FINAL

LEBANON PLANNING BOARD
Regular Session
Monday, August 14, 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), Karen Zook (City Council Rep), Andrew Faunce, Bruce Garland, Patrick Kennelly, Laurel Stavis

MEMBERS ABSENT: Kim Chewning, Kathie Romano

STAFF PRESENT: 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

The following applications were received by the Planning and Development Department on or before August 14, 2023:

MG Holdings, LLC, 200 Hanover Street Ext (Tax Map 48, Lot 7), zoned R-3: Request for a Minor Subdivision of the subject property into three (3) lots. **PB2023-29-MIN**

Quail I, LP, 69 Lily Lane (Tax Map 8, Lot 2, Plot 200), zoned R-3: Request for Site Plan Review to renew a previously approved Site Plan Approval (PB2019-13-SPR) to construct a new 32-unit, 50,000 square foot building for senior housing, together with associated site improvements, to be operated as part of the existing Quail Hollow Senior Living Community. **PB2023-30-SPR**

Gordon E. Bagley, Jr. TTEE, 695 Dartmouth College Hwy (Tax Map 99, Lot 8), zoned RL-1: Request for Site Plan Approval to relocate Units 1, 8 and 9, replacing Unit 15 and connecting these units, along with Unit 20, to new, compliant, on-site wastewater disposal systems. **PB2023-31-SPR**

Mr. Corwin stated that only the application of Quail I, LP, has the potential for regional impact.

A MOTION by Jeremy Rutter that the application of Quail I, LP, 69 Lily Lane (Tax Map 8, Lot 2, Plot 200), zoned R-3 has the potential for regional impact.
The motion was seconded by Laurel Stavis.
****The MOTION was approved (7-0).***

3. Public Hearing Items

A. **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, 2021 for PB2021-29-EXT. **PB2023-22-SPA - Continued from July 10, 2023**

Laurel Stavis recused herself from this hearing.

Chet Clem and David Clem of Lyme Properties and Attorney Phil Hastings appeared in support of the application.

Mr. Rutter commented on the vesting issue, stating that it is not a typical request before the Planning Board, and the Board would need more information. Chet Clem provided an explanation of the background for the request and shared concerns that have been expressed by bankers and potential tenants.

Chair Hall shared his belief that all applicants must be fairly evaluated based upon the regulations and asked the applicant for an explanation of the potential for setting a precedent regarding vesting. Chet Clem provided a statement to explain the benefits of the project and reasons for vesting considering the major monetary investments made to date and the need to provide security for the partners in the project. Chair Hall noted that this was not a common issue to come before the Planning Board.

The Board members inquired about the work completed to date and the potential for setting a precedent regarding vesting. Chet Clem noted the benefits to the City based upon work that has been completed to date. David Clem spoke regarding the original application and stated that, there would be no precedent set. He stated that the infrastructure for Phase 1 was completed, which provided the basis for vesting. It did not require the infrastructure for the entire project, and Mr. Clem described the elements of vesting, noting that several additional items were completed at the request of the previous City Engineer.

Mr. Rutter expressed his appreciation for the explanation and his belief that the applicants' request was valid based upon the uniqueness of the project.

David Clem explained the conditions that had to be met, the extent of work completed, and the attempts to work with Staff to determine the amount of security with the delays involved.

A lengthy discussion regarding requirements for vesting and phased projects continued.

Chair Hall invited public comment. There was none.

Mr. Garland inquired about the securitization process. David Clem provided an explanation regarding the process and the need for vesting at this point to justify a productive path forward for the project. He added that real time investors have backed out due to the uncertainty. Mr. Clem provided a detailed account of the financial and procedural items to date that provide the reasoning behind the vesting request.

Chair Hall inquired about the consequences of XYZ Dairy deciding to abandon the project and sell the properties. Chet Clem commented on the likely circumstance of another owner of the property facing the same issues that they have faced with the lot transfer restriction's negative impact on financing.

The Notice of Restriction from 2011 was discussed regarding its impact on the sale of lots.

There was a discussion of the questions the Board needs answered before next meeting. A written explanation of the work to date by the applicant regarding bonding or security work done by the applicant to date was requested. Mr. Corwin stated that the applicant may need to provide the Board with findings of fact and conclusions of law for their position.

Mr. David Clem asked for a straw poll of the Board members regarding their position of the vesting issue. Chair Hall explained that the Board members were still considering all the statements made and may require additional time to respond to a poll.

A MOTION by Bruce Garland to continue the hearing to September 11, 2023, at 6:30PM.
The motion was seconded by Jeremy Rutter.
****The MOTION was approved (6-0).***

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**: 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 July 10, 2023**

A MOTION by Bruce Garland to continue the hearing to September 11, 2023, at 6:30PM.
The motion was seconded by Jeremy Rutter.
****The MOTION was approved (6-0).***

Laurel Stavis returned to the Board.

C. **Mount Support Development, LLC (applicant/property owner) and Pat Lumber Jack, Inc. (property owner), 402 & 392 Mount Support Road (Tax Map 24, Lots 9 & 10), zoned R-1:** Request to amend the phasing schedule for a 4-building, 204-unit multi-family development originally approved on February 14, 2022 (PB2021-33-SPR). **PB2023-27-SPA**

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

A MOTION by Jeremy Rutter that the application of Mount Support Development, LLC (applicant/property owner) and Pat Lumber Jack, Inc. (property owner), 402 & 392 Mount Support Road (Tax Map 24, Lots 9 & 10), zoned R-1, is complete enough for the Planning Board to accept jurisdiction and commence review.
The motion was seconded by Andrew Faunce.
****The MOTION was approved (7-0).***

Dick Anagnost of Anagnost Realty and Development, Tim Braverman of the Braverman Company, and Engineer Adam Morse appeared in support of the application.

Mr. Anagnost explained that they are asking for an extension due to title issues and environmental issues, along with financing and escalation coming from increased interest rates. They are very close to the end of the approval date and need more time. They must extend the time to allow for funding approval and are proposing 8/1/2025 as the date for obtaining the building permit.

Mr. Corwin noted that this is a modification to the conditions of approval to extend the dates. The bus stop is a needed public improvement that remains outstanding. Mr. Anagnost stated that they took on the bus stop as part of their Phase 1, and all the site work will be completed.

Ms. Stavis inquired about assurance that lower income housing would be offered when the financial environment becomes favorable. Mr. Anagnost stated that their target audience is workforce and affordable housing.

Chair Hall invited public comment.

Hearing none, he called for a motion.

A MOTION by Jeremy Rutter that the Lebanon Planning Board **APPROVE** the application of Mount Support Development, LLC (applicant) and at Lumber Jack, Inc. (property owner) to amend the phasing schedule for a 4-building, 204-unit multi-family development originally approved on February 14, 2022 (PB2021-33-SPR) at 402 & 392 Mount Support Road (Tax Map 24, Lots 9 & 10), zoned R-1, PB2023-27-SPA, per application materials submitted and including any and all submissions and testimony provided for and during the public hearing, subject to the following conditions:

1. The applicant shall satisfy and comply with the Planning Board Notice of Action for PB2021-33-SPR, dated February 14, 2022, and all conditions of approval thereof except as provided in Conditions of Approval #2 and #3 below.

2. The applicant shall make the following changes to the revised phasing plan:
   a) Regarding Phase 1:
      i. remove the word "commence" from the "active and substantial development" label; and
      ii. include construction of northbound bus stop on Mount Support Rd; and
   b) Remove active and substantial development dates from Phases 2, 3, and 4.

3. Condition #17 set forth in the Planning Board Notice of Action for PB2021-33-SPR, dated February 14, 2022, is hereby stricken and replaced with the following:

   Pursuant to Section 4.9 of the Site Plan Review Regulations, the project may be constructed in phases per the phasing plan submitted for PB2023-27-SPA, as revised per Condition of Approval #2 above and per the conditions of approval set forth in the Planning Board Notice of Action for PB2021-33-SPR, dated February 14, 2022.

The motion was seconded by Bruce Garland.
****The MOTION was approved (7-0).***

D. Mary Hitchcock Memorial Hospital, 1 Medical Center Drive (Tax Map 10, Lot 8, zoned MC: Request for a site plan amendment to amend the phasing schedule for an expansion of the Dartmouth Health Outpatient Surgery building at 32 Lahaye Drive, originally approved on June 13, 2022 (PB2022-23-SPR), and to install a temporary trailer per Section 211.4 of the Zoning Ordinance for additional breakroom space during construction. **PB2023-28-SPA**

Chair Hall recused himself.

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

A MOTION by Bruce Garland that the application of Mary Hitchcock Memorial Hospital, 1 Medical Center Drive (Tax Map 10, Lot 8, zoned MC, is complete enough for the Planning Board to accept jurisdiction and commence review.
The motion was seconded by Andrew Faunce.
****The MOTION was approved (6-0).***

David Stiger, DHMC Director of Project Management, and Dave Duncan, DHMC VP of Facilities, appeared in support of the application.

Mr. Stiger stated that they opened up two OR's and were unable to begin the project, which must now start next summer. The trailer is needed for a break space.

The Board members had no comments.

Vice Chair Rutter invited public comment. Hearing none, he closed the Public Hearing.

A MOTION by Jeremy Rutter that the Lebanon Planning Board **APPROVE** the application of Mary Hitchcock Memorial Hospital to amend the phasing schedule for an expansion of the Dartmouth Health Outpatient Surgery building at 32 Lahaye Drive, originally approved on June 13, 2022 (PB2022-23-SPR), and to install a temporary trailer per Section 211.4 of the Zoning Ordinance for additional breakroom space during construction, PB2023-28-SPA, per application materials submitted and including any and all submissions and testimony provided for and during the public hearing, subject to the following conditions:

1. The applicant shall satisfy and comply with the Planning Board Notice of Action for PB2022-23-SPR, dated June 13, 2022, and all conditions of approval thereof except as provided in Condition of Approval #2 below.

2. Condition #10 set forth in the Planning Board Notice of Action for PB2022-23-SPR, dated June 13, 2022, is hereby stricken and replaced with the following:

   Pursuant to Section 4.9 of the Site Plan Review Regulations, the project may be constructed in phases per the phasing plan submitted for PB2023-28-SPA, and per the conditions of approval set forth in the Planning Board Notice of Action for PB2022-23-SPR, dated June 13, 2022.

The motion was seconded by Patrick Kennelly.
****The MOTION was approved (6-0).***

Chair Hall returned to the Board.

4. Other Business

Mr. Corwin stated that they are looking for Planning Board representatives for Ped/Bike and LEAC, which are important roles that have been unfilled for a long time.

Mr. Garland asked for an update on the Master Plan. Mr. Corwin stated that there have been no changes since the recent update. The new Associate Planner will be taking on the Master Plan update process.

5. Approval of Minutes

A. July 10, 2023

A MOTION by Jeremy Rutter to approve the Planning Board Minutes of July 10, 2023, as presented.
The motion was seconded by Laurel Stavis.
****The MOTION was approved (7-0).***

6. Adjournment

A MOTION by Bruce Garland to adjourn the meeting.

The motion was seconded by Laurel Stavis.
****The MOTION was approved (7-0).***

The meeting was adjourned at 8:52 PM.

Respectfully submitted,

Holly Howes
Recording Secretary