FINAL

LEBANON PLANNING BOARD
Regular Session
Monday, June 12, 2023, 6:30 PM
Council Chambers, City Hall
or Remote Via Microsoft Teams
LebanonNH.gov/Live

MEMBERS PRESENT:	Matthew Hall (Chair), Jeremy Rutter (Vice Chair), Kim Chewning, Bruce Garland, Kathie Romano, Andrew Faunce, Patrick Kennelly, Laurel Stavis
MEMBERS ABSENT:	Karen Zook (City Council Rep)
STAFF PRESENT:	Nathan Reichert (Planning Director), Tim Corwin (Deputy Planning Director), Brian Vincent (City Engineer)

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1. Call to Order

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

2. Notice of Regional Impact – no new applications

3. Public Hearing Items

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: 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**

D. 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**

Chuck Clem of XYZ Dairy, LLC, appeared in support of the application and requested that the hearing be postponed to June 26, 2023.

A MOTION by Jeremy Rutter to postpone the hearings of 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, to June 26, 2023, at 6:30 PM.

The motion was seconded by Bruce Garland.
****The MOTION was approved (6-0-2).*** Kathie Romano and Kim Chewning abstaining.

A. **NH Group, LLC (applicant), 369 Miracle Mile LLC & Seacoast Motorcycle Leasing, Inc. (property owners), 369 Miracle Mile (Tax Map 103, Lot 11) & 351 Miracle Mile (Tax Map 103, Lot 9), zoned GC:** The applicant requests a Conditional Use Permit pursuant to Section 607.5.A of the Zoning Ordinance to allow off-lot parking at 351 Miracle Mile to meet the minimum parking requirements of NH Group, LLC's proposed charity gaming center at 369 Miracle Mile (PB2023-04-SPR). **PB2023-18-CUP - Continued from May 8, 2023**

B. **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 May 8, 2023**

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

A MOTION by Bruce Garland that both applications of NH Group, LLC are complete enough for the Planning Board to accept jurisdiction and commence review.

The motion was seconded by Kathie Romano.
***The MOTION was approved (8-0).**

Chair Hall noted that the Board would be taking both applications together.

Dick Anagnost of Anagnost Investments, Stefan Huba of NH Group, LLC, Adam Morse of Engineering Ventures, and Jeffrey Dirk of Vanasse & Associates appeared in support of the applications.

Mr. Anagnost described the purpose of the project.

Mr. Morse outlined the changes to the physical property, the parking plan, stormwater management, and other features of the property. The Conditional Use Permit (CUP) would provide the additional parking required.

Mr. Corwin stated that there are additional issues to be resolved with conditions of approval. The fire department provided comments, which are addressed with conditions of approval. A traffic study was prepared and reviewed by Jeff Santacruce. A sidewalk is desired to the east of the property if that is planned by the city. The comments from the City Engineer have been satisfied except for one that is being addressed with a condition of approval.

Mr. Dirk reported on the traffic study.

The Board members commented on the application. Chair Hall inquired about the additional parking on the west side of the site. Mr. Huba described the guywires at the western side of the property and gravel surface. Mr. Garland asked about the hours of operation, which are 10 a.m. to 1 a.m., allowing deliveries in the early morning. Ms. Stavis commented on the parking. Ms. Chewning inquired about the impact of the loss of the CUP. Ms. Stavis inquired about the site security's purview. Mr. Anagnost provided an outline of their duties. Mr. Huba stated that security and safety of the clientele is important. Mr. Vincent noted that the parking spaces were reviewed. Mr. Garland inquired about the turning movement for the Fire Department. Mr. Morse provided the location for the plan.

Chair Hall suggested moving on to the waiver requests.

Mr. Morse described the waiver requests.

The Board members asked for clarification on several of the conditions requiring waivers. Chair Hall inquired about the landscaping. Mr. Vincent stated that the applicant largely met the stormwater requirements and improved some measures. Ms. Romano commented on the lighting as it relates to the dark skies' levels. Mr. Morse stated that the gas station next door already has business lighting, and the lighting is needed for safety.

Chair Hall invited public comment.

Sue Painter, Ward 1, commented on the number of visits, the headcounts for all hours of operation, the lack of a police report, the return of proceeds to Lebanon, the excessive lighting coming off the highway, the signage for the gaming location, the public transportation required, and the inappropriateness of the site for charitable gaming. Mr. Anagnost responded to Ms. Painter's comments.

Mike Balog, resident, commented on the potential for crime and a negative impact on youth and adults related to gaming operations. Mr. Anagnost responded to Mr. Balog's comments.

Judy Rider, Ward 2, agreed with Mr. Balog's comments. Ms. Rider commented on the traffic challenges of the Miracle Mile.

Heather Johnson, Ward 2, commented on the landscaping and required watering, the increase in the volume of traffic on the Miracle Mile, the lack of information about the restaurant and amenities, and the number of people coming from outside the area. Mr. Anagnost addressed the concerns expressed by Ms. Johnson.

Bill Lynn, Ward 1, commented on his visits to other similar locations, which were visited as much for social aspects as for gaming. He expressed concern that elderly individuals would be bussed in daily and there would be challenges for those driving to the site. Mr. Anagnost stated that they are not a casino but are a charitable gaming location, and they do not receive busses. Mr. Dirk stated that the numbers in the traffic study are more typical of a full-service casino in Las Vegas, and that is not the volume they would expect. The peak traffic numbers are accurate.

Mr. Garland inquired about a better way for drivers to access the middle lane for turns. Mr. Dirk confirmed that these are common problems, and signage for using the lane for left turns helps inform the drivers and does change behavior.

Amie Ruth, Ward 2, stated that there have been personal attacks on individuals at the current gaming site. She asked about the wear on the current roadway and who would cover the cost of repairs.

Ms. Stavis inquired about the difference between horse racing machines and slot machines. Mr. Anagnost stated that the house keeps 8% of the revenue from the horse racing machines with 92% going to the gamer. He also described the different types of machines. Ms. Stavis inquired about the degree of increase in machines from the old to new location. Mr. Anagnost stated that they are going from 35 to a maximum of 100 gaming machines.

Sue Painter, Ward 1, noted that there have been recent calls for police at the current location. Mr. Anagnost stated that they were not aware of that.

Mr. Rutter inquired if bicycle facilities would be provided. Mr. Morse stated that they would.

A MOTION by Jeremy Rutter to approve a partial waiver from **Section 6.2.B** (perimeter landscaping) requirements of the Site Plan Review Regulations.
The motion was seconded by Laurel Stavis
****The MOTION was approved (7-1). Kim Chewning was opposed.***

A MOTION by Jeremy Rutter to approve a partial waiver from **Section 6.2.D** (landscaping around buildings) requirements of the Site Plan Review Regulations.
The motion was seconded by Patrick Kennelly.
****The MOTION was approved (7-1). Kim Chewning was opposed.***

A MOTION by Jeremy Rutter to approve a partial waiver from **Section 6.2.E** (parking area landscaping) requirements of the Site Plan Review Regulations.
The motion was seconded by Laurel Stavis
****The MOTION was approved (7-1). Kim Chewning was opposed.***

A MOTION by Jeremy Rutter to approve a partial waiver from **Section 6.6.G** (stormwater management design standards for redevelopment) requirement of the Site Plan Review Regulations.
The motion was seconded by Patrick Kennelly.

Ms. Romano inquired if it was a partial waiver. Mr. Vincent stated it was and calculations were provided.

****The MOTION was approved (8-0).***

A MOTION by Jeremy Rutter to approve a partial waiver from **Section 6.6.C.2** (requiring drainage analysis) requirement of the Site Plan Review Regulations.
The motion was seconded by Patrick Kennelly.
****The MOTION was approved (8-0).***

A MOTION by Jeremy Rutter to approve a partial waiver from **Section 5.1.E.8** (requiring a wetlands delineation) requirements of the Site Plan Review Regulations.
The motion was seconded by Patrick Kennelly.

Ms. Romano inquired if there were any wetlands on the site. Mr. Morse stated that they were at the far west end of the site and no part of the facility was near them.

****The MOTION was approved (8-0).***

A MOTION by Jeremy Rutter to approve a partial waiver from **Section 6.7.B.2** (requiring that the light intensity at adjoining streets or commercial property boundaries shall not exceed 0.5 foot-candles) requirement of the Site Plan Review Regulations.
The motion was seconded by Bruce Garland.

The Board members discussed the proposed lighting, which was higher than allowed.

****The motion was not approved (4-4).***

There was a further discussion of the limits for the lighting on the site versus spillage to the adjoining properties.

A MOTION by Laurel Stavis to reconsider the partial waiver from **Section 6.7.B.2.**
The motion was seconded by Kathie Romano.

The MOTION was approved (7-1). Kim Chewning was opposed.

A MOTION by Bruce Garland to approve a partial waiver from **Section 6.7.B.2** (requiring that the light intensity at adjoining streets or commercial property boundaries shall not exceed 0.5 foot-candles)**.**
The motion was seconded by Patrick Kennelly.

The MOTION was approved (7-1). Kim Chewning was opposed.

Mr. Corwin stated that the waiver from 6.5.B.2 is not actually required.

Chair Hall invited additional public comment.

Louisa Spencer, Ward 1, inquired about the number of seats and if machines represent seats. Mr. Anagnost stated that they were.

The following motion was made by Jeremy Rutter:
On June 12, 2023, at a duly noticed meeting of the Lebanon Planning Board, there appeared Dick Anagnost, Adam Morse, and Stefan Huber on behalf of NH Group LLC, 369 Miracle Mile LLC & Seacoast Motorcycle Leasing Inc. regarding 369 Miracle Mile (Tax Map 103, Lot 11) and 351 Miracle Mile (Tax Map 103, Lot 9), zoned GC. The applicants request a Conditional Use Permit pursuant to Section 607.5.A of the Zoning Ordinance to allow off-lot parking at 351 Miracle Mile to meet the minimum parking requirements of NH Group, LLC's proposed charity gaming center at 369 Miracle Mile (PB2023-04-SPR). PB2023-18-CUP

I. FINDINGS OF FACT

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

1. 369 Miracle Mile, LLC is the owner of 369 Miracle Mile, currently improved with a commercial building formerly occupied by a vehicular sales use. The applicant, NH Group, LLC, proposes a redevelopment of 369 Miracle Mile for a casino use, the application for which (PB2023-04-SPR) will be heard by the Planning Board concurrently with this Conditional Use Permit application.

2. Per Section 607 of the Zoning Ordinance, the minimum number of required parking spaces for the applicant's proposed use is 99.

3. Seacoast Motorcycle Leasing, Inc. owns 351 Miracle Mile which abuts 369 Miracle Mile to the east. 351 Miracle Mile is improved with a +/-24,747 sq. ft. commercial building currently occupied by a vehicular sales use (Harley Davidson). According to a "Parking Plan" dated June 16, 1994, provided by the applicant, 351 Miracle Mile has 135 parking spaces.

4. Per Section 607 of the Zoning Ordinance, the minimum required parking for the use at 351 Miracle Mile is 121 spaces, which is 14 parking spaces less than the number of spaces provided per the June 16, 1994 Parking Plan.

5. Normally, required parking shall be provided on the same lot as the use for which the parking is required. However, Section 302.5 of the Zoning Ordinance allows parking areas to serve off-site uses by conditional use permit in accordance with the requirements of Section 607.5 ("Off-Lot

Parking"). Section 607.5.A provides that in the GC District, the Planning Board may approve private off-lot parking by ***conditional use*** permit.

6. The applicants request a Conditional Use Permit pursuant to Section 607.5 of the Zoning Ordinance to utilize 6 parking spaces at 351 Miracle Mile to meet the minimum parking requirements for the proposed casino use at 369 Miracle Mile.

7. In order to grant the requested Conditional Use Permit, the Board must find the applicants' proposal satisfies the requirements of Section 607.5.A, which are in lieu of demonstrating compliance with the Enhanced Performance Standards set forth in Section 302.4.D of the Zoning Ordinance.

II. CONCLUSIONS OF LAW

As a result of the above findings of fact and based on testimony given, application materials presented, and supporting documents submitted, the Planning Board concludes the following with respect to the criteria for set forth in §607.5.A of the Zoning Ordinance:

1. The minimum number of required off-street parking spaces as calculated per Section 607.4 **CANNOT BE** feasibly be accommodated on-site (§607.5.A.1)

2. The off-lot uses to be served are allowed uses in the zoning district in which the off-lot parking areas will be located. (§607.5.A.2)

3. The off-lot parking areas **ARE** in an appropriate location for the uses served by the parking and will not be detrimental to abutting properties. (§607.5.A.3)

4. Such parking arrangements **WILL BE** either permanently deeded and recorded or conveyed by an irrevocable 99-year lease or some other legal instrument, acceptable to an attorney representing the City, that will ensure that such parking arrangement will remain as long as the need exists. (§607.5.A.4)

5. The off-lot parking **WILL NOT** constitute a hazard to traffic or pedestrians. (§607.5.A.5)

III. DECISION

Now therefore be it resolved, the Planning Board, on this **12th day of June, 2023,** hereby **GRANTS** the request of NH Group LLC, 369 Miracle Mile LLC & Seacoast Motorcycle Leasing Inc. for a Conditional Use Permit per Section 607.5.A, as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

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

2. The Conditional Use Permit is contingent on approval of the site plan application of NH Group LLC, 369 Miracle Mile LLC for 369 Miracle Mile (Tax Map 103, Lot 11), PB2023-04-SPR, currently pending before the Board.

3. Prior to the issuance of a Certificate of Occupancy for the proposed charitable gaming use at 369 Miracle Mile, the parking lot at 351 Miracle Mile shall be restriped (as needed) in accordance with the June 16, 1994 Parking Plan submitted by the applicant.

The motion was seconded by Bruce Garland.
****The MOTION was approved (8-0).***

There was a discussion by the Board regarding the lack of comments from the Police Department or confirmation of no issues with the Fire Department. Mr. Corwin stated that the Police Department was represented at the site plan discussion and did not express any concerns. The Board members expressed a preference for a statement for the record from the Police Department that there were no concerns.

Ms. Stavis stated that it would not be appropriate to revisit the approval.

Ms. Chewning stated that the Board has not voted on the application.

A MOTION by Jeremy Rutter to extend the meeting to 9:45 PM.
The motion was seconded by Bruce Garland.
****The MOTION was approved (8-0).***

Mr. Anagnost noted that the security is only inside the property, and they could prepare a security plan that would be submitted to the Police Department as a condition of approval.

Heather Johnson provided details of the number of police calls to the current site.

Chair Hall took a straw poll regarding continuing the hearing, and the majority of Board members approved the idea.

Mr. Garland suggested Mr. Anagnost prepare the security plan and that the Police Department be consulted. Mr. Anagnost stated that they would be able to prepare the plan and meet with the Police Department.

Mr. Corwin recommended that the Board ask the applicant to provide a plan sheet that shows the proposed improvements to the off-lot parking.

A MOTION by Bruce Garland to continue the hearing to June 26, 2023, at 6:30 PM.
The motion was seconded by Kathie Romano.
****The MOTION was approved (8-0).***

4. Other Business

5. Approval of Minutes

A. May 8, 2023

Page 6, Line 9, to add Bruce Garland as the maker of the motion.

A MOTION by Bruce Garland to approve the Planning Board Minutes of May 8, 2023, as amended.

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

6. Adjournment

A MOTION by Bruce Garland to adjourn the meeting.

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

The meeting was adjourned at 9:33 PM.

Respectfully submitted,

Holly Howes
Recording Secretary