); or
- Requires site plan review from the Minor Site Plan Committee (Section 3.1.C); or
- Requires site plan review from the Planning Board (Section 3.1.D).

If a land development meets any of the thresholds set forth Section 3.1.C.1 or if it constitutes a “minor change”, the land development requires site plan review from the Minor Site Plan Committee. If the land development constitutes a “major change”, site plan review from the Planning Board is required.

“Minor change” is defined in Article II as follows:

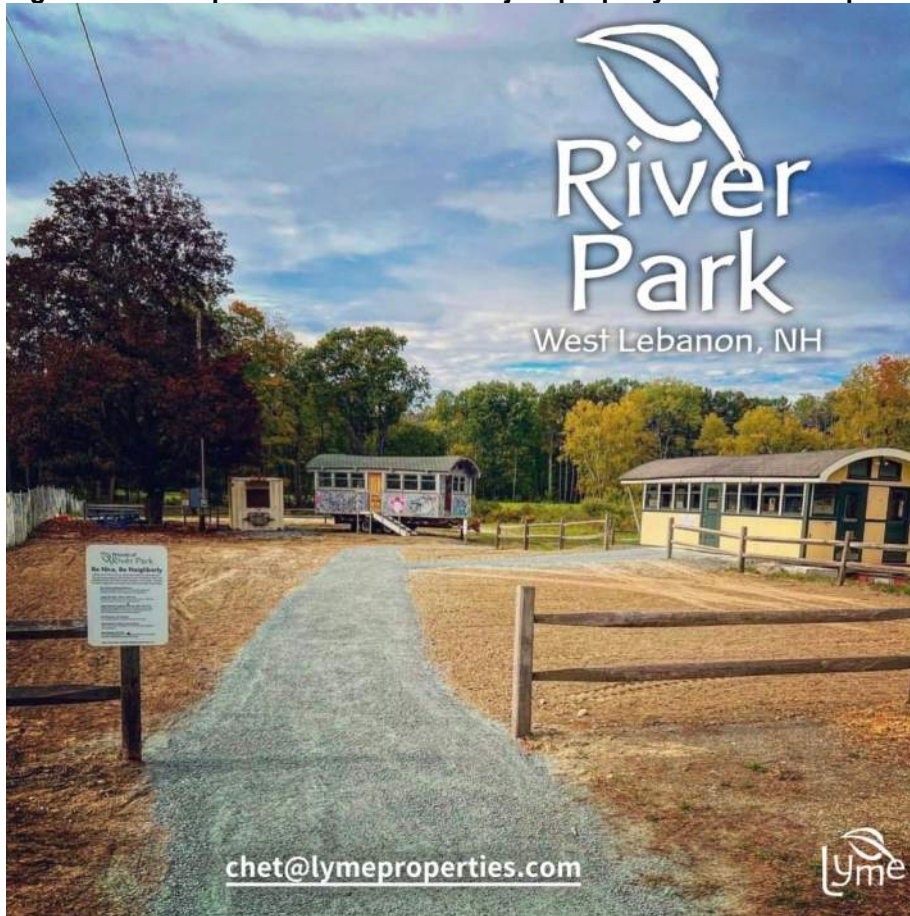
Any *land development* which, in the reasonable determination of the Planning and Development Department, is not a *major change*, but does necessitate or result in an appreciable change to access; parking, vehicular and/or pedestrian circulation; traffic; drainage patterns or drainage structures; topography; lighting; visual features; natural resources; City services or facilities; improved surfaces; and/or required landscaping.

Figure 1. Bird’s Eye View of subject property as of April 2021 (looking west).



©2021 Eagleview (image taken 4/3/2021)

Figure 2. Site improvements on the subject property made since April 2021 without Site Plan Review.



STAFF COMMENTS

Staff determined that the proposed use and improvements constitute a “land development” and a “minor change” that requires minor site plan review. The question for staff was not whether site plan review was required at all, but only whether the proposal constituted a “minor change” or a “major change” requiring full site plan review from the Planning Board. The determination that the proposal required only minor site plan review was a close call and was ultimately made in favor of the applicant.

It should be noted that none of the improvements shown in the applicant’s photo provided to staff (see Figure 2) have obtained site plan approval where site plan approval would have clearly been required for what has already been completed.

STAFF RECOMMENDATIONS

The Planning & Development Department recommends that the Planning Board deny the applicant’s appeal and require site plan review from either the Minor Site Plan Committee or from the Planning Board both for the proposed restaurant/refreshment stand use and associated site improvements, as well as the unpermitted site improvements made sometime since April 2021.

Attachments

cc: XYZ Dairy, LLC (via e-mail)
Lyme Properties (via e-mail)
File

Tim Corwin

From: Tim Corwin
Sent: Friday, April 21, 2023 9:52 AM
To: Chet Clem
Cc: Nathan Reichert; Crystal Taplin
Subject: RE: [EXTERNAL] River Park Diner pop-up

Chet –

It is staff's determination that the proposed land development constitutes a minor change requiring minor site plan review per Section 3.1.C of the Site Plan Review Regulations. You have the option of appealing this determination to the Planning Board. If you'd like to do so, we'll need an [application form](#), narrative explaining your appeal, [notification list](#), and [fees](#). Provided that you submit the appeal by the [May 8th application deadline](#), we can schedule the hearing on your appeal at the June 12th Planning Board meeting.

If you have any questions, please let me know.

Thank you,

TIM CORWIN, AICP

DEPUTY PLANNING AND DEVELOPMENT DIRECTOR
CITY OF LEBANON
(603) 448-1524 (OFFICE)
(603) 442-6127 (DIRECT)
TIM.CORWIN@LEBANONNH.GOV
[BOOK A TIME TO MEET WITH ME](#)

From: Chet Clem <chet@lymeproperties.com>
Sent: Thursday, April 20, 2023 4:42 PM
To: Tim Corwin <Tim.Corwin@lebanonnh.gov>
Cc: Nathan Reichert <Nathan.Reichert@lebanonnh.gov>; Crystal Taplin <Crystal.Taplin@lebanonnh.gov>
Subject: Re: [EXTERNAL] River Park Diner pop-up

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Tim and Nate,

I am writing in follow-up to my initial email on 4/7/23 regarding temporarily connecting the River Park dining car to the water and sewer lines installed by XYZ Dairy, LLC in August-October 2022. Tim's 4/10/23 response directed us towards Minor Site Plan Review, and corrected my error regarding 211.4 Temporary Structures For Permitted Uses not applying to the CBD district.

I just had a chance to discuss with my Attorney who had been out of town, and he questioned whether this rises to the level of requiring Minor Site Plan Review, or is it something that can be handled at the administrative level. Per Section 3.1.B, Site Plan Review is not required unless there is an appreciable change.

Our position is that the retail use in question is in fact already approved as part of Building 3 / Phase 1B / Lot 10 (a 95,800 S.F. building for office and retail) in the River Park approvals, and the associated water and sewer requirements have been approved accordingly. As such, what we are proposing on a temporary basis is considerably less than what is already approved.

The access, parking, etc. is merely a continuation of the existing condition, which has been sufficient for public access to the River Park waterfront and trails for years, as well as the 2020 Trails + Trucks food truck series, the 2021 launch of UV Just Bagels in the dining car, the 2022 use of this pop-up area for public art, coffee and bagel events, and the upcoming 2023 Hootenanny event with Lebanon Opera House. The question is whether this can be improved upon by making use of the water and sewer lines that XYZ Dairy completed the installation of last year.

The temporary use is for a committed, future full-time tenant at River Park, and is a Lebanon-based business looking for a 2nd location and specifically a West Leb location. We have had fruitful discussions for the past 3 years while navigating delays and Covid realities, and they are an operator that I believe the community will be quite excited with. This temporary approach is in keeping with the #1 priority of the 2021 Action Plan For West Leb "Prioritize High-Impact, Visible Improvements That Can Be Accomplished While Larger Efforts Evolve." This is a historically accurate re-use of the 1920s Worcester Dining Car approximately 100 years after it was built to serve as temporary retail at construction sites.

I am attaching a diagram of the Dining car's location on Lot 10 and in relation to the water and sewer lines in question. The orange line denotes the fenced-in construction area.

Put simply, per Section 3.1.B. of the Site Plan Review Regulations XYZ Dairy, LLC is asking the Planning and Development Department to make the reasonable determination that this proposed use does not necessitate or result in any appreciable changes that would necessitate Site Plan review.

Thank you,

Chet Clem
President
Lyme Properties

chet@lymeproperties.com
(603) 676-7106 (direct)
(207) 576-1410 (mobile)

[Calendly: book a Zoom with me](#)

[Lyme Properties](#)
[The UV Observer](#)
[River Park West Lebanon](#)
[Action Plan for West Leb](#)
[A Green Vision for West Leb](#)
[Humor & Downtowns?](#)
[Decriminalize Development](#)

On Apr 10, 2023, at 8:26 PM, Chet Clem <chet@lymeproperties.com> wrote:

Thanks, Tim. This would be a temporary structure for permitted uses in CBD and per the River Park approvals per 211.4.

The Diner is presently located on Lot 10. This is a temporary solution for a committed future retail tenant for River Park, looking to take an entrepreneurial approach this summer to opening their 2nd location in West Leb and help build excitement for the project.

Happy to show you it any time,

Chet

Chet Clem
President
Lyme Properties

chet@lymeproperties.com
(603) 676-7106 (direct)
(207) 576-1410 (mobile)

[Calendly: book a Zoom with me](#)

[Lyme Properties](#)

[River Park West Lebanon
Action Plan for West Leb
A Green Vision for West Leb
Humor & Downtowns?
Decriminalize Development](#)

On Apr 10, 2023, at 8:08 PM, Tim Corwin <Tim.Corwin@lebanonnh.gov> wrote:

Chet –

I'm not familiar with the "River Park diner". If your proposal is to locate a refreshment stand/restaurant within the Central Business District portion of the River Park development, it would be an allowed use of the property, but would require [minor site plan review](#) per Sections 3.1.C.1 and 3.2 of the [Site Plan Review Regulations](#). The Minor Site Plan Committee application deadline and meeting schedule is available [on-line here](#) (the next deadline is 4/25 for the 5/11 meeting). Water, wastewater and the cross country connection will be evaluated by staff as part of the minor site plan review process.

If you have any questions, please don't hesitate to ask.

Thank you,

TIM CORWIN, AICP

DEPUTY PLANNING AND DEVELOPMENT DIRECTOR
CITY OF LEBANON
(603) 448-1524 (OFFICE)
(603) 442-6127 (DIRECT)
TIM.CORWIN@LEBANONNH.GOV
[BOOK A TIME TO MEET WITH ME](#)

From: David Brooks <David.Brooks@lebanonnh.gov>

Sent: Monday, April 10, 2023 9:57 AM

To: 'Chet Clem' <chet@lymeproperties.com>

Cc: Tim Corwin <Tim.Corwin@lebanonnh.gov>; Nathan Reichert <Nathan.Reichert@lebanonnh.gov>; Brian Vincent <brian.vincent@lebanonnh.gov>; Rod Finley <rod.finley@lebanonnh.gov>

Subject: RE: [EXTERNAL] River Park Diner pop-up

Chet

I see that this request was sent to me, with copies to Planning and Engineering. However, as a brand new issue/request, I don't need to be involved since I'm no longer in the Planning Department. I have asked Planning, Building, Engineering and Water/Wastewater to review the request and respond to you as appropriate.

David

DAVID R. BROOKS

DEPUTY CITY MANAGER — ADMINISTRATIVE SERVICES
CITY OF LEBANON
(603)-448-4220 (OFFICE)
(603) 442-6134 (DIRECT)
DAVID.BROOKS@LEBANONNH.GOV

From: Chet Clem <chet@lymeproperties.com>
Sent: Friday, April 7, 2023 3:24 PM
To: David Brooks <David.Brooks@lebanonnh.gov>
Cc: Tim Corwin <Tim.Corwin@lebanonnh.gov>; Nathan Reichert <Nathan.Reichert@lebanonnh.gov>; Brian Vincent <brian.vincent@lebanonnh.gov>; Rod Finley <rod.finley@lebanonnh.gov>
Subject: [EXTERNAL] River Park Diner pop-up

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

I would like to connect the River Park diner to the Cross Country Connector water and sewer on a temporary basis, and a modular bathroom facility for trail users, Diner visitors, and events.

This would re-utilize the 1920s Worcester Dining car for what they were built for originally: temporary food-service during the development of larger projects. It's a temporary structure, and TF Moran can prepare drawings.

But before I start spending money and going down a path, I'd like to know what the City will require to make this happen.

I have a local, beloved coffeeshop onboard and ready to make this happen.

Please advise,

Chet Clem
President



CITY OF LEBANON
APPLICATION FOR

SPECIAL EXCEPTION	☐	☐	SITE PLAN REVIEW
VARIANCE	☐	☐	SUBDIVISION
MOTION FOR REHEARING	☐	☐	LOT LINE ADJUSTMENT
APPEAL OF AN ADMIN. DECISION	☒	☐	CONDITIONAL USE PERMIT
☐ OTHER _____			

PROPERTY OWNER (APPLICANT):

NAME: XYZ Dairy, LLC TEL.#: 603-676-7800

MAILING ADDRESS: 57 Main Street, W. Lebanon, NH 03784

E-MAIL ADDRESS: chet@lymeproperties.com

CO-APPLICANT, AGENT, OR LESSEE:

NAME: Lyme Properties TEL.#: 603-676-7800

MAILING ADDRESS: 57 Main Street, W. Lebanon, NH 03784

E-MAIL ADDRESS: chet@lymeproperties.com

PROJECT LOCATION:

TAX MAP #: LOT#: 44 PLOT #: 29 ZONE: CBD

STREET ADDRESS OF PROJECT: 173 N. Main Street / 0 River Park Drive

IS THIS PROPERTY LOCATED IN THE: **WETLANDS** ☐ YES ☒ NO **HISTORIC DISTRICT** ☐ YES ☒ NO
FLOOD PLAIN ☐ YES ☒ NO

SCOPE OF PROJECT:

TYPE OF OCCUPANCY:

EXISTING ☒ VACANT ☐ ONE FAM ILY ☐ TWO FAM ILY ☐ MULTI-FAMILY ☐ COMMERCIAL ☐ INDUSTRIAL
 PROPOSED ☐ VACANT ☐ ONE FAM ILY ☐ TWO FAM ILY ☐ MULTI-FAMILY ☒ COMMERCIAL ☐ INDUSTRIAL
 IF USE IS **COMMERCIAL** OR **INDUSTRIAL**, PLEASE NOTE **SPECIFIC**
 USE: connection of pop-up dining ca

SIGNATURE BLOCK:

FOR PLANNING BOARD APPLICATIONS ONLY: I, the undersigned, hereby submit this application on the date noted below with the knowledge and understanding that the Planning Board shall determine if the submitted application is complete according to its regulations at its next regularly scheduled meeting on June 12, 2023, unless I personally request, in writing, that the Board delay its determination of completeness to a later date.

PROPERTY OWNER: David Clam

DATE: April 25, 2023

NOTE: IF, AS OWNER, YOU WISH TO DESIGNATE AN AGENT TO ACT ON YOUR BEHALF, PLEASE READ THE FOLLOWING AND SIGN BELOW: I hereby designate the person listed above as my agent for the purpose of procuring the necessary local permits for the proposed work as described herein. Representations made by my agent may be accepted as though made by me personally, and I understand that I am bound by any official decision made on the basis of such representation.

PROPERTY OWNER: David Clam

DATE: April 25, 2023

DATE RECEIVED	FILE # (MAP/LOT)	APPLICATION #			
4/25/2023	44-29-	PB2023-			
		23-AAD			



April 25, 2023

Lebanon Planning Board
City of Lebanon
51 N. Park Street
Lebanon, NH 03766

Appeal of Administrative Decision by Lebanon Deputy Planning and Development Director

Members of the Lebanon Planning Board,

Lyme Properties serves as the development agent on behalf of XYZ Dairy, LLC, the owner of record of the River Park West Lebanon development. We are hereby respectfully appealing the April 21, 2023 decision by the City of Lebanon Deputy Planning and Development Director that our request to make temporary water and sewer connections from the Cross Country Connector (which River Park installed at our cost in 2022 in accordance with River Park's approvals) rises to the level of requiring a Minor Site Plan Review.

In accordance with Section 3.1.B of the Lebanon Site Plan Review Regulations River Park asked the Lebanon Planning and Development Department to make the reasonable determination that this proposed use does not necessitate or result in any appreciable changes that would necessitate Site Plan review. Our intent was to allow the staff to consult directly with River Park on what was required and provide direction to our civil engineers to design a solution accordingly, lessening the cost and expediting the pace of approvals.

On April 21, 2023 we received confirmation "It is staff's determination that the proposed land development constitutes a minor change requiring minor site plan review per Section 3.1.C of the Site Plan Review Regulations."

This connection is intended to serve a historic 1920s Dining Car for the purpose of a pop-up coffee-shop. The connection would allow the existing water line to be used productively, instead of simply "bled" into the ground as occurs at Airpark Road and other sites where infrastructure is installed but not under use.

The operator, a very popular Lebanon-based coffeeshop, recently committed to open a second location at River Park in the future. This would serve as an entrepreneurial approach to "testing the market" and aligns with the 2021 Action Plan for West Leb which had the #1 priority of "Actionable Improvements: Prioritize High-Impact, Visible Improvements That Can Be Accomplished While Larger Efforts Evolve." It is our hope that we can address requirements at the staff level before incurring significant consultant costs.

The pop-up coffee shop is intended to be opened in time for the Lebanon Opera House's June 10th "Hootenanny" at River Park, and will serve as a trail-head amenity while the River Park project is being developed. This is a historically accurate re-use of an antique 1920s Worcester Dining Car,



which was designed specifically for this purpose almost 100 years ago to "roll-on" temporary food and beverage services while construction projects were underway. Many Worcester Dining Cars, including West Lebanon's own 4 Aces, end up incorporated into full-time venues which River Park has intended to do with this car since it was first moved to the site in 2015.

Per Section 3.1.B of the Lebanon Site Plan Review Regulations, Site Plan review is not required unless there is an appreciable change. It is XYZ Dairy's position that the retail use in question is in fact already approved as part of Building 3 / Phase 1B / Lot 10 ("a 95,800 S.F. building for office and retail") in the River Park approvals, and the associated water and sewer requirements have been approved accordingly. Based on advice of XYZ's legal counsel, the proposed use of a Dining Car for its original intended purpose on this parcel during the adjacent construction of the future, full-time location of the tenant/operator in question is an administrative decision.

In accordance with Section 3.1.B XYZ Dairy, LLC asked the Lebanon Planning and Development Department to make the reasonable determination that this proposed use does not necessitate or result in any appreciable changes that would necessitate Site Plan review. On April 21, 2023 we received confirmation "it is staff's determination that the proposed land development constitutes a minor change requiring minor site plan review per Section 3.1.C of the Site Plan Review Regulations."

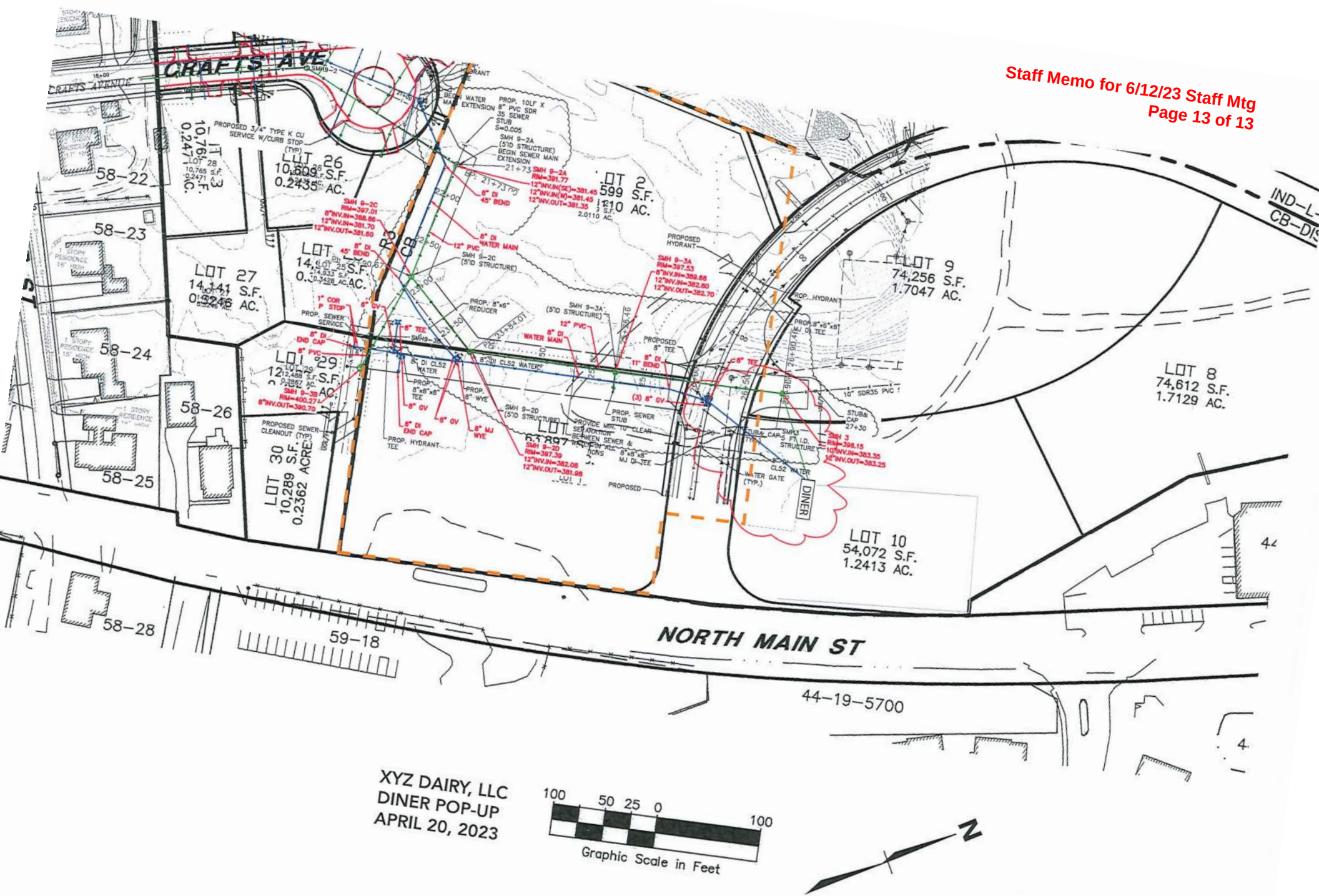
As suggested by the Deputy Planning and Development Director in his April 21st communication, we are appealing that decision to the Lebanon Planning Board.

Sincerely,

A handwritten signature in black ink that reads "Chet Clem".

Chet Clem
Lyme Properties
57 Main Street
West Lebanon, NH 03784

Cc:
David Clem, Lyme Properties
Angela McCanna, Lyme Properties
Philip Hastings, Cleveland, Waters & Bass.



From: [Chet Clem](#)
To: [City of Lebanon-Planning](#)
Cc: [Tim Corwin](#); [Nathan Reichert](#); [David Clem](#); [Philip Hastings](#)
Subject: [EXTERNAL] 6/12/23 Additional Information on PB2023-23-AAD
Date: Monday, June 12, 2023 8:56:43 PM
Attachments: [20230612 Additional Info + Staff Memo.pdf](#)
[20230425 XYZ Appeal of Dep Planning Director Decision Packet.pdf](#)

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Attached please find the memo and additional materials submitted to the Lebanon Planning Board this evening at the June 12, 2023 hearing, which included Agenda items 3.C and 3.D related to River Park West Lebanon. The attached is specific to Item 3.D, the Appeal of an Administrative Decision. As promised at the meeting, I am supplying it digitally in addition to the printed copies submitted.

However, even more missing information came to light while reviewing this evening.

1. There is a 3rd missing item: the actual Appeal Application from April 25, 2023. Therefore I am also attaching the original Appeal Application from April 25, 2023, which was not included in the packet we received Sunday 6/11/23. The “Application Materials” section erroneously identifies an April 23, 2023 Letter that does not exist, and is not included.

- Letter from Chet Clem, Lyme Properties, dated April 23, 2023 (appeal of administrative decision; 1 page)

The April 25, 2023 application may have been shared with the members of the Planning Board prior to the PB2023-23-AAD Staff Memorandum, but I have no way of knowing. I request clarification if it was sent previously to the Board. If not, I request that it, too, is shared with them in advance of the June 26, 2023 meeting as it contains additional, relevant info to the appeal that was not included.

2. In addition, the “Application Materials” section references the Site Sketch we provided on April 20, 2023, but it is not actually contained in the packet. It is included in today’s letter submitted by Lyme, and was attached again to the April 25, 2023 Appeal letter referenced in item 1 above.

- Site sketch titled “XYZ Dairy, LLC Diner Pop-Up,” dated April 20, 2023

Chet Clem
President

Lyme Properties

chet@lymeproperties.com
(603) 676-7106 (direct)
(207) 576-1410 (mobile)

[Calendly: book a Zoom with me](#)

[Lyme Properties](#)

[The UV Observer](#)

[River Park West Lebanon](#)

[Action Plan for West Leb](#)

[A Green Vision for West Leb](#)

[Humor & Downtowns?](#)

[Decriminalize Development](#)



June 12, 2023

Lebanon Planning Board
City of Lebanon
51 N Park Street
Lebanon, NH 03766

Re: Response to Staff Memorandum PB2023-23-AAD

Members of the Lebanon Planning Board,

Yesterday, Sunday, June 11th, we received the Staff Memorandum on River Park's Appeal of Administrative Decision which is Item 3.D on tonight's agenda. This was in reference to an Appeal we filed on April 25, 2023 regarding our initial April 7, 2023 communication to the Planning Department requesting assistance in temporarily connecting a historic 1920s Worcester Lunch Car to the adjacent water and sewer service that River Park installed (at our cost) last year.

This was to enable a successful, Lebanon-based business to open a pop-up coffeeshop in the diner for the Hootenanny @ River Park (www.lebanonoperahouse.org/hootenanny) that Lebanon Opera House hosted this past Saturday, June 10th in partnership with *Friends of River Park*. The event drew over 574 people to the Connecticut River waterfront for an afternoon of great music in the great outdoors, in keeping with River Park's long-standing commitment to "Mixed-Use, Smart Growth, and Public Access to the Connecticut River" developed during the 2007-2009 *Neighborhood Planning Process*.

The Staff Memorandum for PB2023-23-AAD introduces new information for the first time 1-day prior to the hearing, leaving little opportunity for the Landowner (XYZ Dairy, LLC) and/or Applicant (Lyme Properties) to respond or prepare, nor does it provide the Planning Board members with adequate time to review the materials they are being asked to rule on.

Given the continued item (the proposed Casino) on the agenda ahead of us this evening it is unclear if River Park's two items on the agenda will even be heard this evening. Lyme Properties submits this memo to provide the Planning Board with additional relevant information.

Lyme continues to maintain an open and transparent compendium of communications on this matter, and the other matters before the relevant Lebanon boards, at: www.riverparkwestlebanon.com/path-forwards. Should any member of the Board or Staff wish for clarification or additional information, please do not hesitate to reach out.

Sincerely,

A handwritten signature in black ink that reads "Chet Clem".

Chet Clem
President, Lyme Properties.



Additional Information:

The packet provided to the Planning Board **omits** material information regarding the Staff's communications on this matter. We would like to clarify that the attached email correspondence referenced on Page 2 of the memo is not a complete compendium of communication on the matter.

Additional information and details related to the applicant's proposed use and improvements are set forth in the attached e-mail correspondence between staff and the applicant and in the attached letter from Chet Clem, Lyme Properties, dated April 23, 2023.

Figure 1: Excerpted from Page 2 of June 11, 2023 Staff Memorandum for June 12, 2023 Planning Board Hearing

We submit for the record two additional relevant communications:

1. An April 26-27, 2023 email exchange (excerpted here and attached) suggesting that the City Staff wasn't aware that River Park had been hosting the *Trails + Trucks* food truck festival during Covid in 2020; the successful launch of *The Bagel Lady* in 2021; or the Hootenanny in 2023, and that a Building Permit was necessary for those events.

Alternatively, we may simply continue to utilize the pop-up area as we have since *Trails + Trucks* in 2020, with Food Trucks and Porta Potties used to meet the needs. As we did with past events, and LOH confirmed with the City for the upcoming Hootenanny, we'll ensure vendors abide by the same regs as the Lebanon Farmers Market, NEXUS festival, etc. **I wasn't aware that these types of events were taking place at the property, and it's not clear these are permitted uses under the Zoning Ordinance (staff has occasionally floated the idea of amending the Zoning Ordinance to address "special events" or something along those lines). But that aside, please make sure that you're submitting a building permit application for each of these events – there may be certain inspections that are required (fire, electric, etc).**

Figure 2: Excerpt from April 26, 2023 Email from Lyme Properties (in black) and April 27, 2023 response from City Staff (in red)

Of relevance:

- a) It is unclear where in the Ordinance it requires a building permit for a live, outdoor event (Hootenanny).
- b) It is unclear where in the Ordinance it requires a building permit for the use of private property for Food Trucks, and/or by vendors licensed by the State.
 - i. Lyme and *Friends of River Park* did ensure that vendors at the 2020 *Trails + Trucks* events hosted during Covid-19 followed the same rules and regulations as the City's own events, even going so far as to include the City's own forms for Food Trucks



that are used for the Lebanon Farmers Market in our Vendor Information Packet.

- c) As referenced in the initial communication above, in their role as Event Manager, the Lebanon Opera House had already communicated with City Hall about any necessary permits during event preparations that commenced in earnest in November, 2022 and been told that only a Fire Inspection for the tent was necessary, and that a Police Detail wasn't required (but we paid for anyway to ensure traffic control and public safety).
- d) The April 10th communication created a new risk to the Hootenanny event that was already set for June 10th, with the implication that if River Park did not seek and secure a building permit the event could be jeopardized.
 - i. One effect of the appeal filed on April 25, 2023 was to protect the Hootenanny event from this questionable requirement until the matter could be appealed to the Planning Board.
- e) Even if a Building Permit were required– and we continue to contend that it did not– we had reason to be concerned that it could even be secured prior to the event. XYZ Dairy, LLC's last application for a Building Permit (#2022-0529) took **70 days** to be issued, far outside the **30 day** statutory requirement per Section 36-5 of the Lebanon Building Code.
 - i. XYZ Dairy, LLC has prepared a separate memo about the timeliness of Building Permit issuance as part of an ongoing Appeal of Administrative Decision presently before the Lebanon Building Code Board of Appeals.

2. The Friday, June 9, 2023 email (attached) suggesting that site improvements made at River Park would have required Building Permits and/or Site Plan Review:

From: Tim Corwin Tim.Corwin@lebanonnh.gov
Subject: Diner Structure Building Permit
Date: June 9, 2023 at 2:14 PM
To: Chet Clem chet@lymeproperties.com

TC

Chet – regarding the administrative appeal to be heard by the Planning Board on Monday, the diner structure shown in the photo you provided me in your April 7th e-mail would have needed a building permit. I'm not sure how one would have been issued since the placement of the structure itself would have needed site plan approval if it's over 500 sq. ft. in size. In any event, I can't find a record of a building permit in our system, but I certainly could have missed something. Based on photographic evidence, it appears that the diner structured and other site improvements shown in the photo were completed sometime after April, 2021. Can you confirm whether a building permit was applied for and issued for the original placement of the diner structure?

Figure 3: June 9, 2023 email communication suggesting the temporary structures at River Park required a Building Permit and/or Site Improvements would have required Site Plan Approval



As communicated by Lyme in response later that day, we were on-site and in the midst of Hootenanny preparations that day and unable to respond. Additionally, it is unclear which site improvements in the photo provided on April 7, 2023 the Staff believes was done in violation of the Building or Zoning codes, however:

- a. At no point in the preceding 63 days between the initial April 7, 2023 email and this June 9, 2023 email had the matter of a Building Permit for the temporary diner been brought up.
- b. The yellow Worcester Lunch Car relevant to the administrative appeal at-hand is under 500sf and mounted on an operable trailer that is moveable. So is the blue/muraled Worcester Lunch Car that has been in approximately that location since 2020.
 - i. Although they have been moved off-site at times for security reasons, one or both of the Diners have been on-site and part of the River Park activation plan since 2014.
 1. A May 15, 2014 email communication and website update introducing the Diner can be found at:
<https://www.riverparkwestlebanon.com/daves-blog/2014/5/15/the-newest-addition-to-the-river-park-site.html-7ydsq>
- c. The power pole, meter and electrical panel was in this location when we purchased the property in 2007 and has not moved.
- d. The metal storage container is under 120sf, is a temporary structure, and is presently used to store items associated with the trails and access to the riverfront parcel that require weatherproofing.
- e. The grading of the property is specifically excluded from any Site Plan Review Regulations, as outlined in bullet-point #5 of the Staff Memorandum PB2023-23-AAD on Page 2 of 4.
 - i. The stone-dust path shown was to address muddy conditions created by the year-round public trail access provided at this location, both on-foot and by XC skiers who make use of the trails in the winter when they are groomed by the Lebanon Recreation, Arts, and Parks Department in collaboration with the *Friends of River Park*.
- f. I am not aware of an ordinance that requires a building or zoning permit for a split-rail fence under 4 feet tall.
 - i. The fence in question was erected prior to the Groundbreaking Ceremony in 2015, it's original location can be made out on the Bird's Eye image provided on Page 3 of 4 of the Staff Memorandum, where there were white signs mounted upon it along Route 10.
 - ii. It has been modified only when it was replaced by the Construction Fence erected prior to construction activities for the Cross Country Connector and 1 River Park that occurred in 2022.
- g. The split-rail fence and "*Be Nice, Be Neighborly*" signage shown in Figure 2 on Page 4 of 4 of the Staff Memorandum are to improve the public access to the trails and waterfront that has been ongoing for over a decade, was improved upon in



- 2020 to provide public access and improved upon by *Friends of River Park* and the *Upper Valley Trails Alliance*.
- h. Access to all of this is via the previously existing access to the property from Route 10/N Main Street.

We request that the Staff clarify what, of the above, they believe required a Building Permit, or Site Plan Review that they suggest in Staff Comment #2 "would have clearly been required for what has already been completed."

If, upon further review by the Planning Staff and/or Planning Board, the Staff continues to believe that these were "unpermitted site improvements" as they've accused us of, then River Park will make a determination of how to proceed.

In addition to the two items above, this matter has had real impacts on the River Park project:

3. The decision under appeal cost the *Friends of River Park* an opportunity to create a source of revenue to fund production of the Hootenanny and trail improvements at River Park.
4. The decision under appeal cost a local business an opportunity to conduct business in a creative, interesting, and temporary fashion toward their intended plan to become a full-time tenant at River Park.
 - a. This aligns with the **2021 West Leb Action Plan** Priority #1: "Actionable Improvements: Prioritize high-impact, visible improvements that can be accomplished while larger efforts evolve."
5. This decision under appeal regarding the temporary Diner pop-up proposal, along with the parallel appeal presently before the Lebanon Building Code Board of Appeals related to a Staff decision and ongoing delay (as of this memo we are at Day 185) related to the 4th attempt to develop **1 River Park**, have jeopardized leasing conversations with the tenant in question.

From: Tim Corwin Tim.Corwin@lebanonnh.gov 
Subject: RE: [EXTERNAL] River Park Diner pop-up
Date: April 27, 2023 at 1:44 PM
To: Chet Clem chet@lymeproperties.com
Cc: Nathan Reichert Nathan.Reichert@lebanonnh.gov

TC

Hi Chet –

Thanks for your e-mail. I added a few comments below in red.

Hope you're able to enjoy your vacation and not spend too much time working! -Tim

From: Chet Clem <chet@lymeproperties.com>
Sent: Wednesday, April 26, 2023 11:53 AM
To: Tim Corwin <Tim.Corwin@lebanonnh.gov>
Cc: Nathan Reichert <Nathan.Reichert@lebanonnh.gov>; Crystal Taplin <Crystal.Taplin@lebanonnh.gov>
Subject: Re: [EXTERNAL] River Park Diner pop-up

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Tim,

While I'm out of town I am asking for legal advice on whether filing an amendment to our current Site Plan approvals to allow a temporary execution of previously approved uses is a more advantageous approach for River Park's goals and further aligned with the Action Plan for West Leb to expedite entrepreneurship.

Honestly, I'm not sure the City's proposed approach aligns with what I can afford in terms of costs and conditions, but if the investment in engineering and approvals creates further activation opportunities at River Park that may tip the cost/benefit scales. **Is the investment you're referring to the investment in preparing a site plan for minor site plan review? If so, it's a relatively low key process – it doesn't necessarily need to be prepared by a PE or LLS, but it should be scaled.** For example, the 9,800s.f. retail/office "appendage" on Garage 1 in the CBD could become the next iteration of this coffeeshop. In accordance with current phasing plan the garage could be a minimum of 8+ years out, but that facility could serve as an Advance Transit hub, bathroom facility for AT bus drivers and trail users, and a revenue-creating retail opportunity to help pay for those public benefits. **However you'd like to proceed – let us know and we can confirm what's needed from an application/regulatory/procedural standpoint. But all in all, the minor site plan approach will be the simplest and quickest.**

Alternatively, we may simply continue to utilize the pop-up area as we have since Trails + Trucks in 2020, with Food Trucks and Porta Potties used to meet the needs. As we did with past events, and LOH confirmed with the City for the upcoming Hootenanny. we'll ensure vendors abide by the same rules as the

speaking, etc., etc. I wasn't aware that these types of events were taking place at the property, and it's not clear these are permitted uses under the Zoning Ordinance (staff has occasionally floated the idea of amending the Zoning Ordinance to address "special events" or something along those lines). But that aside, please make sure that you're submitting a building permit application for each of these events – there may be certain inspections that are required (fire, electric, etc).

Not ideal, and certainly not as fun as getting served coffee in the diner, but would allow the intent without the costs, time burden, and timeline. My hope had been to proactively clear the engineering hurdle by receiving guidance at the staff level before incurring consultant costs and requiring a public hearing, which was what our Attorney had advised was possible. We're happy to provide guidance, but admittedly, it's sometimes not clear to me exactly what you're asking. My thought was that in this case, your questions could be efficiently and appropriately answered through the minor site plan review process. But perhaps there are questions that need to be answered in order to allow you to *prepare* the minor site plan. If that's the case, I would be more most appreciative if you could rephrase your questions and we can get answer to you – working with the City Engineers and DPW – as soon as possible.

Anyway, I sincerely extend an invitation to the LOH Hootenanny @ River Park on June 10th. I caught a glimpse of a band sticker on your water bottle that suggests it may be up your alley! Thanks Chet, I appreciate that! Please extend the same invitation to everyone at City Hall.

lebanonoperahouse.org



If we're lucky, we'll have coffee and more!

Chet Clem
President
Lyme Properties

chet@lymeproperties.com

(603) 676-7106 (direct)
(207) 576-1410 (mobile)

[Calendly: book a Zoom with me](#)

[Lyme Properties](#)
[The UV Observer](#)
[River Park West Lebanon](#)
[Action Plan for West Leb](#)
[A Green Vision for West Leb](#)
[Humor & Downtowns?](#)
[Decriminalize Development](#)

On Apr 25, 2023, at 4:54 PM, Tim Corwin
<Tim.Corwin@lebanonnh.gov> wrote:

Chet –

We are in receipt of your appeal to the Planning Board regarding staff's determination regarding the need for Minor Site Plan Review relative to your proposed use. We will review your submission and will let you know if anything else is needed. Assuming we have a complete application, we will schedule a public hearing on the appeal for the June 12, 2023 Planning Board meeting (as noted in my e-mail below).

In the meantime, **please note that May 9, 2023 is the deadline for the May 25, 2023 Minor Site Plan Committee meeting. This timeframe is conducive to your desire to begin operation in June.** Please be aware that should you choose to proceed with your appeal to the Planning Board and it's denied, you'll still need to submit an application to the Minor Site Plan Committee. The next application deadline after the June 12, 2023 Planning Board meeting is June 27, 2023 for the July 13, 2023 Minor Site Plan Committee meeting.

If you have any questions, please let me know.

Thank you,

Tim Corwin, AICP

Deputy Planning and Development Director

City of Lebanon

(603) 448-1524 (Office)

(603) 442-6127 (Direct)

Tim.Corwin@LebanonNH.gov

[Book a time to meet with me](#)

From: Tim Corwin

Sent: Friday, April 21, 2023 9:52 AM

To: Chet Clem <chet@lymeproperties.com>

Cc: Nathan Reichert <Nathan.Reichert@lebanonnh.gov>; Crystal Taplin <Crystal.Taplin@lebanonnh.gov>

Subject: RE: [EXTERNAL] River Park Diner pop-up

Chet –

It is staff's determination that the proposed land development constitutes a minor change requiring minor site plan review per Section 3.1.C of the Site Plan Review Regulations. You have the option of appealing this determination to the Planning Board. If you'd like to do so, we'll need an [application form](#), narrative explaining your appeal, [notification list](#), and [fees](#). Provided that you submit the appeal by the [May 8th application deadline](#), we can schedule the hearing on your appeal at the June 12th Planning Board meeting.

If you have any questions, please let me know.

Thank you,

Tim Corwin, AICP

Deputy Planning and Development Director

City of Lebanon

(603) 448-1524 (Office)

(603) 442-6127 (Direct)

Tim.Corwin@LebanonNH.gov

[Book a time to meet with me](#)

From: Chet Clem <chet@lymeproperties.com>
Sent: Thursday, April 20, 2023 4:42 PM
To: Tim Corwin <Tim.Corwin@lebanonnh.gov>
Cc: Nathan Reichert <Nathan.Reichert@lebanonnh.gov>; Crystal Taplin <Crystal.Taplin@lebanonnh.gov>
Subject: Re: [EXTERNAL] River Park Diner pop-up

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Tim and Nate,

I am writing in follow-up to my initial email on 4/7/23 regarding temporarily connecting the River Park dining car to the water and sewer lines installed by XYZ Dairy, LLC in August-October 2022. Tim's 4/10/23 response directed us towards Minor Site Plan Review, and corrected my error regarding 211.4 Temporary Structures For Permitted Uses not applying to the CBD district.

I just had a chance to discuss with my Attorney who had been out of town, and he questioned whether this rises to the level of requiring Minor Site Plan Review, or is it something that can be handled at the administrative level. Per Section 3.1.B, Site Plan Review is not required unless there is an appreciable change.

Our position is that the retail use in question is in fact already approved as part of Building 3 / Phase 1B / Lot 10 (a 95,800 S.F. building for office and retail) in the River Park approvals, and the associated water and sewer requirements have been approved accordingly. As such, what we are proposing on a temporary basis is considerably less than what is already approved.

The access, parking, etc. is merely a continuation of the existing condition, which has been sufficient for public access to the River Park waterfront and trails for years, as well as the 2020 Trails + Trucks food truck series, the 2021

launch of UV Just Bagels in the dining car, the 2022 use of this pop-up area for public art, coffee and bagel events, and the upcoming 2023 Hootenanny event with Lebanon Opera House. The question is whether this can be improved upon by making use of the water and sewer lines that XYZ Dairy completed the installation of last year.

The temporary use is for a committed, future full-time tenant at River Park, and is a Lebanon-based business looking for a 2nd location and specifically a West Leb location. We have had fruitful discussions for the past 3 years while navigating delays and Covid realities, and they are an operator that I believe the community will be quite excited with. This temporary approach is in keeping with the #1 priority of the 2021 Action Plan For West Leb "Prioritize High-Impact, Visible Improvements That Can Be Accomplished While Larger Efforts Evolve." This is a historically accurate re-use of the 1920s Worcester Dining Car approximately 100 years after it was built to serve as temporary retail at construction sites.

I am attaching a diagram of the Dining car's location on Lot 10 and in relation to the water and sewer lines in question. The orange line denotes the fenced-in construction area.

Put simply, per Section 3.1.B. of the Site Plan Review Regulations XYZ Dairy, LLC is asking the Planning and Development Department to make the reasonable determination that this proposed use does not necessitate or result in any appreciable changes that would necessitate Site Plan review.

Thank you,

Chet Clem
President
Lyme Properties

chet@lymeproperties.com
(603) 676-7106 (direct)
(207) 576-1410 (mobile)

[Calendly: book a Zoom with me](#)

[Lyme Properties](#)
[The UV Observer](#)
[River Park West Lebanon](#)
[Action Plan for West Leb](#)
[A Green Vision for West Leb](#)
[Humor & Downtowns?](#)
[Decriminalize Development](#)

On Apr 10, 2023, at 8:26 PM, Chet Clem
<chet@lymeproperties.com> wrote:

Thanks, Tim. This would be a temporary structure for permitted uses in CBD and per the River Park approvals per 211.4.

The Diner is presently located on Lot 10. This is a temporary solution for a committed future retail tenant for River Park, looking to take an entrepreneurial approach this summer to opening their 2nd location in West Leb and help build excitement for the project.

Happy to show you it any time,
Chet

Chet Clem
President
Lyme Properties

chet@lymeproperties.com
(603) 676-7106 (direct)
(207) 576-1410 (mobile)

[Calendly: book a Zoom with me](#)

[Lyme Properties](#)

[River Park West Lebanon](#)
[Action Plan for West Leb](#)
[A Green Vision for West Leb](#)
[Humor & Downtowns?](#)
[Decriminalize Development](#)

On Apr 10, 2023, at 8:08 PM, Tim Corwin
<Tim.Corwin@lebanonnh.gov> wrote:

Chet –

I'm not familiar with the "River Park diner". If your proposal is to locate a refreshment stand/restaurant within the Central Business District portion of the River Park development, it would be an allowed use of the property, but would require [minor site plan review](#) per Sections 3.1.C.1 and 3.2 of the [Site Plan Review Regulations](#). The Minor Site Plan Committee application deadline and meeting schedule is available [on-line here](#) (the next deadline is 4/25 for the 5/11 meeting). Water, wastewater and the cross country connection will be evaluated by staff as part of the minor site plan review process.

If you have any questions, please don't hesitate to ask.

Thank you,

Tim Corwin, AICP

TIM CORWIN, AICP

Deputy Planning and Development Director
City of Lebanon
(603) 448-1524 (Office)
(603) 442-6127 (Direct)
Tim.Corwin@LebanonNH.gov
[Book a time to meet with me](#)

From: David Brooks
<David.Brooks@lebanonnh.gov>
Sent: Monday, April 10, 2023 9:57 AM
To: 'Chet Clem' <chet@lymeproperties.com>
Cc: Tim Corwin <Tim.Corwin@lebanonnh.gov>;
Nathan Reichert
<Nathan.Reichert@lebanonnh.gov>; Brian Vincent
<brian.vincent@lebanonnh.gov>; Rod Finley
<rod.finley@lebanonnh.gov>
Subject: RE: [EXTERNAL] River Park Diner pop-up

Chet

I see that this request was sent to me, with copies to Planning and Engineering. However, as a brand new issue/request, I don't need to be involved since I'm no longer in the Planning Department. I have asked Planning, Building, Engineering and Water/Wastewater to review the request and respond to you as appropriate.

David

David R. Brooks

Deputy City Manager – Administrative Services
City of Lebanon
(603)-448-4220 (Office)
(603) 442-6134 (Direct)
David.Brooks@LebanonNH.gov

From: Chet Clem <chet@lymeproperties.com>
Sent: Friday, April 7, 2023 3:24 PM
To: David Brooks <David.Brooks@lebanonnh.gov>
Cc: Tim Corwin <Tim.Corwin@lebanonnh.gov>;
Nathan Reichert
<Nathan.Reichert@lebanonnh.gov>; Brian Vincent
<brian.vincent@lebanonnh.gov>; Rod Finley
<rod.finley@lebanonnh.gov>
Subject: [EXTERNAL] River Park Diner pop-up

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

I would like to connect the River Park diner to the Cross Country Connector water and sewer on a temporary basis, and a modular bathroom facility for trail users, Diner visitors, and events.

This would re-utilize the 1920s Worcester Dining car for what they were built for originally: temporary food-service during the development of larger projects. It's a temporary structure, and TF Moran can prepare drawings.

But before I start spending money and going down a path, I'd like to know what the City will require to make this happen.

I have a local, beloved coffeeshop onboard and ready to make this happen.

Please advise,

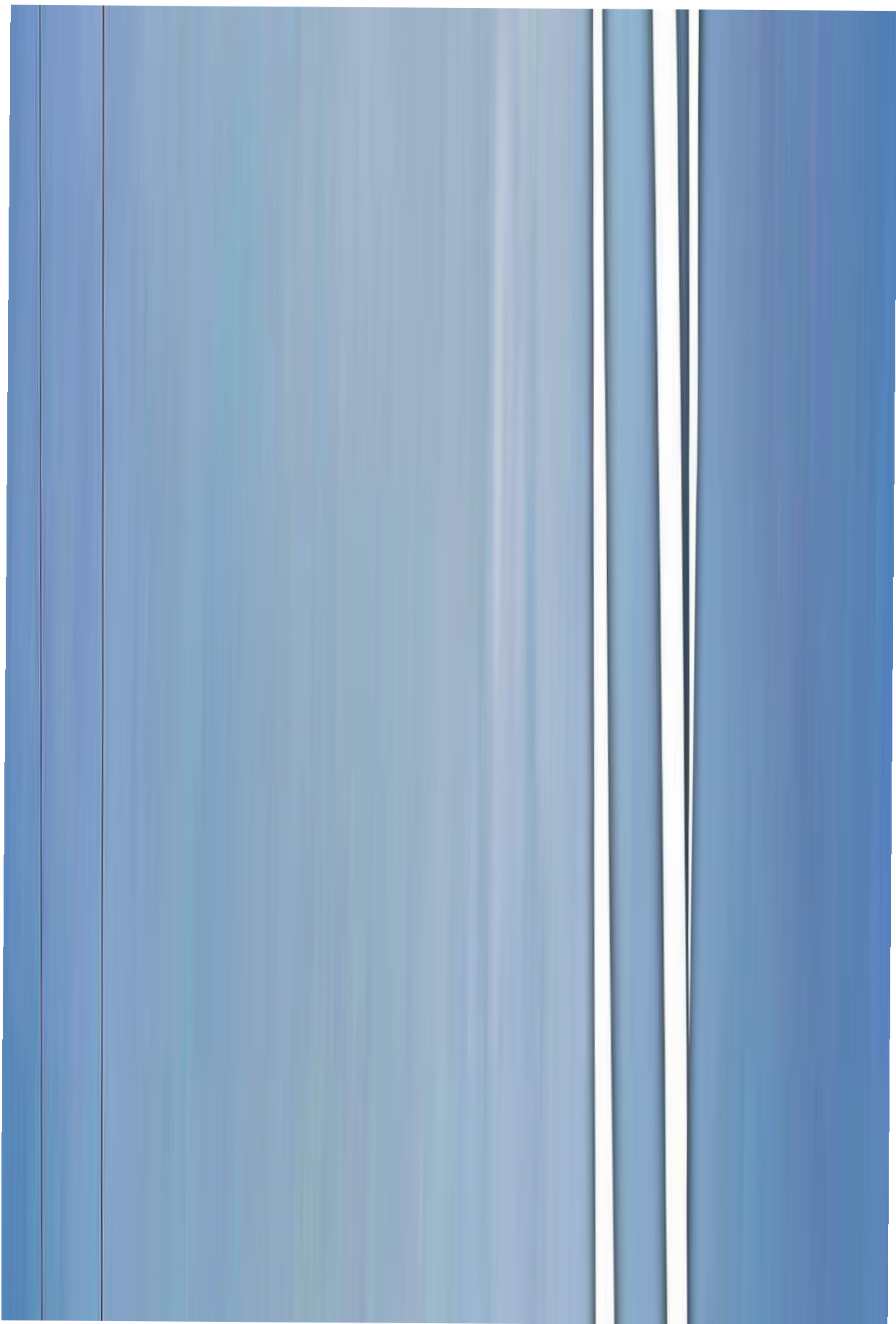
Chet Clem
President
Lyme Properties

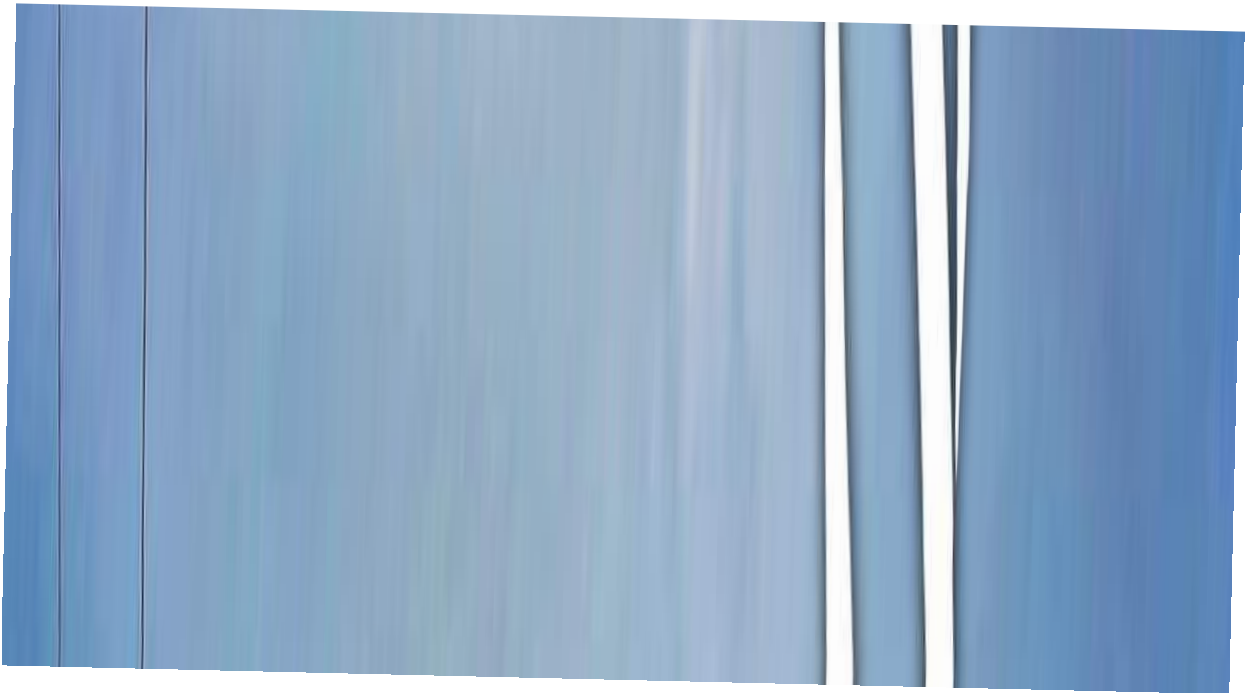
chet@lymeproperties.com
(603) 676-7106 (direct)
(207) 576-1410 (mobile)

[Calendly: book a Zoom with me](#)

[Lyme Properties](#)
[River Park West Lebanon](#)
[A Productive Path Forwards](#)
[The UV Observer](#)
[Action Plan for West Leb](#)
[A Green Vision for West Leb](#)
[Humor & Downtowns?](#)
[Decriminalize Development](#)







From: Tim Corwin Tim.Corwin@lebanonnh.gov
Subject: Diner Structure Building Permit
Date: June 9, 2023 at 2:14 PM
To: Chet Clem chet@lymeproperties.com

TC

Chet – regarding the administrative appeal to be heard by the Planning Board on Monday, the diner structure shown in the photo you provided me in your April 7th e-mail would have needed a building permit. I’m not sure how one would have been issued since the placement of the structure itself would have needed site plan approval if it’s over 500 sq. ft. in size. In any event, I can’t find a record of a building permit in our system, but I certainly could have missed something. Based on photographic evidence, it appears that the diner structure and other site improvements shown in the photo were completed sometime after April, 2021. Can you confirm whether a building permit was applied for and issued for the original placement of the diner structure?

-

Tim Corwin, AICP

Deputy Planning and Development Director

City of Lebanon

(603) 448-1524 (Office)

(603) 442-6127 (Direct)

Tim.Corwin@LebanonNH.gov

[Book a time to meet with me](#)



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

PLANNING BOARD

June 12, 2023 Meeting

Staff Memorandum – PB2023-23-AAD

APPLICATION INFORMATION

Agenda Item: 3.D

Application ID#:
PB2023-23-AAD

Application Type:
Administrative Appeal

Property Location:
North Main Street,
West Lebanon

Property Owner/Applicant:
XYZ Dairy, LLC/Lyme Properties

Property Size:
+/-38.18 Ac. (combined tract)

Zoning District(s):

- Central Business District (CBD)
- Light Industrial (IND-L)
- Residential Three (R-3)

Overlay District:

- Wetlands Conservation District
- Flood Plain District

Attachments:

- Planning & Development Dep't e-mail correspondence with applicant (5 pages)

LEGAL NOTICE

XYZ Dairy, LLC, River Park Drive (Tax Map 44, Lots 3 & 7, and Tax Map 44, Lots 21-30), zoned CBD, IND-L and R-3: Appeal of administrative decision to require Minor Site Plan Review per Section 3.1.C of the Site Plan Review Regulations for a proposed restaurant use. PB2023-23-AAD

APPLICATION MATERIALS

- ▶ Application form (1 page)
- ▶ Letter from Chet Clem, Lyme Properties, dated April 23, 2023 (appeal of administrative decision; 1 page)
- ▶ Site sketch titled "XYZ Dairy, LLC Diner Pop-Up," dated April 20, 2023

COMPLETENESS REVIEW

This application has been reviewed in accordance with the Lebanon Site Plan Review Regulations. The Planning and Development Department recommends that the Board find that the application is complete enough to accept jurisdiction and to commence review.

BACKGROUND

On October 24, 2011, the Planning Board granted approval for a seven (7) phase development known as River Park. As approved, the development would consist of eight (8) non-residential or multi-family residential buildings totaling 839,145 square feet plus two parking garages for 1,393 vehicles on 7 parcels within the CBD and IND-L zoning districts. (PB2010-25-SPR).

The applicant was granted an extension to the approved site plan on September 9, 2013, and on June 8, 2015, the applicant was granted a site plan amendment for the layout of Lot 1, which included changes to the building footprint, parking layout, vehicular circulation, loading location of the building, landscaping, lighting, and the drainage and engineering of the site. (PB2015-10-SPA). On November 9, 2015, the applicant was granted additional time within which to obtain Building Permits for each approved development phase.

On September 9, 2019, the Planning Board approved an amendment to the site plan to, among other things, change the sequencing of the project phasing and increase the number of residential dwelling units from 80 to 125 in Building #8 (PB2018-34-SPA). The Notice of Action for this approval

was written to supersede and replace all prior Notices of Action relating to the River Park site plan approval. On October 12, 2021, the Planning Board approved a request to extend the phasing deadlines (PB2021-19-EXT).

APPLICATION OVERVIEW

On April 7, 2023, staff received the following request from the applicant via e-mail:

[Lyme Properties] would like to connect the River Park diner to the Cross Country Connector water and sewer on a temporary basis, and a modular bathroom facility for trail users, Diner visitors, and events.

This would re-utilize the 1920s Worcester Dining car for what they were built for originally: temporary food-service during the development of larger projects. It's a temporary structure, and TF Moran can prepare drawings.

Additional information and details related to the applicant's proposed use and improvements are set forth in the attached e-mail correspondence between staff and the applicant and in the attached letter from Chet Clem, Lyme Properties, dated April 23, 2023.

On April 10, 2023, staff made the following determination with respect to the applicant's proposed use and site improvements:

[Staff] is not familiar with the "River Park diner". If your proposal is to locate a refreshment stand/restaurant within the Central Business District portion of the River Park development, it would be an allowed use of the property, but would require minor site plan review per Sections 3.1.C.1 and 3.2 of the Site Plan Review Regulations. [...] Water, wastewater and the cross country connection will be evaluated by staff as part of the minor site plan review process.

Staff reiterated this determination on April 21, 2023, following additional correspondence from the applicant arguing that, *inter alia*, the proposed use already has site plan approval as part of the River Park development.

SITE PLAN REVIEW REGULATIONS

The Site Plan Review Regulations regulate "land development" which is defined in Article II ("Definitions") as follows:

A physical improvement or alteration to a lot, whether vacant or improved, and/or an increase in the size of a building, and/or a change of use to a non-residential, mixed use, or multi-family dwelling. The term "land development" does not include the following:

- The construction of one-family and two-family dwelling units or associated accessory uses [...]
- Repair or maintenance that does not result in any changes to the layout or design of the property [...]
- The following home-based businesses: [...]
- Buildings and structures in the Rural Lands (RL) One, Two, and Three zoning districts that are used for an agriculture use.
- Physical alterations to the natural landscape that are made independently of any development of the lot. Such physical alterations include but are not limited to logging and grading.

If a proposed improvement or use constitutes “land development”, staff must then determine whether the land development:

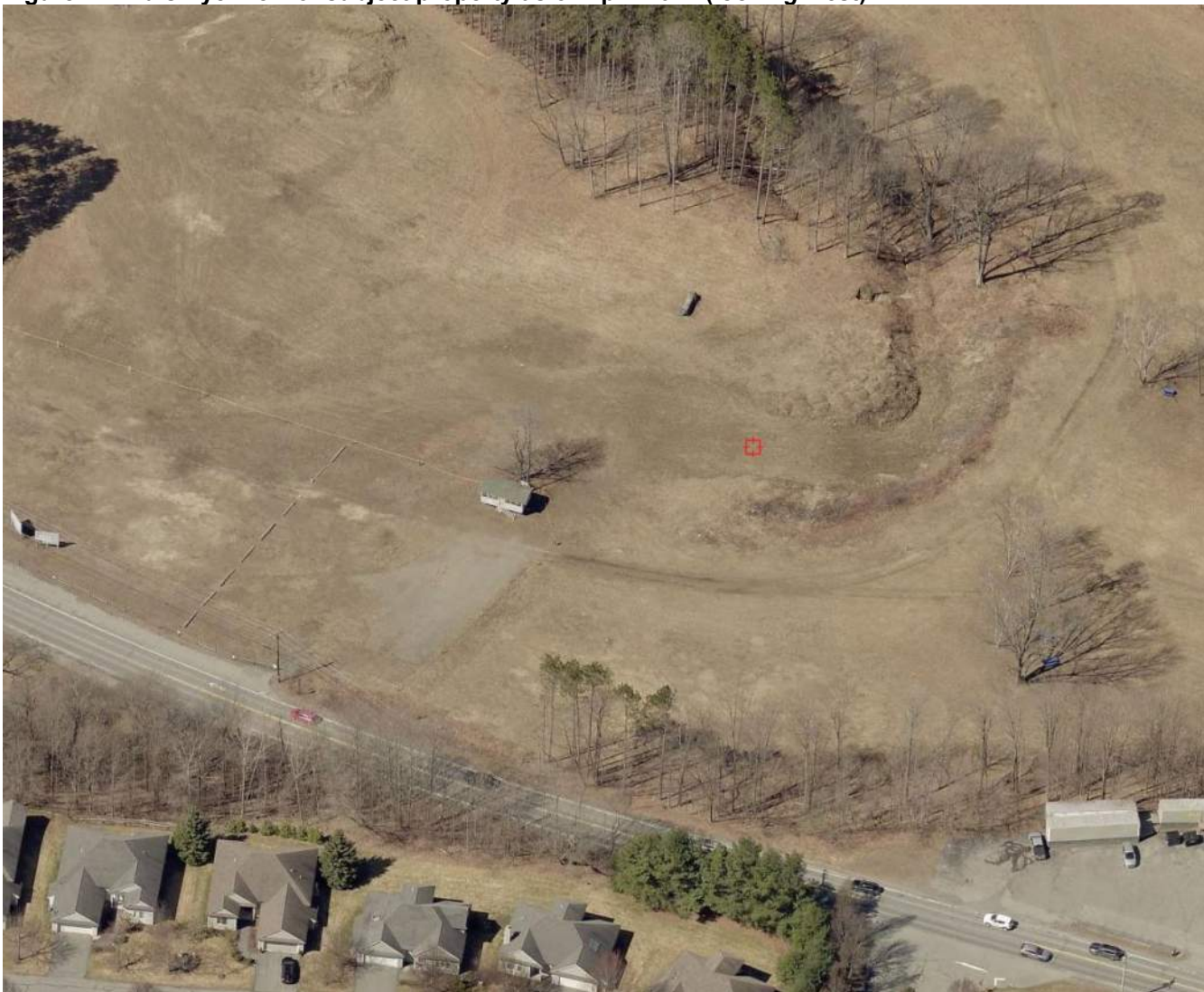
- Is exempt from site plan review (Section 3.1.B); or
- Requires site plan review from the Minor Site Plan Committee (Section 3.1.C); or
- Requires site plan review from the Planning Board (Section 3.1.D).

If a land development meets any of the thresholds set forth Section 3.1.C.1 or if it constitutes a “minor change”, the land development requires site plan review from the Minor Site Plan Committee. If the land development constitutes a “major change”, site plan review from the Planning Board is required.

“Minor change” is defined in Article II as follows:

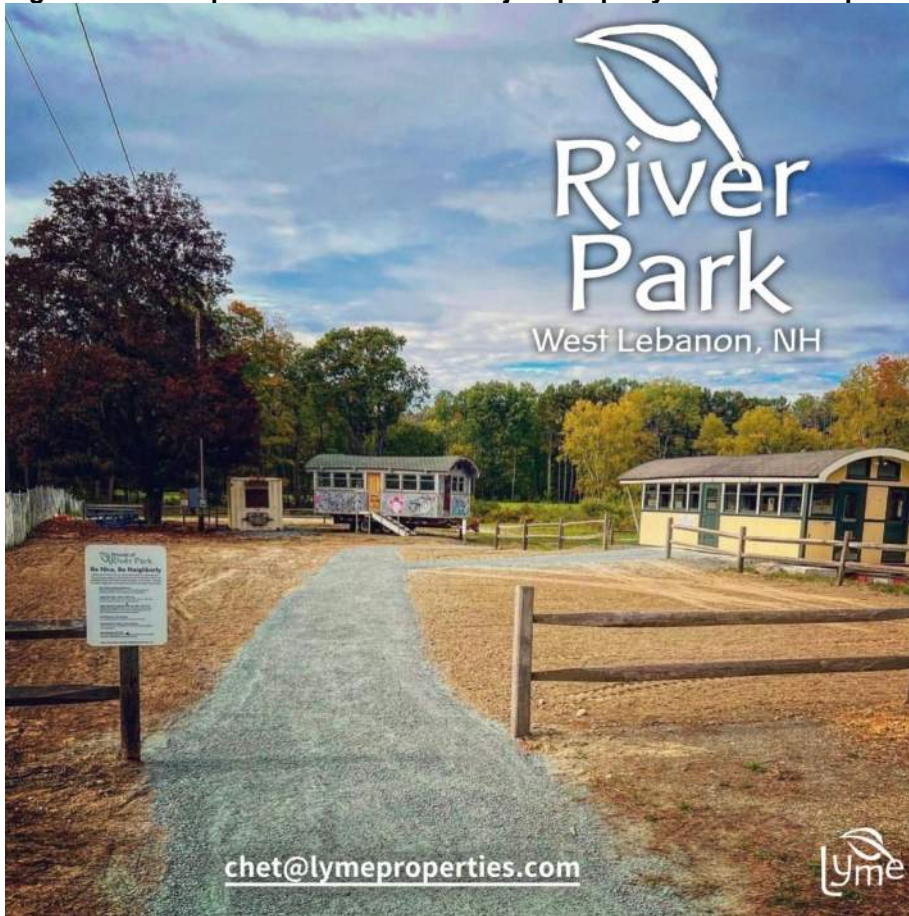
Any *land development* which, in the reasonable determination of the Planning and Development Department, is not a *major change*, but does necessitate or result in an appreciable change to access; parking, vehicular and/or pedestrian circulation; traffic; drainage patterns or drainage structures; topography; lighting; visual features; natural resources; City services or facilities; improved surfaces; and/or required landscaping.

Figure 1. Bird's Eye View of subject property as of April 2021 (looking west).



©2021 Eagleview (image taken 4/3/2021)

Figure 2. Site improvements on the subject property made since April 2021 without Site Plan Review.



STAFF COMMENTS

Staff determined that the proposed use and improvements constitute a “land development” and a “minor change” that requires minor site plan review. The question for staff was not whether site plan review was required at all, but only whether the proposal constituted a “minor change” or a “major change” requiring full site plan review from the Planning Board. The determination that the proposal required only minor site plan review was a close call and was ultimately made in favor of the applicant.

It should be noted that none of the improvements shown in the applicant’s photo provided to staff (see Figure 2) have obtained site plan approval where site plan approval would have clearly been required for what has already been completed.

STAFF RECOMMENDATIONS

The Planning & Development Department recommends that the Planning Board deny the applicant’s appeal and require site plan review from either the Minor Site Plan Committee or from the Planning Board both for the proposed restaurant/refreshment stand use and associated site improvements, as well as the unpermitted site improvements made sometime since April 2021.

Attachments

cc: XYZ Dairy, LLC (via e-mail)
Lyme Properties (via e-mail)
File

Tim Corwin

From: Tim Corwin
Sent: Friday, April 21, 2023 9:52 AM
To: Chet Clem
Cc: Nathan Reichert; Crystal Taplin
Subject: RE: [EXTERNAL] River Park Diner pop-up

Chet –

It is staff's determination that the proposed land development constitutes a minor change requiring minor site plan review per Section 3.1.C of the Site Plan Review Regulations. You have the option of appealing this determination to the Planning Board. If you'd like to do so, we'll need an [application form](#), narrative explaining your appeal, [notification list](#), and [fees](#). Provided that you submit the appeal by the [May 8th application deadline](#), we can schedule the hearing on your appeal at the June 12th Planning Board meeting.

If you have any questions, please let me know.

Thank you,

TIM CORWIN, AICP

DEPUTY PLANNING AND DEVELOPMENT DIRECTOR
CITY OF LEBANON
(603) 448-1524 (OFFICE)
(603) 442-6127 (DIRECT)
TIM.CORWIN@LEBANONNH.GOV
[BOOK A TIME TO MEET WITH ME](#)

From: Chet Clem <chet@lymeproperties.com>
Sent: Thursday, April 20, 2023 4:42 PM
To: Tim Corwin <Tim.Corwin@lebanonnh.gov>
Cc: Nathan Reichert <Nathan.Reichert@lebanonnh.gov>; Crystal Taplin <Crystal.Taplin@lebanonnh.gov>
Subject: Re: [EXTERNAL] River Park Diner pop-up

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Tim and Nate,

I am writing in follow-up to my initial email on 4/7/23 regarding temporarily connecting the River Park dining car to the water and sewer lines installed by XYZ Dairy, LLC in August-October 2022. Tim's 4/10/23 response directed us towards Minor Site Plan Review, and corrected my error regarding 211.4 Temporary Structures For Permitted Uses not applying to the CBD district.

I just had a chance to discuss with my Attorney who had been out of town, and he questioned whether this rises to the level of requiring Minor Site Plan Review, or is it something that can be handled at the administrative level. Per Section 3.1.B, Site Plan Review is not required unless there is an appreciable change.

Our position is that the retail use in question is in fact already approved as part of Building 3 / Phase 1B / Lot 10 (a 95,800 S.F. building for office and retail) in the River Park approvals, and the associated water and sewer requirements have been approved accordingly. As such, what we are proposing on a temporary basis is considerably less than what is already approved.

The access, parking, etc. is merely a continuation of the existing condition, which has been sufficient for public access to the River Park waterfront and trails for years, as well as the 2020 Trails + Trucks food truck series, the 2021 launch of UV Just Bagels in the dining car, the 2022 use of this pop-up area for public art, coffee and bagel events, and the upcoming 2023 Hootenanny event with Lebanon Opera House. The question is whether this can be improved upon by making use of the water and sewer lines that XYZ Dairy completed the installation of last year.

The temporary use is for a committed, future full-time tenant at River Park, and is a Lebanon-based business looking for a 2nd location and specifically a West Leb location. We have had fruitful discussions for the past 3 years while navigating delays and Covid realities, and they are an operator that I believe the community will be quite excited with. This temporary approach is in keeping with the #1 priority of the 2021 Action Plan For West Leb "Prioritize High-Impact, Visible Improvements That Can Be Accomplished While Larger Efforts Evolve." This is a historically accurate re-use of the 1920s Worcester Dining Car approximately 100 years after it was built to serve as temporary retail at construction sites.

I am attaching a diagram of the Dining car's location on Lot 10 and in relation to the water and sewer lines in question. The orange line denotes the fenced-in construction area.

Put simply, per Section 3.1.B. of the Site Plan Review Regulations XYZ Dairy, LLC is asking the Planning and Development Department to make the reasonable determination that this proposed use does not necessitate or result in any appreciable changes that would necessitate Site Plan review.

Thank you,

Chet Clem
President
Lyme Properties

chet@lymeproperties.com
(603) 676-7106 (direct)
(207) 576-1410 (mobile)

[Calendly: book a Zoom with me](#)

[Lyme Properties](#)
[The UV Observer](#)
[River Park West Lebanon](#)
[Action Plan for West Leb](#)
[A Green Vision for West Leb](#)
[Humor & Downtowns?](#)
[Decriminalize Development](#)

On Apr 10, 2023, at 8:26 PM, Chet Clem <chet@lymeproperties.com> wrote:

Thanks, Tim. This would be a temporary structure for permitted uses in CBD and per the River Park approvals per 211.4.

The Diner is presently located on Lot 10. This is a temporary solution for a committed future retail tenant for River Park, looking to take an entrepreneurial approach this summer to opening their 2nd location in West Leb and help build excitement for the project.

Happy to show you it any time,

Chet

Chet Clem
President
Lyme Properties

chet@lymeproperties.com
(603) 676-7106 (direct)
(207) 576-1410 (mobile)

[Calendly: book a Zoom with me](#)

[Lyme Properties](#)

[River Park West Lebanon
Action Plan for West Leb
A Green Vision for West Leb
Humor & Downtowns?
Decriminalize Development](#)

On Apr 10, 2023, at 8:08 PM, Tim Corwin <Tim.Corwin@lebanonnh.gov> wrote:

Chet –

I'm not familiar with the "River Park diner". If your proposal is to locate a refreshment stand/restaurant within the Central Business District portion of the River Park development, it would be an allowed use of the property, but would require [minor site plan review](#) per Sections 3.1.C.1 and 3.2 of the [Site Plan Review Regulations](#). The Minor Site Plan Committee application deadline and meeting schedule is available [on-line here](#) (the next deadline is 4/25 for the 5/11 meeting). Water, wastewater and the cross country connection will be evaluated by staff as part of the minor site plan review process.

If you have any questions, please don't hesitate to ask.

Thank you,

TIM CORWIN, AICP

DEPUTY PLANNING AND DEVELOPMENT DIRECTOR
CITY OF LEBANON
(603) 448-1524 (OFFICE)
(603) 442-6127 (DIRECT)
TIM.CORWIN@LEBANONNH.GOV
[BOOK A TIME TO MEET WITH ME](#)

From: David Brooks <David.Brooks@lebanonnh.gov>

Sent: Monday, April 10, 2023 9:57 AM

To: 'Chet Clem' <chet@lymeproperties.com>

Cc: Tim Corwin <Tim.Corwin@lebanonnh.gov>; Nathan Reichert
<Nathan.Reichert@lebanonnh.gov>; Brian Vincent <brian.vincent@lebanonnh.gov>;
Rod Finley <rod.finley@lebanonnh.gov>

Subject: RE: [EXTERNAL] River Park Diner pop-up

Chet

I see that this request was sent to me, with copies to Planning and Engineering. However, as a brand new issue/request, I don't need to be involved since I'm no longer in the Planning Department. I have asked Planning, Building, Engineering and Water/Wastewater to review the request and respond to you as appropriate.

David

DAVID R. BROOKS

DEPUTY CITY MANAGER — ADMINISTRATIVE SERVICES
CITY OF LEBANON
(603)-448-4220 (OFFICE)
(603) 442-6134 (DIRECT)
DAVID.BROOKS@LEBANONNH.GOV

From: Chet Clem <chet@lymeproperties.com>
Sent: Friday, April 7, 2023 3:24 PM
To: David Brooks <David.Brooks@lebanonnh.gov>
Cc: Tim Corwin <Tim.Corwin@lebanonnh.gov>; Nathan Reichert <Nathan.Reichert@lebanonnh.gov>; Brian Vincent <brian.vincent@lebanonnh.gov>; Rod Finley <rod.finley@lebanonnh.gov>
Subject: [EXTERNAL] River Park Diner pop-up

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

I would like to connect the River Park diner to the Cross Country Connector water and sewer on a temporary basis, and a modular bathroom facility for trail users, Diner visitors, and events.

This would re-utilize the 1920s Worcester Dining car for what they were built for originally: temporary food-service during the development of larger projects. It's a temporary structure, and TF Moran can prepare drawings.

But before I start spending money and going down a path, I'd like to know what the City will require to make this happen.

I have a local, beloved coffeeshop onboard and ready to make this happen.

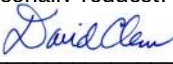
Please advise,

Chet Clem
President



SPECIAL EXCEPTION	☐	☐	SITE PLAN REVIEW
VARIANCE	☐	☐	SUBDIVISION
MOTION FOR REHEARING	☐	☐	LOT LINE ADJUSTMENT
APPEAL OF AN ADMIN. DECISION	☒	☐	CONDITIONAL USE PERMIT

☐ OTHER _____

PROPERTY OWNER (APPLICANT):					
NAME: XYZ Dairy, LLC			TEL.#: 603-676-7800		
MAILING ADDRESS: 57 Main Street, W. Lebanon, NH 03784					
E-MAIL ADDRESS: chet@lymeproperties.com					
CO-APPLICANT, AGENT, OR LESSEE:					
NAME: Lyme Properties			TEL.#: 603-676-7800		
MAILING ADDRESS: 57 Main Street, W. Lebanon, NH 03784					
E-MAIL ADDRESS: chet@lymeproperties.com					
PROJECT LOCATION:					
TAX MAP #:	LOT#: 44	PLOT #: 29	ZONE: CBD		
STREET ADDRESS OF PROJECT: 173 N. Main Street / 0 River Park Drive					
IS THIS PROPERTY LOCATED IN THE:					
WETLANDS		☐ YES ☒ NO	HISTORIC DISTRICT		☐ YES ☒ NO
FLOOD PLAIN		☐ YES ☒ NO			
SCOPE OF PROJECT:					
TYPE OF OCCUPANCY:					
EXISTING ☒ VACANT ☐ ONE FAMILY ☐ TWO FAMILY ☐ MULTI-FAMILY ☐ COMMERCIAL ☐ INDUSTRIAL PROPOSED ☐ VACANT ☐ ONE FAMILY ☐ TWO FAMILY ☐ MULTI-FAMILY ☒ COMMERCIAL ☐ INDUSTRIAL IF USE IS COMMERCIAL OR INDUSTRIAL , PLEASE NOTE SPECIFIC USE: connection of pop-up dining ca					
SIGNATURE BLOCK:					
FOR PLANNING BOARD APPLICATIONS ONLY: I, the undersigned, hereby submit this application on the date noted below with the knowledge and understanding that the Planning Board shall determine if the submitted application is complete according to its regulations at its next regularly scheduled meeting on June 12, 2023, unless I personally request, in writing, that the Board delay its determination of completeness to a later date. PROPERTY OWNER:  DATE: April 25, 2023 NOTE: IF, AS OWNER, YOU WISH TO DESIGNATE AN AGENT TO ACT ON YOUR BEHALF, PLEASE READ THE FOLLOWING AND SIGN BELOW: I hereby designate the person listed above as my agent for the purpose of procuring the necessary local permits for the proposed work as described herein. Representations made by my agent may be accepted as though made by me personally, and I understand that I am bound by any official decision made on the basis of such representation. PROPERTY OWNER:  DATE: April 25, 2023					
DATE RECEIVED	FILE # (MAP/LOT)	APPLICATION #	FEE - \$ AMOUNT	DATE PAID	VOUCHER #



April 25, 2023

Lebanon Planning Board
City of Lebanon
51 N. Park Street
Lebanon, NH 03766

Appeal of Administrative Decision by Lebanon Deputy Planning and Development Director

Members of the Lebanon Planning Board,

Lyme Properties serves as the development agent on behalf of XYZ Dairy, LLC, the owner of record of the River Park West Lebanon development. We are hereby respectfully appealing the April 21, 2023 decision by the City of Lebanon Deputy Planning and Development Director that our request to make temporary water and sewer connections from the Cross Country Connector (which River Park installed at our cost in 2022 in accordance with River Park's approvals) rises to the level of requiring a Minor Site Plan Review.

In accordance with Section 3.1.B of the Lebanon Site Plan Review Regulations River Park asked the Lebanon Planning and Development Department to make the reasonable determination that this proposed use does not necessitate or result in any appreciable changes that would necessitate Site Plan review. Our intent was to allow the staff to consult directly with River Park on what was required and provide direction to our civil engineers to design a solution accordingly, lessening the cost and expediting the pace of approvals.

On April 21, 2023 we received confirmation "It is staff's determination that the proposed land development constitutes a minor change requiring minor site plan review per Section 3.1.C of the Site Plan Review Regulations."

This connection is intended to serve a historic 1920s Dining Car for the purpose of a pop-up coffee-shop. The connection would allow the existing water line to be used productively, instead of simply "bled" into the ground as occurs at Airpark Road and other sites where infrastructure is installed but not under use.

The operator, a very popular Lebanon-based coffeeshop, recently committed to open a second location at River Park in the future. This would serve as an entrepreneurial approach to "testing the market" and aligns with the 2021 Action Plan for West Leb which had the #1 priority of "Actionable Improvements: Prioritize High-Impact, Visible Improvements That Can Be Accomplished While Larger Efforts Evolve." It is our hope that we can address requirements at the staff level before incurring significant consultant costs.

The pop-up coffee shop is intended to be opened in time for the Lebanon Opera House's June 10th "Hootenanny" at River Park, and will serve as a trail-head amenity while the River Park project is being developed. This is a historically accurate re-use of an antique 1920s Worcester Dining Car,

XYZ Dairy LLC. Developed by Lyme Properties. 57 Main Street, West Lebanon, NH 03784
Phone: 603-676-7800 • Fax: 603-676-7810 • Email: info@riverparkwestlebanon.com



which was designed specifically for this purpose almost 100 years ago to “roll-on” temporary food and beverage services while construction projects were underway. Many Worcester Dining Cars, including West Lebanon’s own 4 Aces, end up incorporated into full-time venues which River Park has intended to do with this car since it was first moved to the site in 2015.

Per Section 3.1.B of the Lebanon Site Plan Review Regulations, Site Plan review is not required unless there is an appreciable change. It is XYZ Dairy’s position that the retail use in question is in fact already approved as part of Building 3 / Phase 1B / Lot 10 (“a 95,800 S.F. building for office and retail”) in the River Park approvals, and the associated water and sewer requirements have been approved accordingly. Based on advice of XYZ’s legal counsel, the proposed use of a Dining Car for its original intended purpose on this parcel during the adjacent construction of the future, full-time location of the tenant/operator in question is an administrative decision.

In accordance with Section 3.1.B XYZ Dairy, LLC asked the Lebanon Planning and Development Department to make the reasonable determination that this proposed use does not necessitate or result in any appreciable changes that would necessitate Site Plan review. On April 21, 2023 we received confirmation “it is staff’s determination that the proposed land development constitutes a minor change requiring minor site plan review per Section 3.1.C of the Site Plan Review Regulations.”

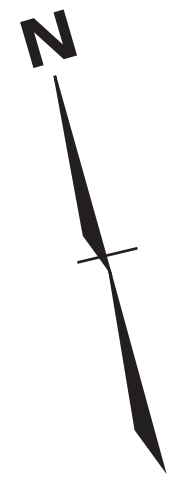
As suggested by the Deputy Planning and Development Director in his April 21st communication, we are appealing that decision to the Lebanon Planning Board.

Sincerely,

A handwritten signature in black ink that reads "Chet Clem". The signature is written in a cursive, flowing style.

Chet Clem
Lyme Properties
57 Main Street
West Lebanon, NH 03784

Cc:
David Clem, Lyme Properties
Angela McCanna, Lyme Properties
Philip Hastings, Cleveland, Waters & Bass.



NORTH MAIN ST

LDT 8
74,612 S.F.
1.7129 AC.

9 S.F.
 74,256
 1.7047 AC.

DT 2 S.F.
599 S.F. AC.
1210 S.F.
10 AC.

LOT

LOT 27 S.F. AC.
14141
03246
0.3246 AC.

LDI 29 S.F. AC.
12.488 S.F.
0.2867 AC.
SMH 9-3B
RIM=400

PROPOSED SEWER
CLEANOUT (TYP)

LOT
10,289 S.F.
0.2362 ACRE

58-25

58-28

59-18

10" SDR35
STUB &
CAP
27+30
SMH 3
RIM=396.15
10" INV.IN=383.35
12" INV.OUT=383.25

DINER

12" INV.IN=382.08
12" INV.OUT=381.98

STRUCTURE)
63.807

PROP. 8"x6"
REDUCER

5-2C
(5'D STRUC

22x00

CU
TOP

W/CURE

47-107

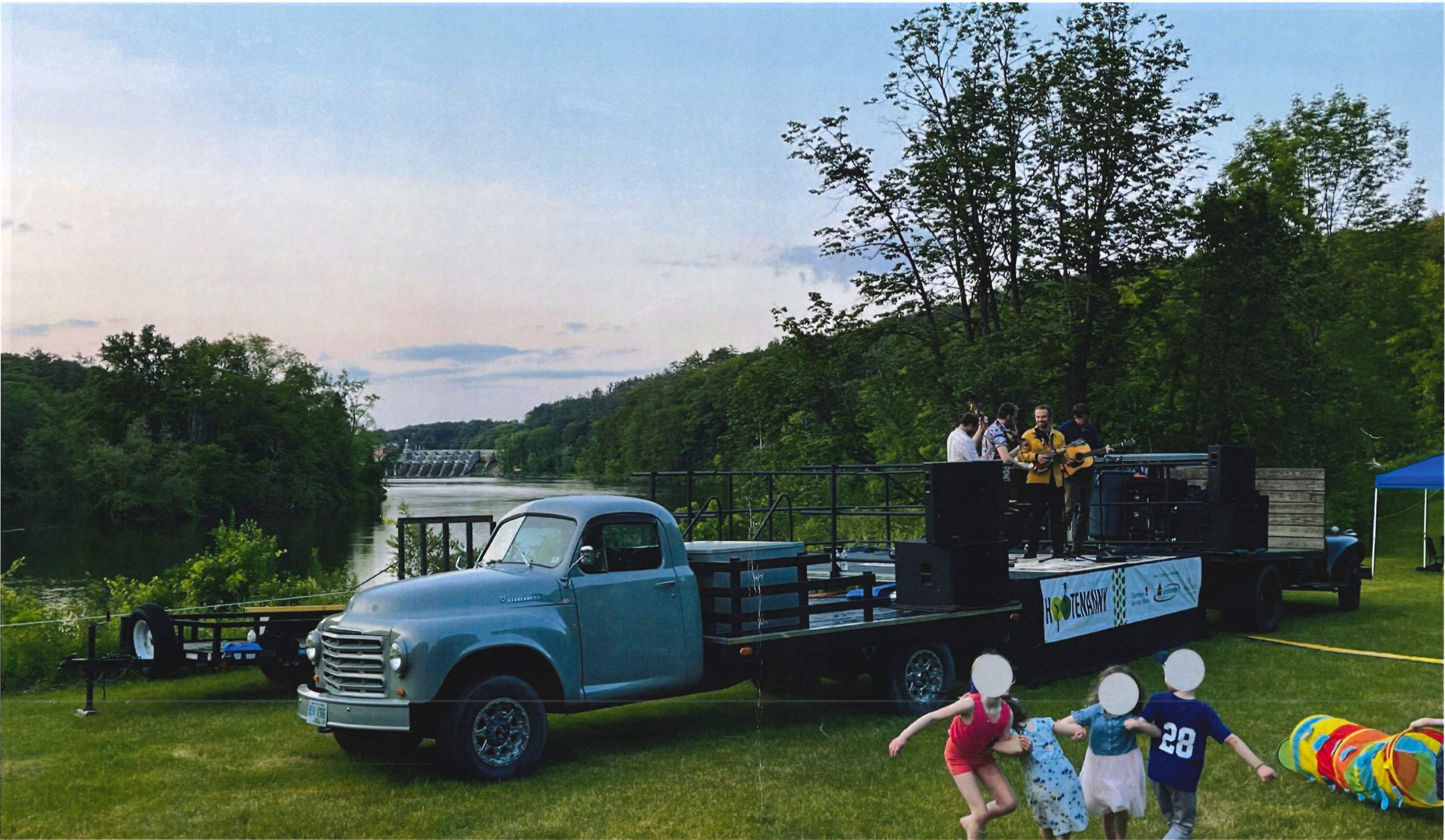
58

Page 394

Second attachment to e-mail from Chet Clem sent June 12, 2023
Page 4 of 4

Page 57 of 69





DRAFT SITE PLAN REVIEW REGULATION AMENDMENTS

NEW SECTION 6.11 - ELECTRIC VEHICLE (EV) INFRASTRUCTURE

A. Parking Space Design.

1. Battery charging station outlets and connector devices for **Electric vehicle supply equipment** (EVSE) shall be no less than 36 inches and no higher than 48 inches from the ground or pavement surface where mounted.
2. EVSE and associated parking space elements (including components mounted on pedestals, lighting posts, bollards, or other devices) shall be designed and located as to not impede pedestrian travel or create trip hazards and should include a barrier-free accessible route of travel to a primary building entrance. Provide a retraction device or place to mount cords and EVSE pedestals or protections designed to minimize vandalism, pedestrian conflict, and potential damage by accidents, snow storage/plowing and inclement weather.
3. **Electric vehicle** (EV) parking spaces shall meet standard dimensional and related requirements of the Site Plan Regulations, Section 6.5E and ADA parameters from the [U.S. Access Board](#).
4. EVSE shall be protected such as by wheel stops or concrete filled bollards or shall be placed a minimum of 24 inches clear from the face of the curb.
5. Adequate lighting (may be on timers or motion sensors) must be provided unless charging will always be for daytime purposes only.

B. EVSE signage.

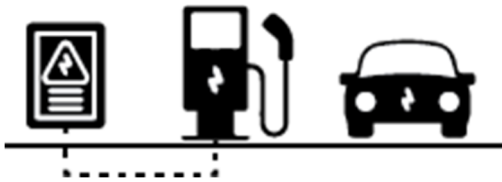
1. Identify individual **EV-installed spaces** as EV-parking only, according to the Federal Highways Administration/Manual on Uniform Traffic Control Devices (MUTCD) Interim Approval (IA-13) for Electric Vehicle Charging, current edition, except when located in conjunction with single- or two-family dwellings ~~or where there are assigned tenant spaces.~~
2. Required information. At each **EV-installed space** or cluster of EV charging stations, except when located in conjunction with single- or two-family dwellings ~~or with assigned/permitted spaces,~~ signage must be posted and include [pertinent user information, such as](#) time limits or similar restrictions (e.g., "Electric Vehicle Parking Only While Charging"), pricing, safety information (e.g., voltage and amperage levels), contact information for service problems (including phone number), hours of operation (e.g. MUTCD R7-5), and penalty warnings (e.g., idling/maximum duration of charging sessions, non-EV parking), if applicable.

3. Format. As an alternative to posting all of the above information, details subject to change (e.g. rates) may be provided via a digital screen, website or similar. ~~All published physical and digital content must be kept up-to-date.~~ Signage must be included in the specifications package for Site Plan approval.
4. Labels. Submittal plans and associated installed equipment must be clearly labeled as follows: 1) service panels must identify ~~full~~ dedicated circuits available for EV charging as “**EV Ready**”, 2) service panels designated for future additional EV charging must be identified as “**EV Capable**”, and 3) Conduit endpoints must be marked as “**EV Ready**” for full circuits, and “**EV Capable**” for inaccessible conduit installed.

C. ~~Other requirements~~

1. Multifamily dwellings and non-residential EVSE installations must include a plan ~~(e.g., EVSE vendor contract)~~ for Operations & Maintenance of the chargers and related equipment, such as software.
2. Applicants are encouraged to design EVSE and related parking facilities ~~must in~~ adherence to the Electric Vehicle Charging Design Guide (see Appendix B).

ARTICLE II – DEFINITIONS

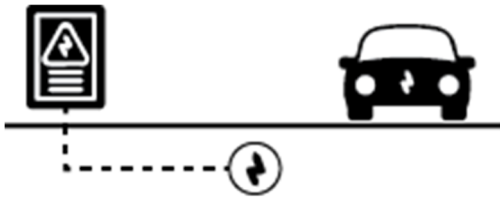


Electric vehicle supply equipment (EVSE)/ EV charging station: The apparatus installed specifically for the purpose of transferring energy between the site or building wiring and the Electric Vehicle. EVSE does not include any equipment affixed to the electric vehicle.

Electric vehicle infrastructure: Structures, machinery, and equipment necessary and integral to support an *electric vehicle*, including **EV charging stations** and electrical outlets.

Electric vehicle (EV): An automotive-type vehicle for on-road use primarily powered by an electric motor, including any battery electric vehicle, fuel cell electric vehicle, or plug-in hybrid electric vehicle, that draws current from an onboard battery charged through a building or site electrical service, **EVSE**, or other source of electric current.

EV-capable space: An *off-street parking space* with electrical panel capacity and space for a branch circuit dedicated to the parking space that is not less than 40ampere and 208/240-volt and equipped with raceways, both underground and surface mounted, to enable the future installation of **EVSE**. For two adjacent EV-capable spaces, a single branch circuit is permitted.



EV-ready space: An *off-street parking space* provided with a full dedicated branch circuit that includes not less than 40-ampere and 208/240-volt panel capacity, conduit, wiring, receptacle, and overcurrent protection devices terminating in an ~~outlet~~, receptacle or junction box that will support an installed EVSE and which is located in close proximity to the location of the parking space. For two adjacent EV-ready spaces, a single branch circuit is permitted. These spaces are “ready to go” with the addition of an EV charging station (EVSE).



EVSE-installed space: An *off-street parking space* with a dedicated branch circuit and **EVSE** for **Level 2 EV** or **Low Power Level 2 charging stations**, at minimum.

Level 1: “Trickle” charging level for **EVs** that operates on a 15- to 20-amp breaker on a 120-volt AC circuit (wall outlet) while drawing 1.4 to 2.4 kW to add 2-6 miles of range per hour of charging.

Low Power Level 2: Charging level for **EVs** that operates on a 208- or 240-volt, 20-amp circuit while drawing around 3.8 kW to add approximately 13 miles of range gained per hour of charging.

Level 2: Charging level for **EVs** that operates on a dedicated 40- to 100-amp breaker (same kind used by a clothes dryer or stove) on a 208- or 240-volt AC circuit while drawing around 6.2+ kW to supply approximately 19+ miles of range gained per hour of charging.

Level 3: Fast or rapid charging level for **EVs** that operates on a 60-amp or higher breaker on a 480-volt AC electric circuit or higher three phase circuit with special grounding equipment and mounting on an equipment pad.

Electric Vehicle Load Management System: An automatic load management system designed to distribute load across one, or to locate charging capacity among multiple, EV charging stations. The system should distribute a minimum of 8 amps per charger (though allocations may vary) and is intended to increase cost-effectiveness by allowing the system to “share” the load across multiple EVs in the parking facility depending on aggregate and individual charging needs.

CITY OF LEBANON SITE PLAN REGULATIONS APPENDIX B

ELECTRIC VEHICLE CHARGING DESIGN GUIDE

This guide provides detailed requirements for electric vehicle charging and is part of the City's Site Plan Review development regulations. Companion requirements for EV Charging Infrastructure thresholds are part of the Zoning Ordinance. A key objective of this guide is to foster the greatest uptime of EVSE, a smooth user experience, and maximum value of related investments.

A. Site selection

1. Utility coordination. Prior to initiating permitting in conjunction with the requirements of Zoning Ordinance Section 607.8, proposed EVSE sites should have a ~~mandatory~~ site survey in coordination with utilities to assess physical and financial options of existing electrical power capacity or needs for bringing power to the site, if required. The purpose is to avoid conflicts that might increase project complexity or impact parking configurations. Submission of load requests to utilities for power reviews should use GPS coordinates rather than address locations. Such a strategy will lead to a more accurate assessment of the feasibility of supplying power to the site.
2. Power level. Where **Level 3** and **Level 2** EV charging station capacity is demonstrated to be unsuitable due to user needs or the site's power capacity, and upgrades are not practical, **Low Power Level 2** or **Level 1** EV charging stations should be considered for alternative provisions.
3. Visibility. The site design and location of EVSE is important to encourage its maximal use. EV parking spaces should be sited in visible and convenient locations. ~~The site design and location of EVSE is an important factor in its potential for maximized utilization. EV parking spaces are encouraged to be sited in visible (readily identified by EV users), desirable and convenient locations on the site. Facilities should blend with the surrounding landscape/architecture for compatibility with the character and use of the site. EV charging station wayfinding signage and markings are highly encouraged to~~ should be implemented ~~effectively guide motorists.~~
4. Risk management. Consider the risks of locating chargers in areas subject to 100-year floods. For example, protections can include waterproof connectors that guard the

grid from moisture. Some stations can use batteries, but they need to be elevated and have the ability to ventilate.

5. Accessibility. EV parking spaces should be located adjacent to the principal use. Accessible electric vehicle charging stations should be located in close proximity to the building or facility entrance and connected to a barrier-free accessible route of travel. The owner of the property may designate the accessible electric vehicle charging station exclusively for use by people with disabilities.
6. Shelter. EV batteries are degraded in hot conditions and not charged fully in cold weather; the applicant may wish to provide shade, canopy or other shelter (i.e., enclosed structured parking), noting that 60-70 degrees (F) is the ideal charging temperature.
7. Energy optimization. When selecting a charging station location, site hosts and developers should consider existing and future needs for incorporating on-site distributed energy resources, and prioritize areas that can easily accommodate these assets, which in turn could reduce the cost of future upgrades. It is best practice to identify existing locations with excess load capacity that can support the deployment of curbside EV charging; for example, consider repurposing light poles.

B. Electrical system

1. Code compliance. All installations of EVSE shall meet National Electric Code (Article 625) and UL certification is recommended. The applicant should consult with the local code officials to ensure electrical code compliance as well. Level 2, including all auxiliary loads, should be metered in accordance with electric utility requirements.
2. Service. The electric service panels for EVSE ready circuits should be positioned near EV parking and shall provide sufficient capacity and space to accommodate the circuit and over-current protective device.
3. Load balancing. Property owners should consider equipment that is capable of supporting demand response, time-of-use (TOU), and/or smart charging. For example, evaluation and installation of an **electric vehicle load management system** in conjunction with other EVSE is recommended for larger projects, with the system designed to allocate charging capacity among multiple EV charging stations at a minimum of 8 amps per charger (minimum allocation may vary).
4. Enhanced charging infrastructure. Innovative charging strategies are encouraged, such as battery pack storage integration with EVSE for TOU demand management, solar canopy parking, co-location with electric bike storage and charging, and bidirectional EV chargers for vehicle-to-grid, -home, or -building load balancing.

5. Future-proofing. The make-ready portion of electrical infrastructure installed at publicly-funded, publicly-accessible locations~~in~~, in particular, should be capable of supporting chargers with a minimum 150kW capacity.

C. Other best practices

1. Price signals. Usage fees must be transparent. Related considerations for programming include time of use rates and demand charges. Charging stations should display on their face the rate of charge, unit price (in whole cents or tenths of one cent), kWh at which the EVSE dispenses electricity during a transaction, and total kWh delivered per charging session, and demand charge signals prior to payment (where applicable).
2. Payment type. Multiple payment operations should be enabled. Each newly installed publicly-funded, publicly-accessible charging station must accept payments, with appropriate consumer data protection safeguards, via credit card reader and at least one other accessible form of payment. Publicly accessible EVSE should not require use of cell phone-based payment approaches.
3. Materials. EV infrastructure should be made of low-maintenance durable materials that are vandal-proof to the extent possible and operational in extreme weather conditions (including low and high temperatures).
4. Publicly accessible EVSE. The owner or operator should disclose the location and characteristics of each publicly accessible EV charging station to the U.S. Department of Energy's Alternative Fuels Data Center. Information that must be disclosed includes, but is not limited to, address, voltage, and timing restrictions.

DRAFT

LEBANON PLANNING BOARD
Regular Session
Monday, May 22, 2023, 6:30 PM
Council Chambers, City Hall
or Remote Via Microsoft Teams
LebanonNH.gov/Live

MEMBERS PRESENT: Matthew Hall (Chair), Karen Zook (City Council Rep), Kim Chewning, Andrew Faunce, Bruce Garland, Patrick Kennelly, Kathie Romano,

MEMBERS ABSENT: Jeremy Rutter (Vice Chair), Laurel Stavis

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

1. Call to Order

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

2. Public Hearing Items

- A. UPDATE TO CHAPTER 5 (NATURAL RESOURCES) OF THE MASTER PLAN -**
The Master Plan describes the City's vision for itself in the future. It is a policy document which is implemented, in part, through regulations such as the Zoning Ordinance, Site Plan Review and Subdivision Regulations, and is used extensively by City Administration and Local Land Use Boards to guide budgeting, decision-making, and other actions. The current Master Plan was adopted in 2012, and the City is currently undertaking an effort to update each Chapter of the Master Plan over the next several years. The first of these Master Plan updates is to Chapter 5 (Natural Resources), which was prepared by the Lebanon Conservation Commission and presented to the Planning Board for discussion at the Board's work sessions in March and April. In accordance with NH RSA 674:4 and 675:6, the Planning Board will hold a public hearing on **Monday, May 22, 2023, at 6:30pm**, to give further consideration to the draft Chapter 5 update and to receive public comment. Following the public hearing, the Board may take action on whether to adopt the updated Chapter 5 as presented or with changes. Comments from the public can be presented at the hearing or forwarded in writing to the Planning & Development Department prior to the meeting. Comment received through the Planning & Development Department will be forwarded to the Board for their consideration at the public hearing.

Chair Hall provided background of the Board's progress to date regarding the review.

Chair Hall invited public comment.

Barbara Hirai, a member of the Conservation Commission, informed the Board that she and Sarah Riley were available at the meeting to answer questions.

Mr. Garland expressed his disappointment over the messaging to the public regarding the public hearing.

Ms. Romano noted that there is a recurring message about conserving open space, which should be mentioned as “high value” open space. Chair Hall noted that there is an Open Space Plan that gives more details on the types of land. Ms. Riley shared information regarding the vision and purpose. Ms. Owens agreed with the need for consistency in the format for each chapter.

Mr. Faunce suggested a stronger statement regarding conservation and protection of resources. Ms. Hirai stated that the mandate was to revise and not rewrite the chapter. Mr. Corwin noted that no significant changes were to be made to the vision, or a much more involved process would have been necessary. Ms. Riley explained the formatting of the document and the plan for the final document.

Ms. Owens spoke to the many positive outcomes that have occurred because of the original guidance from the Master Plan.

Mr. Faunce suggested editing item 5.b.1 to replace “balancing resource protection with growth” with “enabling growth within the bounds of renewed resource protection policies and regulations.” Mr. Corwin observed that there is not a major difference between the two statements.

The Board members continued a discussion of possible changes to the draft.

Chair Hall closed the Public Hearing.

A MOTION by Mr. Faunce to adopt the chapter on Natural Resources draft with a change to the heading of Section 5.b.1 to, “Enabling growth within the bounds of resource protection,” and the second sentence, “The city needs to implement policies, regulations, and incentives that protect the natural environment and retain the open spaces and rural character that residents value.”

Seconded by Kathie Romano.

****The MOTION was approved (6-1).*** Chair Hall voting against.

3. Study Items

A. Review of final draft Walk Bike Ride Lebanon multimodal and complete streets implementation plan

Ms. Owens introduced and described the multimodal and complete streets draft plan with the goal of the Board providing comments on the draft. The motion would be to endorse it with adoption by the City Council in June. Input was sought broadly through a survey and from many city groups and citizens. Ms. Owens provided examples of each of the recommendations.

The Board members discussed and commented on the document. Ms. Owens stated that endorsement would mean that the plan was going in a good direction and could include minor changes.

A MOTION by Bruce Garland to endorse the Walk Bike Ride Lebanon plan.

The motion as seconded by Kim Chewning.

****The MOTION was approved (6-0-1-).*** Councilor Zook abstained.

B. Review of proposed amendments to the Site Plan Review Regulations re: electric vehicle (EV) charging infrastructure - continued from April 24, 2023

Ms. Owens provided background and details for the Site Plan Review Regulations amendment and the plans for moving forward.

The Board members discussed the amendment and offered suggestions for changes in wording. Mr. Corwin suggested continuing the discussion to June 26th to give the members time to consider changes.

A MOTION by Bruce Garland to continue discussion of the Site Plan Review Regulations amendment regarding EV charging infrastructure to June 26, 2023, at 6:30 PM.

The motion was seconded by Andrew Faunce.

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

C. Rules of Procedure/Planning Board Meeting Procedures

Mr. Corwin stated that this is meant to begin a discussion of the Rules of Procedure and emphasize the importance of them. The Board members will receive the recent statutory changes from the State and should review the rules and consider changes they would want to suggest.

4. Committee Reports

A. City Council Subcommittees:

--Class VI Roads Advisory Committee

--Lebanon Energy Advisory Committee

B. Other Subcommittees:

--City Council Representative – Councilor Zook stated that the Council has started the budget process.

--Heritage Commission

--Pedestrian & Bicyclist Advisory Committee

--Upper Valley Lake Sunapee Regional Planning Commission

--UV Subcommittee of the Connecticut River Joint Commissions

--Upper Valley Transportation Management Association

--Mascoma River Local Advisory Committee

--West Lebanon Revitalization Advisory Committee

--Planning & Development Department – Task Status

D. Minor Site Plan Committee – Mr. Corwin

Mr. Corwin reported on the May 11, 2023, meeting at which the Committee approved a site plan for 11 Lafayette Centerra, LLC, to construct a loading dock and make parking layout changes with minor revisions to stormwater management.

Mr. Corwin described the Minor Site Plan Committee to the new Board members.

5. Other Business

Mr. Corwin thanked Ms. Owens for her presentations at tonight's meeting. The June 7, 2023, agenda will include three new applications and the Miracle Mile project.

Chair Hall officially welcomed the two new Board members, Mr. Kennelly and Mr. Faunce.

1
2 **6. Approval of Minutes**

3
4 A. April 24, 2023

5
6 *A MOTION by Bruce Garland to approve the Planning Board Minutes of April 24, 2023, as presented.*

7
8 *The motion was seconded by Kim Chewning.*

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

10
11
12 **7. Adjournment**

13
14 *A MOTION by Bruce Garland to adjourn the meeting.*

15
16 *The motion was seconded by Patrick Kennelly.*

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

18
19 The meeting was adjourned at 8:44 PM.

20
21 Respectfully submitted,

22
23 Holly Howes

24 Recording Secretary