



**LEBANON ZONING BOARD OF ADJUSTMENT
DECEMBER 4, 2023 - 7:00 PM
COUNCIL CHAMBERS, CITY HALL OR
REMOTE VIA VIRTUAL PLATFORM
LEBANONNH.GOV/LIVE**

1. Call to Order

- A. To participate in this meeting, please [join live via Microsoft Teams](#) or call 929-229-5356 (access code: 234 988 515#). If you have trouble accessing this meeting, please [email Nathan Reichert](#).

2. Approval of Minutes

- A. November 6, 2023

3. Public Hearing Items

- A. **M.A. Mendez & K.O. Kristiansen, TTEES, 1 Dartmouth Avenue (Tax Map 49, Lot 17), zoned R-1:** Applicant requests a Variance from Section 308.3 of the Zoning Ordinance to construct a deck +/- 4 ft. from the lot line shared with 7 Dartmouth Avenue (Tax Map 49, Lot 16), where a minimum side yard of 15 ft. is required. **ZB2023-17-VAR**
- B. **AAM Lebanon Residences, LLC, 25 Foothill Street (Tax Map 24 Lot 14, Plot 100), zoned IND-L:** The subject property is located within the Altaria Planned Unit Development (PUD) and is currently improved with a hotel which the applicant proposes to convert to a 120-unit multi-family dwelling. Per Section 501.4.D of the Zoning Ordinance, the Altaria PUD may include a maximum of 34 dwelling units, 33 of which have been constructed at 18 Merchant Street. To allow the proposed change of use at 25 Foothill Street, the applicant requests a Variance from Section 501.4.D of to allow 119 additional dwelling units, whereas only one (1) additional dwelling unit is allowed pursuant to the permitted residential density for the Altaria PUD. **ZB2023-16-VAR - Continued From 11/6/2023 Meeting**

4. Staff Comments

5. Other Business

- A. Ethics and conflict of interest policy review

6. 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.

If you have any questions or would like to view the files for the application identified above, please contact the

Lebanon Zoning Board of Adjustment Agenda
December 4, 2023

Planning & Development Department by sending an e-mail to planning@lebanonnh.gov, or by calling 603-448-1457, or by visiting the Planning and Development Office located in City Hall during regular work hours, Monday through Thursday, 7AM to 5PM. The application materials will also be posted to the City's website at LebanonNH.gov/Agendas.

DRAFT

**LEBANON ZONING BOARD OF ADJUSTMENT
COUNCIL CHAMBERS, CITY HALL OR
REMOTE VIA VIRTUAL PLATFORM
LEBANONNH.GOV/LIVE
MONDAY, November 6, 2023
7:00 PM**

MEMBERS PRESENT: Vice Chair Jeremy Katz, Dave Newlove, Paul McDonough, Jennifer Barkley

MEMBERS ABSENT: Chair William Koppenheffer

STAFF PRESENT: Nathan Reichert – Zoning Administrator

1. CALL TO ORDER

Vice Chair Katz called the meeting to order at 7:02 PM.

2. APPROVAL OF MINUTES

A. October 2, 2023

Mr. Newlove MOVED to approve the October 2, 2023, Minutes as presented in the November 6, 2023 packet.

Seconded by Mr. Nash.

**The Vote on the Motion was (3-0-1).*

Mr. McDonough abstained.

3. PUBLIC HEARING ITEMS

- A. AAM Lebanon Residences, LLC, 25 Foothill Street (Tax Map 24 Lot 14, Plot 100), zoned IND-L:** The subject property is located within the Altaria Planned Unit Development (PUD) and is currently improved with a hotel which the applicant proposes to convert to a 120-unit multi-family dwelling. Per Section 501.4.D of the Zoning Ordinance, the Altaria PUD may include a maximum of 34 dwelling units, 33 of which have been constructed at 18 Merchant Street. To allow the proposed change of use at 25 Foothill Street, the applicant requests a Variance from Section 501.4.D of to allow 119 additional dwelling units, whereas only one (1) additional dwelling unit is allowed pursuant to the permitted residential density for the Altaria PUD.
ZB2023-16-VAR - Continued From 10/2/2023 Meeting - Applicant Requests Continuance to 12/4/23 Meeting

Mr. Newlove MOVED to continue the hearing to December 4

Ms. Barkley

4-0

Tom Chesnard, Attorney, appeared representing the applicant. They are happy with a continuance. He asked if they would be first on the next agenda. Unless there is a very simple matter to dispense with, they will be first. There would be no additional notice requirements.

Ms. Barkley was given voting privileges for this hearing.

1
2 **Mr. Newlove MOVED to continue this hearing to November 6, 2023.**

3
4 **Seconded by Mr. Nash.**

5
6 ***The Vote on the Motion was (5-0).**

7
8 **4. OTHER BUSINESS**

9 **A. 2024 Meeting Calendar Review**

10
11 The calendar was shared. There is a recommendation to change a few meeting dates due to holidays
12 and elections. Staff recommends changing the cutoff date to put a hearing on an agenda. There are
13 two instances when the cutoff could get in the way of 6:10. Staff is comfortable with those
14 implications.

15
16 6:11 pm

17
18 2024 agenda as well as the cutoff dates. Barkley, Newlove, 4-0

19
20 **The order of the meeting was changed.**

21
22 **B. Edwards Properties LLC Rezoning Request**

23
24 Barry Schuster spoke about the 4th amendment. This concerns the text of the ordinance, suggesting
25 some additional uses within the zone. By conditional use the permitted uses would be expanded. He
26 believes the text is understandable, to add a series of used by special exception or conditional use. If
27 these were added, the Board feels they would easily understand the text.

28
29 **C. Zoning Amendments Review**

30
31 The Board discussed the zoning amendments. The point is to opine on the clarity of the amendments
32 and ability to follow the zoning rules. But this is open for some discussion this evening. In the end
33 there will be a full public hearing that will be held by the City Council.

34
35 Mr. Reichert reviewed the presentation that was given to the City Council.

36
37 The amendment regarding Impact Fees corrects a loophole regarding additions that are more or less
38 than 500 square feet. There is an amendment regarding PURDs in the GC-1 district, as requested by
39 DHMC. There is an amendment regarding the urban riverbank protection district, specifically the
40 downtown area that is already built out. One amendment pertains to the size of Accessory Dwelling
41 Units. The ratios between primary use and the secondary use are not adequate in the current
42 ordinance. There are a number of miscellaneous amendments. A new Zoning Map Amendment is
43 proposed.

44
45 No one from the Public had any comments. The Board believes if these changes are made, the
46 members will be able to interpret them.

47
48
49
50
51 **5. STAFF COMMENTS**

1
2
3 **6. ADJOURNMENT**
4

5 **Mr. Katz** *MOVED to adjourn the meeting at 10:00 PM.*
6

7 *Seconded by* **Mr. Nash.**
8

9 **The Vote on the Motion was approved* **(5-0).**
10

11 Respectfully submitted,
12 Linda Billings, Recording Secretary



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT

December 4, 2023 Meeting

Staff Memorandum – ZB2022-17-VAR

APPLICATION INFORMATION

Agenda Item: 3.A

Application Type: Variance from §308.3 to construct a deck +/- 4 ft. from the lot line shared with 7 Dartmouth Ave (Tax Map 49, Lot 16), where a minimum side yard of 15 ft. is required.

Location: 1 Dartmouth Ave (49-17)

Applicant/Property Owner:
M.A. Mendez & K.O. Kristiansen,
TTEES

Zoning District:
Residential One (R-1) District, Class 1

Property Size:
+/-0.26 acres (+/-11,119 sq. ft.)
(conforming to the minimum required 10,000 sq. ft. lot size required for Class 1 lots in the R-1 District per §308.3)

Existing Improvements and Use:
A partially finished newly constructed single family home.

Proposed Improvements and Use:
Add onto the new home a deck that allows access from the

Overlay District: none

Previous ZBA Action (since 1995):
December 2022 – Approval of a Variance and Special Exception.

Other Approvals Required:
Amended Building Permit.

Attachments: Application

HEARING NOTICE

M.A. Mendez & K.O. Kristiansen, TTEES, 1 Dartmouth Avenue (Tax Map 49, Lot 17), zoned R-1: Applicant requests a Variance from Section 308.3 of the Zoning Ordinance to construct a deck +/- 4 ft. from the lot line shared with 7 Dartmouth Avenue (Tax Map 49, Lot 16), where a minimum side yard of 15 ft. is required. **ZB2023-17-VAR**

BACKGROUND

The subject property is improved with a partially completed one-family dwelling. As shown on the attached existing conditions plan provided by the applicant, the home is located within the minimum required 20 ft. front yard pursuant to a Special Exception that was granted in December 2022. A Variance was granted by the Zoning Board in December 2022 permitting the building of the structure +/- 10 feet from the property line share with 7 Dartmouth Ave.

PROPOSAL

As shown on the attached plot plan the applicant proposes to construct a deck onto an existing partially constructed home. An 11' Variance from Section 308.2 which requires a 15' side yard setback is required to allow the proposed deck to be 4' from the property line. The home's construction was permitted based upon a variance issued by the Zoning Board in December 2022. The initial variance was to build the home 10 ft. from the side lot line shared with 7 Dartmouth Avenue (Tax Map 49, Lot 16). The Applicant seeks to amend the previous variance approval so that the new distance will be 4 ft. from the property line with 7 Dartmouth. A Special Exception pursuant to Section 703.1 of the Zoning Ordinance to expand the front yard non-conformity was also granted for the area of the front yard. The Special Exception does not require amendment at this time.

ZONING ORDINANCE REQUIREMENTS

A. VARIANCE

To obtain the requested Variance allowing a deck to be located +/- 4 ft. from the side lot line shared with that abutting property at 7 Dartmouth Avenue (Tax Map 49, Lot 16), the applicant must demonstrate compliance with each of the five variance criteria as set forth in Section 801.2 of the Zoning Ordinance and NH RSA 674:33, I(b). The five criteria are set forth in the bold text below, followed by general staff commentary on the meaning and intent of each.

1. **Will the variance be contrary to the public interest?** According to the Board of Adjustment in NH, 2012 Edition, for a variance to be contrary to the public interest, it must unduly and to a marked degree violate the basic zoning objectives of the zoning ordinance. To determine this, does the variance alter the essential character of the neighborhood or threaten the health, safety, or general welfare of the public?
2. **Will the spirit of the ordinance be observed?** According to the Board of Adjustment in NH, 2012 Edition, in deciding whether or not a variance will violate the spirit and intent of the ordinance, the Board must determine the legal purpose the ordinance serves and the reason it was enacted. The effect of the variance should be evaluated in light of the goals of the Ordinance, which might begin or end with a review of the master plan upon which the ordinance is based.
3. **Is substantial justice done?** According to the Board of Adjustment in NH, 2012 Edition, Board members must determine each case individually. They suggest that perhaps the only guiding rule is that any loss to the individual that is not outweighed by a gain to the general public is an injustice.
4. **Are values of surrounding properties diminished?** According to the Board of Adjustment in NH, 2012 Edition, if there is conflicting evidence (dueling experts) then it is the Board's job to sift through such testimony and other evidence to make a finding as to whether there will be a decrease in property values. Board members may also draw upon their own knowledge of the area in reaching a decision on this standard. It is the applicant's burden to convince the Board that it is more likely than not that the project will not decrease values.
5. **Would literal enforcement of the provisions of the ordinance result in an unnecessary hardship?**
 - a. **Special Conditions:** According to the Board of Adjustment in NH, 2012 Edition, Zoning imposes some hardship on all property owners by setting lot dimensions, allowable uses and other restrictions. Typically, the restrictions on one parcel are balanced by similar restrictions on other parcels in the same zone. When the hardship so imposed is shared equally by all property owners, no grounds for a variance exist. Only when some characteristic of the particular land in question makes it different from others can unnecessary hardship be claimed. Even within the same community, different results may be reached with just slightly different fact patterns.
 - b. **Fair and Substantial Relationship:** Part of this standard includes whether or not a fair and substantial relationship exists between the general public purpose of the ordinance provisions and the specific application of that provision to the property. Is the restriction on the property necessary in order to give full effect to the purpose of the ordinance, or can relief be granted to this property without frustrating the purpose of the ordinance? Once the purpose of the provision has been established, the property owner needs to establish that, because of the special conditions of the property, application of the ordinance provision to their property would not advance the purposes of the ordinance provision in any "fair and substantial" way.
 - c. **Reasonable Use: Is the proposed use a reasonable one?** All applicants believe their proposed use is a reasonable one. The applicant must establish that, in light of the special conditions of the property, as identified above, the proposed use is a reasonable one.

The applicant has submitted testimony addressing the Variance criteria in an application received by the Planning and Development Department on October 16th 2023 (see attached).

Staff Comment

The Applicants basis for hardship comes from the unique characteristic of the lot insofar as during construction a high-water table was discovered that necessitated the change in the construction design for the home. It was previously unknown that there is a development constraint on the lot in the form of a high-water table. After the discovery of the concern the applicant was advised to suspend the construction of the deck and seek an amendment to the Variance granted by the Board in December 2022. The Applicant immediately organized to seek approvals and the deck's completion awaits the outcome of this hearing.

Attachment

cc: Marissa Mendez & Karl Kristiansen, property owners (via e-mail)
File

Figure 1. Bird's Eye View of subject property (looking south) prior to the demolition of the previous structure and the construction of the new home.

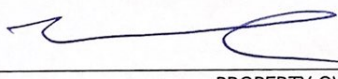


©2021 Eagleview (image taken 4/4/2021)

**CITY OF LEBANON
APPLICATION FOR**

SPECIAL EXCEPTION	☐	☐	SITE PLAN REVIEW
VARIANCE	☒	☐	SUBDIVISION
MOTION FOR REHEARING	☐	☐	LOT LINE ADJUSTMENT
APPEAL OF AN ADMIN. DECISION	☐	☒	OTHER (Amendment to)

previously granted variance

PROPERTY OWNER (APPLICANT):			
NAME: <i>Marissa Mendez + Karl Kristiansen</i>		TEL.#: <i>954-214-3743</i>	
MAILING ADDRESS: <i>PO Box 622 Lebanon, NH 03766</i>			
E-MAIL ADDRESS: <i>mmendez1@gmail.com</i>			
CO-APPLICANT, AGENT, OR LESSEE:			
NAME:		TEL.#:	
MAILING ADDRESS:			
E-MAIL ADDRESS:			
PROJECT LOCATION:			
TAX MAP #:	<i>49</i>	LOT#:	<i>17</i>
PLOT #:		ZONE:	
STREET ADDRESS OF PROJECT: <i>1 Dartmouth Ave</i>			
IS THIS PROPERTY LOCATED IN THE: WETLANDS ☐ YES ☒ NO HISTORIC DISTRICT ☐ YES ☒ NO			
FLOOD PLAIN ☐ YES ☒ NO			
SCOPE OF PROJECT:			
<i>Plan to build a deck outside of building envelope bordering on empty lot. This requires change to previously granted variance.</i>			
TYPE OF OCCUPANCY:			
EXISTING	☒ VACANT	☐ ONE FAMILY	☐ TWO FAMILY
PROPOSED	☐ VACANT	☒ ONE FAMILY	☐ TWO FAMILY
	☐ MULTI-FAMILY	☐ COMMERCIAL	☐ INDUSTRIAL
IF USE IS COMMERCIAL OR INDUSTRIAL , PLEASE NOTE SPECIFIC USE: _____			
SIGNATURE BLOCK:			
		DATE: <i>10/16/23</i>	
PROPERTY OWNER			
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: _____	

DATE RECEIVED	FILE # (MAP/LOT)	APPLICATION #	FEE - \$ AMOUNT	DATE PAID	VOUCHER #

(12/07/07)

CERTIFIED NOTIFICATION LIST

THE CITY OF LEBANON IS REQUIRED UNDER NH RSA 672:3 TO NOTIFY THE FOLLOWING PERSONS OF PUBLIC HEARINGS BEFORE THE PLANNING BOARD: ALL ABUTTERS; THE APPLICANT; PROPERTY OWNER; HOLDER OF CONSERVATION, PRESERVATION, OR AGRICULTURAL PRESERVATION RESTRICTION(S); AND EVERY ENGINEER, ARCHITECT, LAND SURVEYOR, OR SOIL SCIENTIST WHOSE PROFESSIONAL SEAL APPEARS ON ANY PLAT SUBMITTED TO THE BOARD.

PLEASE PROVIDE NAMES & MAILING ADDRESSES FOR ALL PERSONS LISTED ABOVE.

MAP & LOT NUMBER: <u>Map 49, Lot 17</u> PROPERTY OWNER: Manissa Mendez & Karl Kristiansen PO Box 622 Lebanon, NH 03766	MAP & LOT NUMBER: _____ APPLICANT: same →
MAP & LOT NUMBER: <u>Map 49, Lot 18</u> ABUTTER/OTHER: Bethany Truell & Chad Gibbs 260 Hanover St. Ext Lebanon, NH 03766	MAP & LOT NUMBER: <u>Map 49, Lot 16</u> ABUTTER/OTHER: Sarah M. & James Trahor 42 Wolf Rd. Apt. 913 Lebanon, NH 03766
MAP & LOT NUMBER: <u>Map 63, Lot 2</u> ABUTTER/OTHER: David Lynn Revocable Trust 248 Hanover St. Lebanon, NH 03766	MAP & LOT NUMBER: <u>Map 49, Lot 1</u> ABUTTER/OTHER: Crandell Creighton Jr. 8 Dartmouth Ave Lebanon, NH 03766
MAP & LOT NUMBER: <u>Map 64, Lot 1</u> ABUTTER/OTHER: City of Lebanon 51 North Park St. Lebanon, NH 03766	MAP & LOT NUMBER: _____ ABUTTER/OTHER:
MAP & LOT NUMBER: _____ ABUTTER/OTHER:	MAP & LOT NUMBER: _____ ABUTTER/OTHER:
MAP & LOT NUMBER: _____ ABUTTER/OTHER: Land surveyor: #603-524-8024 GC Engineering Inc. 635 Main St. Suite 301 Laconia, NH 03246	MAP & LOT NUMBER: _____ ABUTTER/OTHER:

(9/17/04)

SUPPORT STATEMENT FOR A VARIANCE

Amended as to comply with amended State statute and intent statement*

CITY OF LEBANON, NEW HAMPSHIRE

Variance Standards: RSA 674:33 Effective Jan. 1, 2010

One cover application with an abutters list, required filing fee and ten copies of the site plan (if larger than 8 1/2 in. x 11in.) must accompany this support statement.

I (we) hereby request a variance from the terms of Article(s) _____
Section(s) 308.3 of the Lebanon Zoning Ordinance.

In order to grant a Variance, the Zoning Board of Adjustment must make affirmative findings of certain conditions. Those conditions are listed below:

801.2 Variances.

- A. To authorize, upon appeal in specific case, variances from the terms of this ordinance, no variance shall be granted unless each of the following conditions are met:
1. That the variance, if authorized, will not be contrary to the public interest;
Please see attached
 2. That the variance will observe the spirit of the Ordinance.
 3. That by the granting of the variance, substantial justice will be done;
 4. That the variance, if authorized, will not diminish the values of surrounding properties
_____ and;
 5. That denial of the variance would result in unnecessary hardship.
 - (a) In this section "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:
 - (i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property

_____ ; and

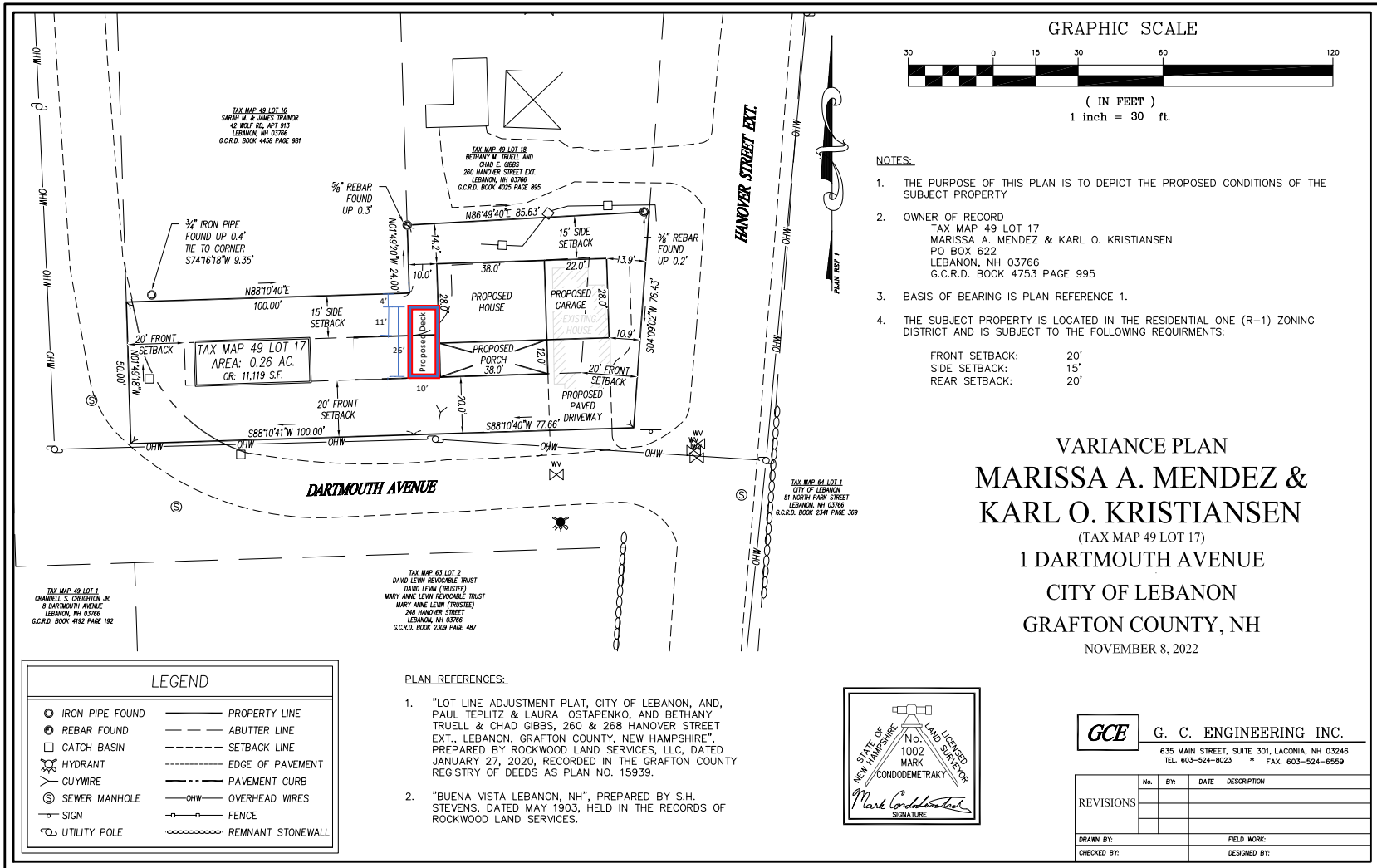
Mendez-Kristiansen; 1 Dartmouth Avenue.

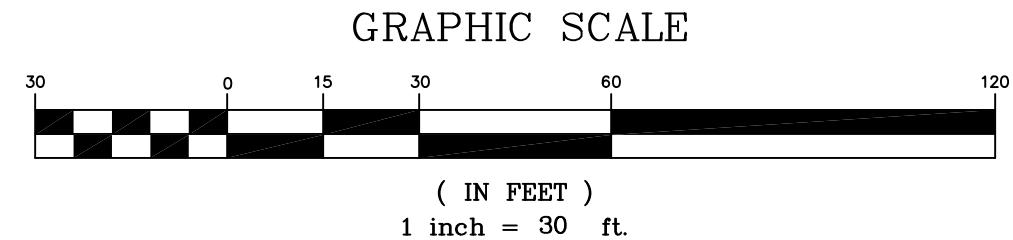
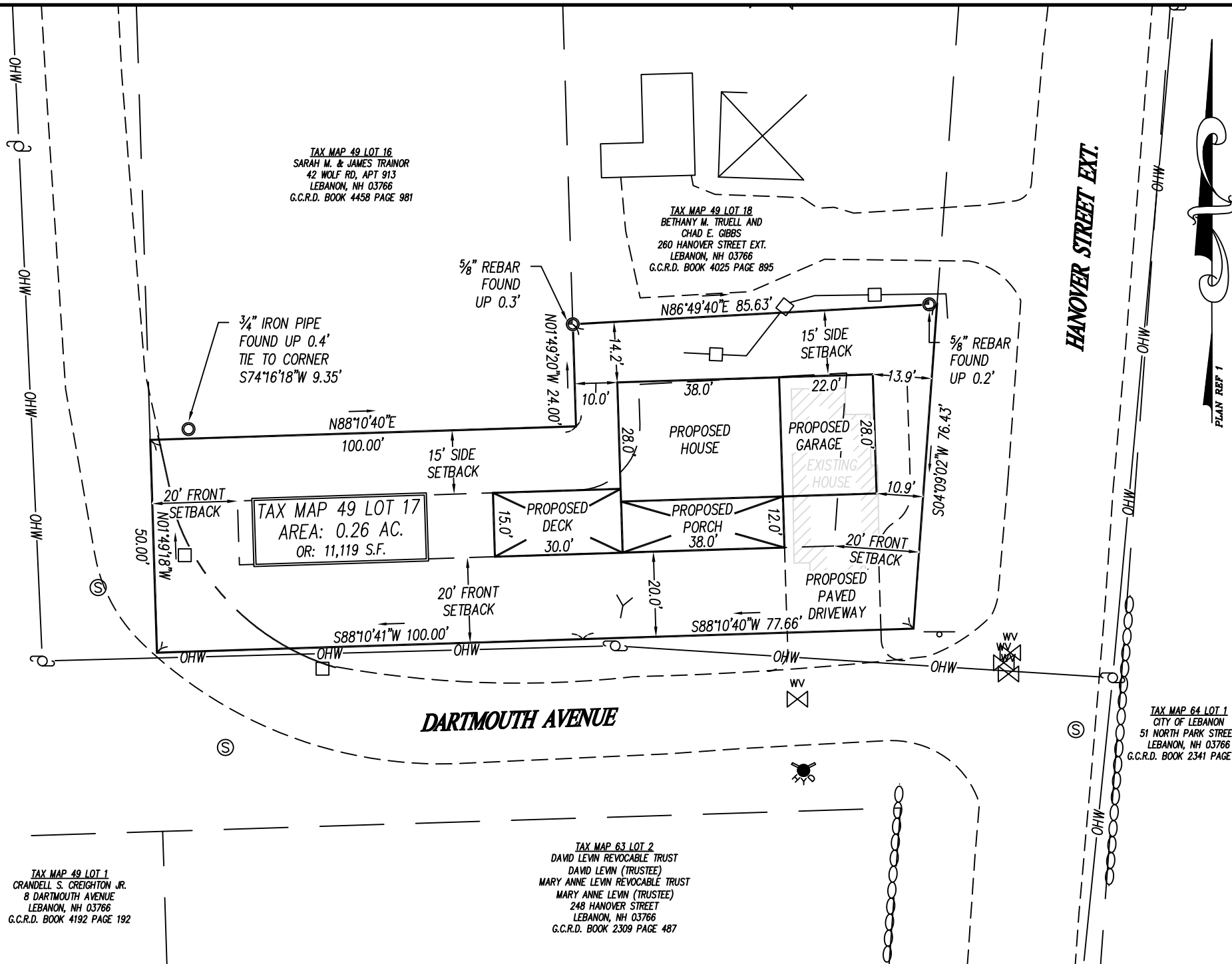
- 1) We are seeking to amend a previously granted variance. The initial variance was for an extension of the building envelope towards Hanover street and towards an empty lot. The amendment we seek is an extension only towards this same empty lot to the northwest (Map 49 Lot 16) and is for a deck only. We were initially approved for a conforming deck, but now seek approval for a nonconforming deck. While we understand the importance of setback, we do not believe this variance to impact the safety, health, or welfare of the public as there is still significant distance between our home and other structures.
- 2) Our variance still maintains significant distance between structures and the property lines. We were previously approved for a conforming deck in this area, and are seeking to change the orientation such that 11' x 10' would be nonconforming. The area we are seeking a new variance is towards an empty lot (Map 49 Lot 16). Even should a home eventually be built on the empty neighboring lot, our structure would only be a deck and it would be adjacent to the south east most corner of their lot. Thus we believe we are still observing the spirit of the ordinance.
- 3) Building our structure as proposed should cause no loss to the general public, thus preserving justice.
- 4) As mentioned in item 2, this variance is only in the direction of the lot located at Map 49 Lot 16. The setback is 15 feet and we are asking to build a deck 4 feet from the property line. Due to the orientation of our lot in regards to Lot 16, this deck would be close to the south east most corner of their lot only. The lot is currently empty and even should the lot be developed, we would still be far from the access point to the property and as such do not believe we would be negatively impacting the value of the adjacent property. Furthermore, our lot is downhill from the neighboring lot and this would be for a deck only. As such we do not believe it would have any impact on water runoff, drainage, sunlight or any other possible use to our neighbor.
- 5)
 - a. The shape of our property is such that there is only one portion of the plot within which we could build our home, which we are in the process of doing. We are seeking this amendment to our previously granted variance because we are facing new challenges. Our initial application had the deck conforming to building setbacks, however due to modular home limitations, we were not able to have a side door in the location we preferred. As currently approved, our deck does not reach the sliding glass door. Furthermore, while digging our foundation we hit water, forcing our home to be higher in elevation than anticipated. As such, the door currently opens into thin air, which is a problem. Our hope is to extend the deck into the setback area so that you can safely use the deck as a point of ingress and egress, and have this attach to the deck. Denial of this variance would not allow us to build this structure anywhere else on the

property. While we acknowledge the importance of setbacks from our neighbors, we would be imposing on an empty lot. Even should our neighbors choose to build, our variance would impact only a small rectangle of the southeastern corner of their lot. Again, we feel that this variance maintains the full effect of the ordinance and is a reasonable proposed use of the land. In order to minimize the financial hardship associated with building this single family home, we are partnered with a prefabricated modular home company. The footprint that we used was the smallest home that met our needs that we can build. Any modification, such as reducing the linear length of the structure, would cause significant increase in both waste and cost, creating further unnecessary hardship.

- b. Compared to other properties in the area, the shape of our property is limiting in regards to where we can build a reasonable home. Due to the setbacks, the entire western portion of our property is essentially unusable for a dwelling. Furthermore, our property has 3 road facing property lines, which limit our building envelope. Finally, a significant portion of the western most area of our lot is completely unusable, as the city road travels through our property. In attempt to eliminate these special conditions, we attempted to purchase a portion of our neighbor's land but these efforts yielded no response despite multiple attempts.

For your reference we have attached the initial survey of the property with existing structures (prior to variance approval/demolition) as well as the survey of proposed structures that was approved in the initial variance. Finally, we have also included a marked up survey which shows the proposed deck location (red) as well as the distances from the neighbor's property line.





NOTES:

1. THE PURPOSE OF THIS PLAN IS TO DEPICT THE PROPOSED CONDITIONS OF THE SUBJECT PROPERTY
2. OWNER OF RECORD
TAX MAP 49 LOT 17
MARISSA A. MENDEZ & KARL O. KRISTIANSEN
PO BOX 622
LEBANON, NH 03766
G.C.R.D. BOOK 4753 PAGE 995
3. BASIS OF BEARING IS PLAN REFERENCE 1.
4. THE SUBJECT PROPERTY IS LOCATED IN THE RESIDENTIAL ONE (R-1) ZONING DISTRICT AND IS SUBJECT TO THE FOLLOWING REQUIRMENTS:

FRONT SETBACK: 20'
SIDE SETBACK: 15'
REAR SETBACK: 20'

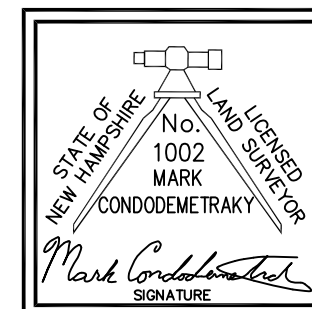
VARIANCE PLAN
**MARISSA A. MENDEZ &
KARL O. KRISTIANSEN**
(TAX MAP 49 LOT 17)
1 DARTMOUTH AVENUE
CITY OF LEBANON
GRAFTON COUNTY, NH
NOVEMBER 8, 2022

LEGEND

- | | |
|-------------------|-------------------------------|
| ○ IRON PIPE FOUND | — — — — — PROPERTY LINE |
| ● REBAR FOUND | — — — — — ABUTTER LINE |
| □ CATCH BASIN | - - - - - SETBACK LINE |
| ⊙ HYDRANT | - - - - - EDGE OF PAVEMENT |
| Y GUYWIRE | - - - - - PAVEMENT CURB |
| ⊙ SEWER MANHOLE | — OHW — OVERHEAD WIRES |
| ⊙ SIGN | — □ — FENCE |
| ⊙ UTILITY POLE | ⊘ — — — — — REMNANT STONEWALL |

PLAN REFERENCES:

1. "LOT LINE ADJUSTMENT PLAT, CITY OF LEBANON, AND, PAUL TEPLITZ & LAURA OSTAPENKO, AND BETHANY TRUELL & CHAD GIBBS, 260 & 268 HANOVER STREET EXT., LEBANON, GRAFTON COUNTY, NEW HAMPSHIRE", PREPARED BY ROCKWOOD LAND SERVICES, LLC, DATED JANUARY 27, 2020, RECORDED IN THE GRAFTON COUNTY REGISTRY OF DEEDS AS PLAN NO. 15939.
2. "BUENA VISTA LEBANON, NH", PREPARED BY S.H. STEVENS, DATED MAY 1903, HELD IN THE RECORDS OF ROCKWOOD LAND SERVICES.



GCE G. C. ENGINEERING INC.
635 MAIN STREET, SUITE 301, LACONIA, NH 03246
TEL. 603-524-8023 * FAX. 603-524-6559

REVISIONS	No.	BY:	DATE	DESCRIPTION
DRAWN BY:		FIELD WORK:		
CHECKED BY:		DESIGNED BY:		

PRELIMINARY

TAX MAP 49 LOT 16
SARAH M. & JAMES TRAINOR
42 WOLF RD, APT 913
LEBANON, NH 03766
G.C.R.D. BOOK 4458 PAGE 981

TAX MAP 49 LOT 18
BETHANY M. TRUELL AND
CHAD E. GIBBS
260 HANOVER STREET EXT.
LEBANON, NH 03766
G.C.R.D. BOOK 4025 PAGE 895

TAX MAP 49 LOT 17
AREA: 0.26 AC.
OR: 11,119 S.F.

TAX MAP 64 LOT 1
CITY OF LEBANON
51 NORTH PARK STREET
LEBANON, NH 03766
G.C.R.D. BOOK 2341 PAGE 369

TAX MAP 63 LOT 2
DAVID LEVIN REVOCABLE TRUST
DAVID LEVIN (TRUSTEE)
MARY ANNE LEVIN REVOCABLE TRUST
MARY ANNE LEVIN (TRUSTEE)
248 HANOVER STREET
LEBANON, NH 03766
G.C.R.D. BOOK 2309 PAGE 487

TAX MAP 49 LOT 1
CRANDELL S. CREIGHTON JR.
8 DARTMOUTH AVENUE
LEBANON, NH 03766
G.C.R.D. BOOK 4192 PAGE 192

NOTES:

- THE PURPOSE OF THIS PLAN IS TO DEPICT THE EXISTING CONDITIONS OF THE SUBJECT PROPERTY.
- OWNER OF RECORD
TAX MAP 49 LOT 17
MARISSA A. MENDEZ & KARL O. KRISTIANSEN
PO BOX 622
LEBANON, NH 03766
G.C.R.D. BOOK 4753 PAGE 995
- BASIS OF BEARING IS PLAN REFERENCE 1.
- TRAVERSE PERFORMED WITH LEICA TOTAL STATION ERROR OF CLOSURE GREATER THAN 1:10,000.
- TAX MAP 49 LOT 17 INDICATES CITY OF LEBANON, NH TAX ASSESSORS MAP & LOT NUMBERS.
- BOUNDARY AND IMPROVEMENT INFORMATION IS A RESULT OF AN ACTUAL FIELD SURVEY PERFORMED BY THIS OFFICE IN OCTOBER 2022.
- DARTMOUTH AVENUE RIGHT OF WAY IS 42' PER PLAN REF. 2
- HANOVER STREET EXT. RIGHT OF WAY IS 49.5' PER FIELD LOCATED REMNANT STONEWALLS. NO ROAD DEDICATION FOUND.

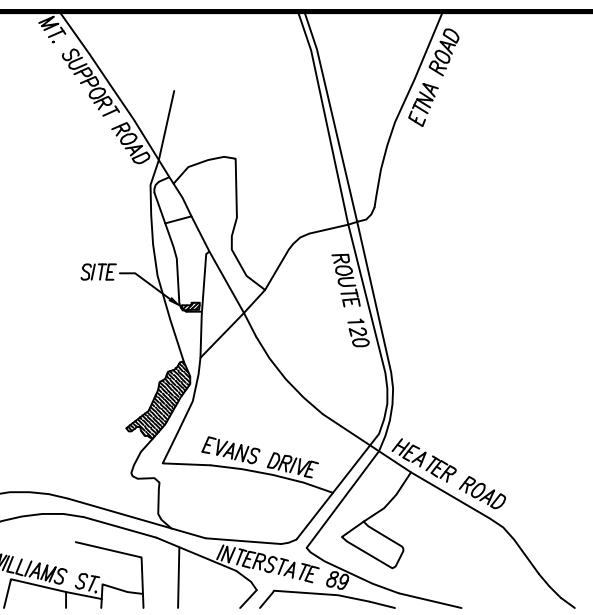
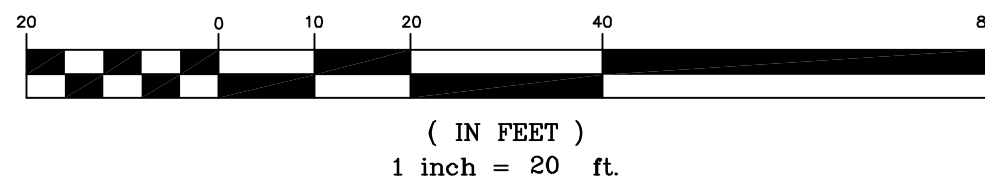
SURVEYORS CERTIFICATION:

PER RSA 676:18(III), I CERTIFY THAT THIS SURVEY PLAT IS NOT A SUBDIVISION PURSUANT TO THIS TITLE AND THAT THE LINES OF STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED AND THAT NO NEW WAYS ARE SHOWN.

MARK CONDODEMETRKY
LLS LICENSE #1002

DATE

GRAPHIC SCALE



LOCATION MAP
SCALE: 1" = 2,000'

PLAN REFERENCES:

- "LOT LINE ADJUSTMENT PLAT, CITY OF LEBANON, AND, PAUL TEPLITZ & LAURA OSTAPENKO, AND BETHANY TRUELL & CHAD GIBBS, 260 & 268 HANOVER STREET EXT., LEBANON, GRAFTON COUNTY, NEW HAMPSHIRE", PREPARED BY ROCKWOOD LAND SERVICES, LLC, DATED JANUARY 27, 2020, RECORDED IN THE GRAFTON COUNTY REGISTRY OF DEEDS AS PLAN NO. 15939.
- "BUENA VISTA LEBANON, NH", PREPARED BY S.H. STEVENS, DATED MAY 1903, HELD IN THE RECORDS OF ROCKWOOD LAND SERVICES.

LEGEND

○ IRON PIPE FOUND	— — — — — PROPERTY LINE
● REBAR FOUND	— — — — — ABUTTER LINE
□ CATCH BASIN	- - - - - SETBACK LINE
⊗ HYDRANT	- - - - - EDGE OF PAVEMENT
Y GUYWIRE	- - - - - PAVEMENT CURB
⊙ SEWER MANHOLE	— OHW — OVERHEAD WIRES
— SIGN	— □ — FENCE
⊕ UTILITY POLE	⊗ REMNANT STONEWALL

EXISTING CONDITIONS PLAN MARISSA A. MENDEZ & KARL O. KRISTIANSEN

(TAX MAP 49 LOT 17)

1 DARTMOUTH AVENUE

CITY OF LEBANON

GRAFTON COUNTY, NH

NOVEMBER 8, 2022

GCE

G. C. ENGINEERING INC.

635 MAIN STREET, SUITE 301, LACONIA, NH 03246
TEL. 603-524-8023 * FAX. 603-524-6559

REVISIONS	No.	BY:	DATE	DESCRIPTION
DRAWN BY:			FIELD WORK:	
CHECKED BY:			DESIGNED BY:	



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

NOTICE OF DECISION LEBANON ZONING BOARD OF ADJUSTMENT ZB2022-31-VAR

*The Lebanon Zoning Board of Adjustment, at a regular meeting held on **December 5, 2022** approved the following motion made by Dan Nash, seconded by Dave Newlove, by a vote of 3-0:*

"On December 5, 2022, at a duly noticed meeting of the Lebanon Zoning Board of adjustment, there appeared Marissa Mendez & Karl Kristiansen, regarding 1 Dartmouth Avenue (Tax Map 49, Lot 17), zoned R-1. Applicant proposes to construct a new one-family dwelling to be located no closer to Hanover Street than the existing non-conforming one-family dwelling and +/-10 ft. from the lot line shared with 7 Dartmouth Avenue (Tax Map 49, Lot 16). Applicant requests a Special Exception per Section 703.1 of the Zoning Ordinance to expand a non-conforming structure and a Variance from Section 308.2 to construct the proposed home within the minimum required 15 ft. side yard. ZB2022-31-SEVAR

I. FINDINGS OF FACT

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

1. The subject property is improved with a one-family dwelling that is unoccupied and in a state of disrepair. As shown on the existing conditions plan provided by the applicant, the home is located within the minimum required 20 ft. front yard and is therefore non-conforming to the minimum front yard required for Class 1 lots in the R-1 District.
2. As shown in the plot plan provided by the applicant (titled "Variance Plan"), the applicants propose to remove the existing structures and construct a new home located 10 ft. 9 in. from the front lot line along Hanover Street Extension, and 10 ft. from the side lot line shared with 7 Dartmouth Avenue (Tax Map 49, Lot 16).
3. In order to construct the home in the proposed location, the applicants require a Special Exception per Section 703.1 of the Zoning Ordinance to expand the front yard non-conformity and a Variance from Section 308.2 to construct the proposed home within the minimum required 15 ft. side yard.
4. Class 1 lots (lots that are served by municipal sewer and water) in the R-1 District must maintain a minimum front yard (i.e., a space unobstructed by buildings and structures) of 20 ft. See §308.3 of the Zoning Ordinance. The existing home is located 10 ft. 9 inches from the front lot line along Hanover Street Extension and, therefore, is non-conforming to the 20 ft. minimum required front yard.
5. §703.1 of the Zoning Ordinance allows the expansion of "any increase in the footprint and/or volume of the non-conforming part of the building or structure," by Special Exception from the Zoning Board of Adjustment. In addition, §703.2 of the Zoning Ordinance provides that, "[a]ny non-conforming building or non-conforming structure which is partially or wholly destroyed by reason of any cause whatsoever, including [...] fire [...], may be resumed or restored and operated in its former non-conformity if same is done within two (2) years[.]"
6. The new home is proposed to have a footprint within the minimum front yard that will be greater than the footprint of that portion of the original building that was located within the minimum

NOTICE OF DECISION

1 Dartmouth Ave (49-17)

ZB2022-31-VAR

December 5, 2022

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required front yard. Per §703.1 and §703.2, the applicants are entitled to construct a new home that is equally non-conforming to the Zoning Ordinance and may also apply for a Special Exception to expand the footprint and/or volume of any portion of the building that was non-conforming.

7. In order to grant a Special Exception for the proposed expansion of the front yard non-conformity, the Board must make the findings required per §703.1.A.
8. Per §703.1.A.3 of the Zoning Ordinance, in order to grant a Special Exception for an expansion of a non-conforming structure, the Board must also determine that the proposal meets the general Special Exception criteria, set forth in §801.3.
9. The applicant has submitted testimony addressing the §801.3 criteria in an application received by the Planning and Development Department on November 10, 2022.
10. To obtain the requested Variance allowing the home to be located 10 ft. from the side lot line shared with that abutting property at 7 Dartmouth Avenue (Tax Map 49, Lot 16), the applicant must demonstrate compliance with each of the five variance criteria as set forth in Section 801.2 of the Zoning Ordinance and NH RSA 674:33, I(b).
11. The applicant has submitted testimony addressing the Variance criteria in an application received by the Planning and Development Department on November 10, 2022
12. No one from the Public spoke for or against the application.

II. CONCLUSIONS OF LAW

A. **Special Exception**

As a result of the above findings of fact and based on testimony given, application materials presented, and supporting documents submitted, the Board concludes the following with respect to the Special Exception criteria set forth in §801.3 of the Zoning Ordinance:

1. The Special Exception is specifically authorized by §703.1.A of the Zoning Ordinance. (§801.3.A)
2. The following special conditions/requirements §703.1.A **are** met (§801.3.B):
 - The reasonable use of abutting properties **is not** adversely affected by the proposed expansion. (§703.1.A.1)
 - The proposed expansion will not render the lot size proportionately less adequate, i.e. any aspect of the building or structure that is currently nonconforming cannot be made more non-conforming in the absence of a variance. (§703.1.A.2)
3. There **are no** existing violations of the Zoning Ordinance on the property that the granting of the Special Exception would not remedy. (§801.3.C) *Staff is not aware of any Zoning Ordinance violations on the property.*
4. The character of the area **will not** be adversely affected. (§801.3.D)
5. **No** hazard or nuisance will be created. (§801.3.E)
6. The capacity of existing or planned community facilities and services (including streets and highways) **will not** be adversely impacted. (§801.3.F)

NOTICE OF DECISION

1 Dartmouth Ave (49-17)

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7. The granting of the Special Exception **will not** result in undue municipal expense. (§801.3.G)
8. The proposed Special Exception **will** be developed in a manner compatible with the spirit and intent of the ordinance. (§801.3.H)
9. The general welfare of the City **will** be protected. (§801.3.I)

B. Variance

As a result of the above findings of fact and based on testimony given, application materials presented, and supporting documents submitted, the Board concludes the following with respect to the Variance criteria set forth in Section 801.2 of the Zoning Ordinance:

1. The variance **will not** be contrary to the public interest. (Section 801.2.A.1)
2. The spirit of the ordinance **is** observed. (Section 801.2.A.2)
3. Substantial justice **is** done. (Section 801.2.A.3)
4. The values of surrounding properties **are not** diminished. (Section 801.2.A.4)
5. Literal enforcement of the provisions of the ordinance **would** result in an unnecessary hardship. Owing to **[the following]** special conditions of the property that distinguish it from other properties in the area (Section 801.2.A.5.a):

The property fronts on three streets, the lot is narrow and irregular, and has a City street crosses the property.

- i. There **is not** a fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of that provision to the property. (Section 801.2.A.5.a.i)
- ii. The proposed use **is** a reasonable one. (Section 801.2.A.5.a.ii)

III. DECISION

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this **5th day of December 2022**, hereby **GRANTS** the requested Variance and Special Exception, as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

1. The applicant shall obtain a building permit.”

Notice of Decision prepared by: Crystal Taplin, Administrative Assistant, December 15, 2022

NOTE: (NH RSA 677:2) Within 30 days after any order or decision of the zoning board of adjustment, or any decision of the local legislative body or a board of appeals in regard to its zoning, the selectmen, any party to the action or proceedings, or any person directly affected thereby may apply for a rehearing in respect to any matter determined in the action or proceeding, or covered or included in the order, specifying in the motion for rehearing the ground therefor; and the board of adjustment, a board of appeals, or the local legislative body, may grant such rehearing if in its opinion good reason therefor is stated in the motion. This 30-day time period shall be counted in calendar days beginning with the date following the date upon which the board voted to approve or disapprove the application in accordance with RSA 21:35; provided however, that if the moving party shows that the minutes of the meeting at which such vote was taken, including the written decision, were not filed within 5 business days after the vote pursuant to RSA 676:3, II, the person applying for the rehearing shall have the right to amend the motion for rehearing, including the grounds therefor, within 30 days after the date on which the written decision was actually filed.

NOTICE OF DECISION

1 Dartmouth Ave (49-17)

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Zoning Ordinance:**901.6 Time Limit of Permit.**

A zoning permit shall become void if construction is not begun thereunder within 2 years from the date of issuance of the permit or grant of a special exception or variance.

901.7 Date of Issuance of Zoning Permit.

On approval by the Board of Adjustment of an administrative appeal, variance or special exception, the Zoning Administrator shall issue a zoning permit as of the date of approval of the Board of Adjustment. Zoning permits shall be conditioned upon receipt of Site Plan Review approval from the Planning Board, when such approval is required. When Site Plan Review is required, the date of the zoning permit for the purposes of SECTION 901.6 shall be the date of receipt of Site Plan Review approval.



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT

December 4th 2023 Meeting

Staff Memorandum – ZB2021-07-VAR

APPLICATION INFORMATION

Agenda Item: 3.C

Application Type:

Variance from §501.4.D to permit residential density to exceed the maximum allowed in a commercial planned unit development

Location:

Altaria PUD, NH Route 120 (Tax Map 24, Lot 14)

Applicant/Property Owner:

- AAM Lebanon Residences, LLC

Zoning District:

Light Industrial (IND-L)

Overlay District(s):

- Wetlands Conservation District

Previous ZBA Action (since 1995):

- Wetlands CUP granted in 2011

Other Approvals Required:

- Planning Board (CUP/Site Plan/Subdivision amendment)
- Building Permit

Attachments:

- Altaria PUD Final Plat (Staff Exhibit A)
- Application (14 pages total)

HEARING NOTICE

AAM Lebanon Residences, LLC, 25 Foothill Street (Tax Map 24 Lot 14, Plot 100), zoned IND-L: The subject property is located within the Altaria Planned Unit Development (PUD) and is currently improved with a hotel which the applicant proposes to convert to a 120-unit multi-family dwelling. Per Section 501.4.D of the Zoning Ordinance, the Altaria PUD may include a maximum of 34 dwelling units, 33 of which have been constructed at 18 Merchant Street. To allow the proposed change of use at 25 Foothill Street, the applicant requests a Variance from Section 501.4.D of to allow 119 additional dwelling units, whereas only one (1) additional dwelling unit is allowed pursuant to the permitted residential density for the Altaria PUD. ZB2023-16-VAR

1 Dec 2023 Update

Additional materials have been submitted by the Applicant. A plan set that demonstrates a compliance plan for both EV and parking compliance with the Zoning Ordinance. The additional materials address the primary concerns of staff as to completeness. The packet demonstrates that there is a pathway to compliance with the Zoning Ordinance. Clearly additional approvals from the Planning Board will be required. A more refined and engineered solution for the EV question should be required as a part of the Planning Board's consideration.

All applicable regulations apply to this application. While there may be a claim being made by the applicant that there are "Existing Legal Non-Conforming" uses on the lot that foreclose on the need to meet all current regulations this argument is mistaken. The Application is a major change of use and thereby requires adherence to all Zoning and Planning regulations.

Additional materials were received from the Applicant as well as letters of support, concern and comment being submitted by Dartmouth Health and the City of Lebanon's "LEAC" Lebanon Energy Advisory Committee. All of these documents are in the packet.

BACKGROUND

On September 12, 2011, the Planning Board approved a Conditional Use Permit and Final Major Subdivision (PB2011-15-FMAJ) for an 8-lot Industrial Planned Unit Development (Altaria PUD) located off of NH Route 120. For reference, the final approved PUD layout is attached as Staff Exhibit A, and an excerpt of the City's Tax Map showing the Altaria PUD lot lines is shown below as Figure 1.

Section 501.4.D of the Zoning Ordinance (both as it provided when then PUD was originally approved and currently) allows multi-family dwellings within a PUD, with the permitted residential density based on "a maximum of 25% of the net land area of the PUD not planned for open space, roads, or utilities and calculated at a density of 13 dwelling units per acre." In the context of the Altaria PUD, the Section 501.4.D calculation allows a maximum of 34 dwelling units in the PUD.

The uses approved for the PUD included a mix of hotel, retail/service, office/R&D, and residential as follows (graphic taken from cover sheet of approved PUD plan):

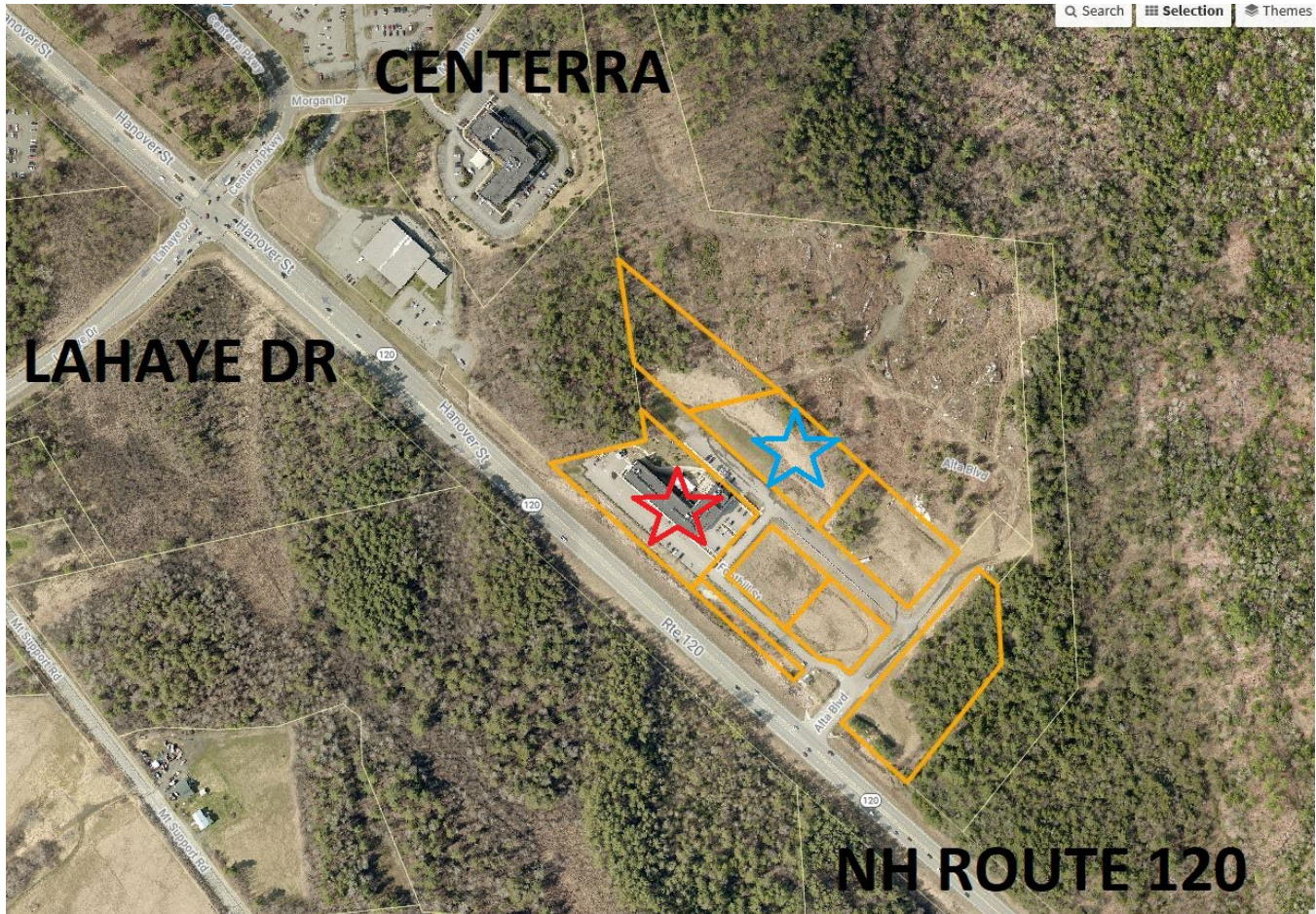
Land Use & Parking Requirements:	SF by Use	ratios	# of spaces
Hotel	81,752 120 rooms	1.2 sp/rm	144
Retail / Service	42,390	1 sp/200 or 250	190
Office / R&D	96,000	1 sp/250	384
Residential	34 units	1.5 sp/du	52
Total Non-Res Use:	220,142		

The hotel was constructed on Lot 1 of the PUD (i.e. 25 Foothill Street) in 2014. It was operated as the Element Hotel until a fire in December 2019 heavily damaged the interior. The building has sat vacant and was re-constructed under a hotel use. A 33-unit multi-family residential building was constructed on Lot 2 of the PUD (i.e. 18 Merchant Street) in 2019 (at 33-units, the multi-family dwelling is one dwelling unit less than the 34-unit maximum permitted). The Hotel use was defined in 2021 by a Zoning Board decision that concluded that a Hotel May let a room up to 184 days to the same occupant.

PROPOSAL

The applicant proposes to convert the long-stay hotel on Lot 1 of the PUD (i.e. the former Element Hotel building) to a 120-unit multi-family single family residential building. To do so, the applicant requires a Variance to allow the PUD's residential density to exceed the maximum 34 dwelling units allowed per Section 501.4.D of the Zoning Ordinance. If the Variance is approved, the applicant will also need to apply to the Planning Board for an amendment to the Altaria PUD Conditional Use Permit (and possibly an amendment to the approved plan pursuant to the Site Plan Review and/or Subdivision Regulations).

Figure 1. Altaria PUD (Tax Map Excerpt).



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ZONING ORDINANCE REQUIREMENTS

As a threshold matter, staff recommends that the Board consider whether the applicant's proposed use "multi-family dwelling" meets the standards of granting a variance. The Board determined in 2021 that the applicant's proposed use meets the definition of "hotel", then no Variance was required since a hotel is already an approved use of the site (per Section 501.D.4 of the Zoning Ordinance and pursuant to the existing Altaria PUD Planning Board approvals). For reference in evaluating what use category the applicant's proposed use falls within, pasted below are the definitions of "hotel" and "multi-family dwelling" as those terms are defined in Appendix A of the Zoning Ordinance.

- A **"hotel"** is defined as: "A building designed for or used commercially as more or less temporary living quarters for persons who are lodged with or without meals in which are ten or more sleeping rooms usually occupied singularly or by families of transients."
- A **"multi-family dwelling"** is defined as: "A dwelling with three (3) or more dwelling units." Related definitions include:
 - "Dwelling" which is defined as: "A building designed for and used primarily by one or more families for living quarters, but not including manufactured homes, trailers of any kind, hotels, motels, group residences, lodging houses, institutional homes, residential clubs, or other commercial accommodations offered for occupancy."

- “Dwelling unit” is defined as: “One or more rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, sanitary and sleeping facilities. The term includes sectional homes and modular units but does not include manufactured home, motel, hotel, lodging house or similar structures.”

Section 501.4.D provides, in relevant part, as follows: “The density of residential uses allowed pursuant to [Section 501.4.D] shall be determined based on a maximum of 25% of the net land area of the PUD not planned for open space, roads, or utilities and calculated at a density of 13 dwelling units per acre.” As noted above, this calculation allows 34 dwelling units within the Altaria PUD, 33 of which have already been constructed. Since the applicant is requesting to convert the hotel into 120 dwelling units, a Variance is needed to allow the PUD to have a total of 153 dwelling units (120 proposed + 33 existing), where a maximum of 34 units are allowed.

To obtain the requested Variance from Section 501.4.D, the applicant must demonstrate compliance with each of the five variance criteria as set forth in Section 801.2 of the Zoning Ordinance and NH RSA 674:33, I(b). The five criteria are set forth in the bold text below, followed by general staff commentary on the meaning and intent of each.

1. **Will the variance be contrary to the public interest?** According to the Board of Adjustment in NH, 2012 Edition, for a variance to be contrary to the public interest, it must unduly and to a marked degree violate the basic zoning objectives of the zoning ordinance. To determine this, does the variance alter the essential character of the neighborhood or threaten the health, safety, or general welfare of the public?
2. **Will the spirit of the ordinance be observed?** According to the Board of Adjustment in NH, 2012 Edition, in deciding whether or not a variance will violate the spirit and intent of the ordinance, the Board must determine the legal purpose the ordinance serves and the reason it was enacted. The effect of the variance should be evaluated in light of the goals of the Ordinance, which might begin or end with a review of the master plan upon which the ordinance is based.
3. **Is substantial justice done?** According to the Board of Adjustment in NH, 2012 Edition, Board members must determine each case individually. They suggest that perhaps the only guiding rule is that any loss to the individual that is not outweighed by a gain to the general public is an injustice.
4. **Are values of surrounding properties diminished?** According to the Board of Adjustment in NH, 2012 Edition, if there is conflicting evidence (dueling experts) then it is the Board’s job to sift through such testimony and other evidence to make a finding as to whether there will be a decrease in property values. Board members may also draw upon their own knowledge of the area in reaching a decision on this standard. It is the applicant’s burden to convince the Board that it is more likely than not that the project will not decrease values.
5. **Would literal enforcement of the provisions of the ordinance result in an unnecessary hardship?**
 - a. **Special Conditions:** According to the Board of Adjustment in NH, 2012 Edition, Zoning imposes some hardship on all property owners by setting lot dimensions, allowable uses and other restrictions. Typically the restrictions on one parcel are balanced by similar

restrictions on other parcels in the same zone. When the hardship so imposed is shared equally by all property owners, no grounds for a variance exist. Only when some characteristic of the particular land in question makes it different from others can unnecessary hardship be claimed. Even within the same community, different results may be reached with just slightly different fact patterns.

- b. Fair and Substantial Relationship:** Part of this standard includes whether or not a fair and substantial relationship exists between the general public purpose of the ordinance provisions and the specific application of that provision to the property. Is the restriction on the property necessary in order to give full effect to the purpose of the ordinance, or can relief be granted to this property without frustrating the purpose of the ordinance? Once the purpose of the provision has been established, the property owner needs to establish that, because of the special conditions of the property, application of the ordinance provision to their property would not advance the purposes of the ordinance provision in any “fair and substantial” way.
- c. Reasonable Use: Is the proposed use a reasonable one?** All applicants believe their proposed use is a reasonable one. The applicant must establish that, in light of the special conditions of the property, as identified above, the proposed use is a reasonable one.

Staff Comment:

The applicant essentially proposes the same question to the Zoning Board in 2021. No variance was granted as the Zoning Board determined that a Hotel Use covered stays up to 184 days.

Industrial PUD –

The underlying zoning within this Zone seeks industrial uses as the center of the area’s use. The Residential ratio allowed within the industrial PUD has been consumed. 33 units of the 34 available within the PUD have been consumed. Expanding the use to 120 additional units would essentially quadruple the allowed density within the Industrial PUD area that is permitted. Expanding residential use on this magnitude within an industrial area greatly exceeds the balance anticipated within and industrial PUD. Further additional limits for Commercial use to support the proposed residents of the development may need to be defined.

“Additionally, no more than 25 percent of the gross floor area in an Industrial PUD may be allocated to hotels, restaurants, personal services and retail sales necessary to serve the needs of the other businesses in the PUD (or of their employees).” With the excess of residential use being proposed what is the applicable balance of Industrial, Commercial and Residential uses moving forward? Disturbing this balance clearly requires significant consideration by the Zoning Board.

Avoiding Taxes or making more money is not Hardship:

The 6-month stay standard also requires that the applicant must pay applicable Room and Meals Taxes on occupancy fees. The amount of these fees being due to the State and in part as revenue being passed onto the to the City of Lebanon is NOT justification for hardship. Rather, owing these taxes is simply a cost of doing business as a hotel in the state of New Hampshire. Should the applicant use this element as a justification for hardship they are asking for the Zoning Board to set policy that has already been set by the State of New Hampshire and is not within the jurisdiction of the Zoning Board to waive nor is it a justification for hardship.

Plans and specifications: Application Appears Incomplete:

The application provided is vague and non-descript. Evidence of the current use as well as the proposed use are not included in the form of plans and specifications. No site plan, floor plan or use

plan are provided. Rather, the application rests on a legal brief alone. This lack of specificity leaves the Zoning Board in a position where it lacks sufficient evidence to conclude that the possible use is even possible in compliance with all Zoning and Planning regulations. Given this lack of specificity there is no pathway to clearly condition an approval in a way that is clear and understandable without quality plans specifications and a use plan. Given this lack of specificity staff recommends that the application be deemed incomplete until an existing and proposed conditions site, floor and operations plans are submitted for the Board's review. Upon receipt of said plans and specifications, and a Board conclusion that the granting of a variance is warranted, the Board should condition an approval to adherence with the approved plans and specifications. Failure to clarify the proposed use may cause significant confusion about the approval and cause massive problems with oversight and compliance efforts by the project's Developers and City staff.

Plans and specifications, including existing and proposed floor plans need to demonstrate adherence with creating a dwelling unit out of the existing Hotel rooms which includes "independent cooking, sanitary and sleeping facilities" as required by the definition of a dwelling unit. Clearly a floor plan that demonstrates that it is even possible to meet the standards of improvement necessary to create a "dwelling unit" is needed for the Zoning Board to be able to confirm that it is possible to convert the long stay hotel into 120 individual dwelling units in conformity with all Planning and Zoning requirements and without a need for additional variances.

Parking Plan:

The conversion of a use from hotel to Dwelling units may greatly impact parking requirements. What is the parking plan for the proposed use? No plan is included. The Board may wish to require a parking plan to be submitted for its consideration which demonstrates adherence with applicable parking requirements.

Planning Board oversight is required:

Any Zoning approval of this request shall be conditioned in such a way as to guarantee additional Planning Board consideration and approval. The proposed change of use must meet all site plan requirements as established by the Planning Board's regulations and discretion.

501.4 Commercial or Industrial Planned Unit Developments.

A. Objectives. The purposes of the Commercial or Industrial Planned Unit Development provisions of this Ordinance are (1) to allow flexibility in the site design and development of large-scale commercial and/or industrial development; (2) to encourage the preservation of valuable open spaces and/or natural features; and (3) to provide for the efficient utilization of land and community facilities, services and utilities.

B. Location. Commercial or Industrial Planned Unit Developments are permitted uses in the Industrial, CB, GC, and GC-1 Districts, in accordance with the provisions of this section.

C. Tract Size. All Commercial and Industrial PUDs shall have a minimum tract size as follows:

District Minimum Tract Size

Industrial 10 acres

CB 10 acres

GC 10 acres

GC-1 10 acres

Land within the Wetlands Conservation District and land having slopes in excess of 25 percent shall be included in determining the minimum tract size. Land within the Floodplain District shall not be included in determining the minimum tract size.

*D. Uses Allowed in a Commercial or Industrial PUD. Any non-residential use permitted or allowed by **special exception** or **conditional use** in the IND-L, CB, GC, or GC-1 Districts is allowed in a Commercial PUD. Such uses allowed by **special exception** or **conditional use** shall be considered permitted uses when included as part of a proposed Commercial PUD and shall not require separate **special exception** or **conditional use** approval.*

*Any non-residential use permitted or allowed by **special exception** or **conditional use** permit in the IND-L and IND-RA Districts is allowed in an Industrial PUD. Such uses allowed by **special exception** or **conditional use** shall be considered permitted uses when included as part of a proposed Industrial PUD and shall not require separate **special exception** or **conditional use** approval. Additionally, no more than 25 percent of the **gross floor area** in an Industrial PUD may be allocated to **hotels, restaurants, personal services** and retail sales necessary to serve the needs of the other businesses in the PUD (or of their employees).*

***Dwelling units** in **one-family, two-family** and **multi-family dwellings** or appropriate mixes thereof may be allowed in Commercial or Industrial PUDs, at the discretion of the Planning Board, provided that the Board determines that such residential uses are compatible within the proposed PUD. The density of residential uses allowed pursuant to this section shall be determined based on a maximum of 25% of the net land area of the PUD not planned for open space, roads, or utilities and calculated at a density of 13 **dwelling units** per acre. Where allowed, such **dwelling units** may be clustered together and/or distributed within the Commercial or Industrial PUD in **mixed use buildings** at the discretion of the Planning Board.*

AAM LEBANON RESIDENCES, LLC
25 Foothill Street (Tax Map 24, Lot 14, Plot 100)
IND-L Zoning District
ZB2023-16-VAR

Zoning Compliance Plan

	Existing Conditions	Existing Zoning Compliance	Proposed Conditions	Zoning Relief Required
Use (Section 501.4.D)	Hotel	Permitted as part of Industrial PUD ¹	Multi-Family	None - permitted as part of Industrial PUD, subject to density limitation
Density (Section 501.4.D)	120 rental units - 88 studios and 32 1-bedroom units, each fully furnished with 1 bath and kitchenette (see attached floor plans)	No restriction	120 dwelling units - 88 studios and 32 1-bedroom units, each fully furnished with 1 bath and kitchenette (same floor plans as existing conditions)	Variance required from Section 501.4.D to permit greater than 13 dwelling units as part of Industrial PUD
Min. Lot Area (Section 303.3)	2.610 acres (see attached survey)	Exceeds 2 acre minimum	No change	None
Max. Building Coverage (Section 303.3)	Less than 50% (see attached survey)	Less than 50% maximum	No change	None
Min. Front Setback (Section 303.3)	40 ft. (see attached survey)	Not less than 40 ft. minimum	No change	None
Min. Side Setback (Section 303.3)	20 ft. (see attached survey)	Not less than 20 ft. minimum	No change	None
Min. Rear Setback (Section 303.3)	20 ft. (see attached survey)	Not less than 20 ft. minimum	No change	None

¹ Length of stays are restricted to no longer than 184 days per ZBA decision dated April 5, 2021, Case #ZB2021-07-VAR (variance request dismissed without prejudice).

	Existing Conditions	Existing Zoning Compliance	Proposed Conditions	Zoning Relief Required
Min. Off-Street Parking Spaces (Section 607.1.C)	144 spaces, including 120 spaces on-site and 24 spaces off-site ² (see attached survey)	1.2 space per hotel rental unit as required	No change	None - 1 space/studio apartment dwelling = 88 spaces + 1.5 spaces/1 BR apartment dwelling = 48 spaces; 136 total spaces required
Min. Off-Street Electric Vehicle Parking Requirements (Section 607.8)	1 EVSE-installed space	Legally non-conforming	8 EVSE-installed spaces	None – Applicant will submit a revised site plan in compliance with EV parking requirements to the Planning Board for site plan review (see attached Proposed Electric Vehicle Plan).
			29 EV-ready spaces	
			94 EV-capable spaces	

4892-2203-7392, v. 1

² Per Easement Agreement dated October 21, 2016 and recorded in the Grafton County Registry of Deeds at Book 4252, Page 136.

TITLE COMMITMENT INFORMATION

THE PROPERTY HEREON DESCRIBED IS THE SAME AS THE PERTINENT PROPERTY AS DESCRIBED IN COMMONWEALTH LAND TITLE INSURANCE COMPANY, COMMITMENT FILE NO. 22CLT0009-NH, WITH AN COMMITMENT DATE OF FEBRUARY 16, 2022 AT 8:00 A.M.

LEGAL DESCRIPTION

TRACT I:

A CERTAIN PARCEL OF LAND WITH THE IMPROVEMENTS THEREON SITUATED IN THE CITY OF LEBANON, COUNTY OF GRAFTON, STATE OF NEW HAMPSHIRE, BEING SHOWN AS PLOT LOT 1 ON A PLAN OF LAND ENTITLED "MAJOR SUBDIVISION PLAT FOR ALTARIA LEBANON PARK, LLC PLANNED UNIT DEVELOPMENT," DATED JULY 16, 2013, PREPARED BY ROCKWOOD LAND SERVICES, LLC AND RECORDED IN THE GRAFTON COUNTY REGISTRY OF DEEDS AS PLAN NO. 14549.

TRACT II:

PARKING EASEMENT AGREEMENT DATED OCTOBER 21, 2016 AND RECORDED AT BOOK 4252, PAGE 136.

NOTES CORRESPONDING TO SCHEDULE B

12. TAKING FOR THE ALTERATION IN THE LOCATION OF NEW HAMPSHIRE ROUTE 120 BY VIRTUE OF PETITION DATED JANUARY 24, 1964 AND COMMISSIONER'S RETURN OF HIGHWAY LAYOUT DATED JUNE 2, 1964, INCLUDING RIGHTS AND EASEMENTS PERTAINING TO ACCESS, LIGHT, AIR AND VIEW, THE RIGHTS TO EXTEND AND MAINTAIN SLOPES AND EMBANKMENTS, AND THE RIGHTS TO CONSTRUCT AND MAINTAIN DRAINAGE, RECORDED AT BOOK 1002, PAGE 197. (NO PLATTABLE MATTERS AT THE SURVEYED PROPERTY CONTAINED IN THE TAKING DOCUMENT NOR DEPICED ON THE ASSOCIATED HIGHWAY LAYOUT PLAN)
13. RIGHTS OF OTHERS, IF ANY, IN AND TO THE "ONE MILE AND AN HALF SQUARE" TRACT REFERENCED IN INSTRUMENT RECORDED AT BOOK 9, PAGE 26. (UNABLE TO DETERMINE, INSIGNIFICANT LEGAL DESCRIPTION REFERENCE OUTDATED ADJOINERS FROM 1784)
14. CURRENT LAND USE TAXATION LIENS AS SET FORTH IN INSTRUMENT AT BOOK 1966, PAGE 220, AND ANY LAND USE CHANGE TAX TOGETHER WITH ANY INTEREST AND PENALTIES THEREON, WHICH MAY BECOME DUE PURSUANT TO NEW HAMPSHIRE RSA 79-A:7. (DOES NOT APPEAR TO AFFECT THE SURVEYED PROPERTY, LOT 12-3 REFERRED TO IN THE DOCUMENT IS LOCATED ABOUT 2300' TO THE NORTHEAST OF THE SURVEYED PROPERTY)
15. CURRENT LAND USE TAXATION LIENS AS SET FORTH IN INSTRUMENT RECORDED AT BOOK 1966, PAGE 808 AND ANY LAND USE CHANGE TAX TOGETHER WITH ANY INTEREST AND PENALTIES THEREON, WHICH MAY BECOME DUE PURSUANT TO NEW HAMPSHIRE RSA 79-A:7. (DOES NOT APPEAR TO AFFECT THE SURVEYED PROPERTY, LOT 12-10 REFERRED TO IN THE DOCUMENT IS LOCATED ABOUT 300' TO THE NORTHEAST OF THE SURVEYED PROPERTY)
16. RIGHTS OF ACCESS, AIR, VIEW AND LIGHT OVER, FROM OR TO THE LIMITED ACCESS HIGHWAY KNOWN AS ROUTE 120, AS REFERENCED IN DEED OF DAVID C. BOWEN AND EDITH B. BOWEN TO WILSON L. POLLARD DATED JANUARY 5, 1977, RECORDED AT BOOK 1301, PAGE 104. (NO PLATTABLE MATTERS, THE DOCUMENT REFERS TO THE SAME AS EXCEPTION 12 ABOVE)
17. THE TERMS SET FORTH IN A NOTICE OF ACTION BY THE LEBANON PLANNING BOARD DATED AUGUST 22, 2011, RECORDED AT BOOK 3935, PAGE 958. (CONDITION OF APPROVAL WAS THE APPLICANT FURNISHING THE TOWN WITH A CAD DRAWING OF THE LOT LINE ADJUSTMENT - NO PLATTABLE MATTERS)
18. MATTERS SHOWN ON PLAN NO. 15439 AND PLAN NO. 14549. (AFFECTS, PLOTTED AS SHOWN)
19. DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ALTARIA 1 - A PLANNED UNIT DEVELOPMENT LEBANON, NEW HAMPSHIRE, DATED OCTOBER 15, 2013 AND RECORDED AT BOOK 4019, PAGE 723, AS AMENDED BY AMENDMENT DATED DECEMBER 22, 2016 AND RECORDED AT BOOK 4258, PAGE 41. (PUBLIC EASEMENTS PLATTED HEREON)
20. THE TERMS SET FORTH IN A NOTICE OF ACTION BY THE LEBANON PLANNING BOARD DATED SEPTEMBER 11, 2011 AND RECORDED AT BOOK 4021, PAGE 158. SEE ALSO AFFIDAVIT OF COMPLIANCE DATED DECEMBER 22, 2017 AND RECORDED AT BOOK 4335, PAGE 528. (CONDITIONAL USE PERMIT PROVIDING IN PART A REDUCTION IN LOT SIZES REQUIRED IN ZONING TO THE CURRENT CONFIGURATION OF THE SURVEYED PROPERTY. CONTAINS PUBLIC EASEMENTS PLATTED HEREON)
21. EASEMENT FROM ALTARIA LEBANON PARK LLC TO GRANITE STATE ELECTRIC COMPANY DATED JANUARY 6, 2014, RECORDED AT BOOK 4040, PAGE 317. (UNABLE TO PLOT OR DETERMINE THE EXTENT OF THE ELECTRIC EASEMENT. THE EASEMENT LOCATION IS BASED ON THE AS-BUILT LOCATION OF THE UNDERGROUND ELECTRIC LINES. GRANITE STATE ELECTRIC COMPANY IS REPORTED TO HAVE AS-BUILT DOCUMENTS WHICH WERE NOT PROVIDE TO US AT THE TIME OF SURVEY)
22. WATER AND SEWER LINE TRANSFER AND ACCESS EASEMENT DEED DATED OCTOBER 21, 2016 AND RECORDED AT BOOK 4258, PAGE 44. (PLOTTED AS SHOWN)
23. PARKING EASEMENT AGREEMENT DATED OCTOBER 21, 2016 AND RECORDED AT BOOK 4252, PAGE 136. (PLOTTED AS SHOWN)

LEGEND

- FOUND MONUMENT AS-SNOTED
- (M) MEASURED/CALCULATED DIMENSION
- (R) RECORD DIMENSION
- BHL BUILDING HEIGHT LOCATION
- R/W RIGHT-OF-WAY
- N/F NOW OR FORMERLY
- PS PARKING SPACE(S)
- NG NATURAL GROUND
- PPT PROPANE TANK
- DS DUMPSTER STORAGE
- BOUNDARY LINE
- EASEMENT LINE
- RIGHT-OF-WAY LINE
- - - - - FENCE
- GUARDRAIL
- STONE
- BUILDING OVERHANG
- ZONING SETBACK LINE
- ⊕ WATER VALVE
- ⊕ FIRE HYDRANT
- ⊕ SANITARY MANHOLE
- ⊕ GRATED INLET
- ⊕ LIGHT POLE
- ➔ DIRECTION ARROW
- ⊕ DRAINAGE MANHOLE
- ⊕ CLEAN OUT
- ⊕ AIR CONDITIONER
- ⊕ HANDICAP PARKING SPACE
- ⊕ SIGN
- ⊕ ELECTRIC CABINET
- ⊕ TELEPHONE MANHOLE
- ⊕ ELECTRIC MANHOLE
- ⊕ FLAG
- ⊕ BIKE RACK
- ⊕ GENERATOR
- BOLLARD
- ⊕ EASEMENT HATCHING FOR SCHEDULE BII ITEMS 19 & 20

ZONING DATA

ZONING ITEM	REQUIRED	PARKING REQUIREMENTS
ZONING DESIGNATION	SEE NOTES	
MINIMUM LOT AREA (SQ.FT.)	2 ACRES	ACCORDING TO SECTION 607.1 TABLE OF MINIMUM OFF-STREET PARKING REQUIREMENTS, FOR HOTEL USES, 1:2 SPACES ARE REQUIRED PER UNIT PLUS RESTAURANT COMPONENT, IF APPLICABLE.
MAX BUILDING COVERAGE	50%	
MAX BUILDING HEIGHT	65 FT	
BUILDING SETBACKS		
FRONT	40 FT	AS SUCH, 144 PARKING SPACES ARE REQUIRED AT THE PROPERTY.
SIDE	20 FT	
REAR	20 FT	

NOTES:

ZONING DESIGNATION - "IND-L" LIGHT INDUSTRIAL ZONING DISTRICT.

CONTACT: AEI CONSULTANTS

REPORT DATE: 03/21/2022

REPORT #: 457071

SIGNIFICANT OBSERVATIONS

NONE OBSERVED AT THE TIME OF ALTA SURVEY.

REFERENCE PLANS

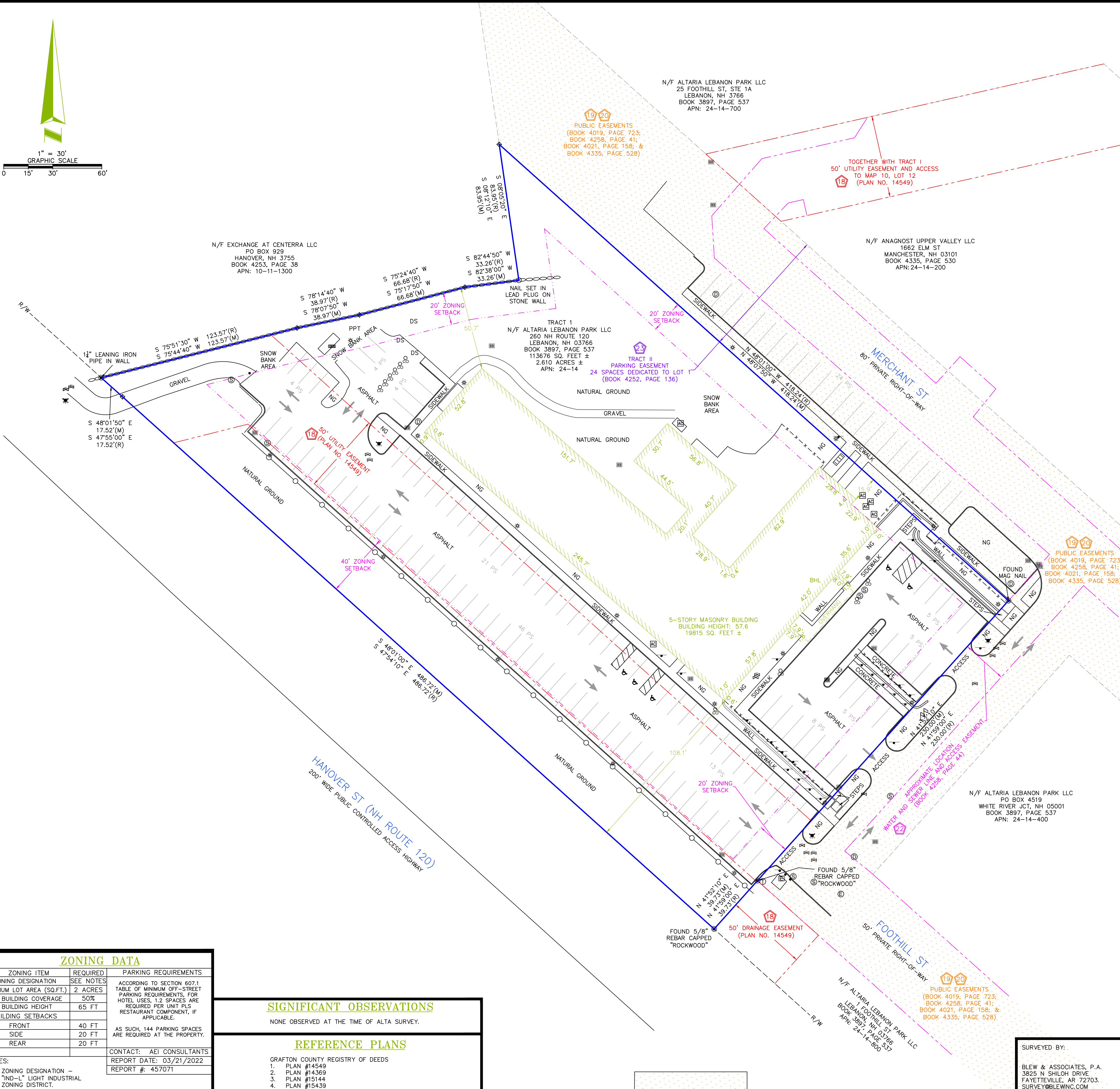
GRAFTON COUNTY REGISTRY OF DEEDS

1. PLAN #14549

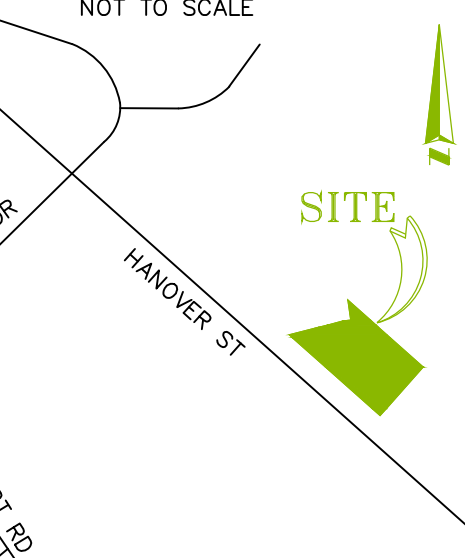
2. PLAN #14369

3. PLAN #15144

4. PLAN #15439



VICINITY MAP



SHEET 1 OF 1

LAND AREA

113,676± SQUARE FEET
2.610± ACRES

PARKING

REGULAR= 139
HANDICAP= 5
TOTAL= 144

FLOOD INFORMATION

FLOOD NOTE: BASED ON MAPS PREPARED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) AVAILABLE ONLINE AT WWW.MSC.FEMA.GOV. AND BY GRAPHIC PLOTTING ONLY, THIS PROPERTY IS LOCATED IN ZONE "X" ON FLOOD INSURANCE RATE MAP NUMBER 33009C0892E, WHICH BEARS AN EFFECTIVE DATE OF 02/20/2008 AND IS NOT IN A SPECIAL FLOOD HAZARD AREA. BY REVIEWING FLOOD MAPS PROVIDED BY THE NATIONAL FLOOD INSURANCE PROGRAM WE HAVE LEARNED THIS COMMUNITY DOES PARTICIPATE IN THE PROGRAM.

GENERAL NOTES

- NO UNDERGROUND UTILITIES ARE SHOWN ON THIS SURVEY, ONLY ABOVE GROUND VISIBLE EVIDENCE OF UTILITIES ARE SHOWN.
- ALL STATEMENTS WITHIN THE CERTIFICATION, AND OTHER REFERENCES LOCATED ELSEWHERE HEREON, RELATED TO: UTILITIES, IMPROVEMENTS, STRUCTURES, BUILDINGS, PARTY WALLS, PARKING, EASEMENTS, SERVITUDES, AND SIGNIFICANT OBSERVATIONS ARE BASED SOLELY ON ABOVE GROUND, VISIBLE EVIDENCE, UNLESS ANOTHER SOURCE OF INFORMATION IS SPECIFICALLY REFERENCED HEREON.
- THE SUBJECT PROPERTY HAS DIRECT PHYSICAL ACCESS TO FOOTHILL ST, A PRIVATE STREET.
- THERE WAS NO VISIBLE EVIDENCE OF CEMETERIES ON SUBJECT PROPERTY.
- THERE WAS OBSERVABLE EVIDENCE OF EARTH MOVING WORK, BUILDING CONSTRUCTION OR BUILDING ADDITIONS WITHIN RECENT MONTHS. THE BUILDING IS NOT YET OCCUPIED.
- BUILDING AREAS SHOWN HEREON ARE FOR THE FOOTPRINT OF THE BUILDING ONLY.
- THERE WERE NO APPARENT CHANGES IN STREET RIGHT-OF-WAY LINES EITHER COMPLETED OR PROPOSED, AND AVAILABLE FROM THE CONTROLLING JURISDICTION. NO OBSERVABLE EVIDENCE OF RECENT STREET OR SIDEWALK CONSTRUCTION OR REPAIRS.
- NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL SEAL OF A LICENSED SURVEYOR. ADDITIONS AND DELETIONS TO SURVEY MAPS, SKETCHES, OR REPORTS BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.
- THE NEAREST INTERSECTING STREET IS THE INTERSECTION OF FOOTHILL ST AND ALTA BLVD, WHICH IS APPROXIMATELY 493' FROM THE SOUTHEAST CORNER OF THE SUBJECT PROPERTY.
- THE DISTANCES SHOWN HEREON ARE UNITS OF GROUND MEASUREMENT.
- SNOW, SNOW PACK AND/OR ICE CONDITIONS WERE PRESENT ON THE DAY(S) OF THE FIELD SURVEY. SOME AREAS OF THE SITE MAY HAVE BEEN OBSTRUCTED AND THE VISIBILITY, OBSERVANCE AND/OR ACCESSIBILITY OF IMPROVEMENTS, UTILITIES AND/OR PAINT STRIPING MAY OR MAY NOT BE SHOWN ON THE ALTA SURVEY. THIS SURVEY IS SUBJECT TO CHANGE, ONCE SAID CONDITIONS DISSIPATE.

BEARING BASIS

THE BASIS OF BEARING FOR THIS SURVEY IS GRID NORTH PER NEW HAMPSHIRE STATE PLANE COORDINATE SYSTEM, SINGLE ZONE, NAD83-2011, AS PER PLAN #14549 OF GRAFTON COUNTY REGISTRY OF DEEDS.

ALTA/NSPS LAND TITLE SURVEY

AEI JOB #457071

25 FOOTHILL STREET

GRAFTON COUNTY LEBANON, NEW HAMPSHIRE 03766

SITE PICTURE



COORDINATED BY:

AEI CONSULTANTS
2500 CAMINO DIABLO
WALNUT CREEK, CA, 94597
TELEPHONE: 925.746.6000
EMAIL: SURVEYS@AEICONSULTANTS.COM

SURVEYOR'S CERTIFICATE

TO: BANK OF NEW ENGLAND, TOGETHER WITH ITS SUCCESSORS AND ASSIGNS; AAM LEBANON RESIDENCES, LLC; COMMONWEALTH LAND TITLE INSURANCE COMPANY:

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2021 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 2, 3, 4, 6A, 6B, 7A, 7B1, 7C, 8, 9, 13, 14, 16 AND 17 OF TABLE A THEREOF. THE FIELDWORK WAS COMPLETED ON 03/17/2022. DATE OF PLAT OR MAP: 03/18/2022.

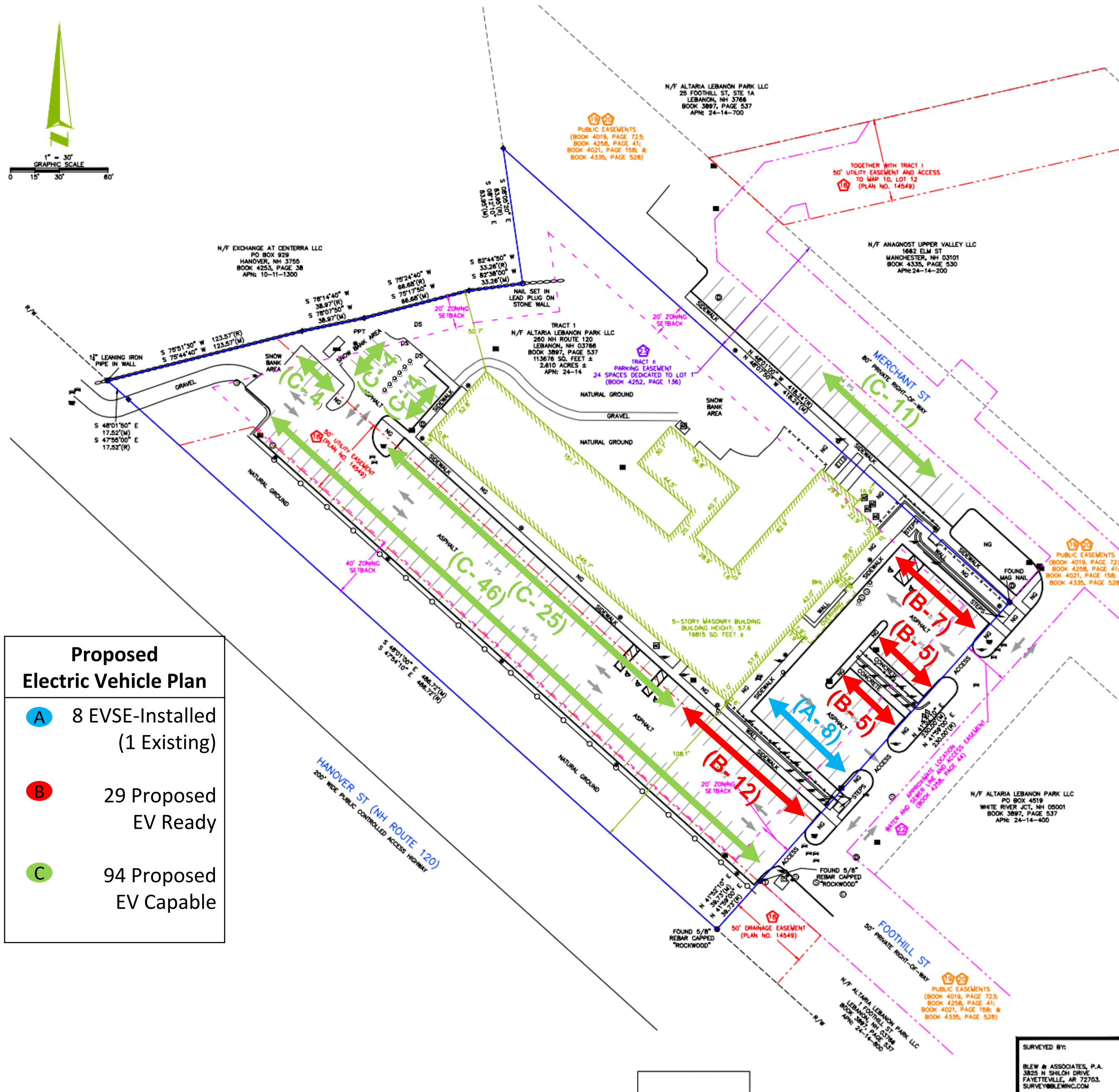


MICHAEL HAMMER
PROFESSIONAL LAND SURVEYOR NO.: 1036
STATE OF NEW HAMPSHIRE
NEW HAMPSHIRE C.O.A.: LLS 988

DATE	REVISION HISTORY	BY	SURVEYOR JOB NUMBER:
4/14/22	CLIENT COMMENTS	CKLS	22-1394
5/03/22	CLIENT COMMENTS/ZONING	DCO	SCALE: 1" = 30'
5/12/22	CLIENT COMMENTS	DCO	DRAWN BY: AZN
			APPROVED BY: JL

SURVEYED BY:

BLEW & ASSOCIATES, P.A.
3825 N SHILOH DRIVE
FAYETTEVILLE, AR 72703.
SURVEY@BLEWINC.COM

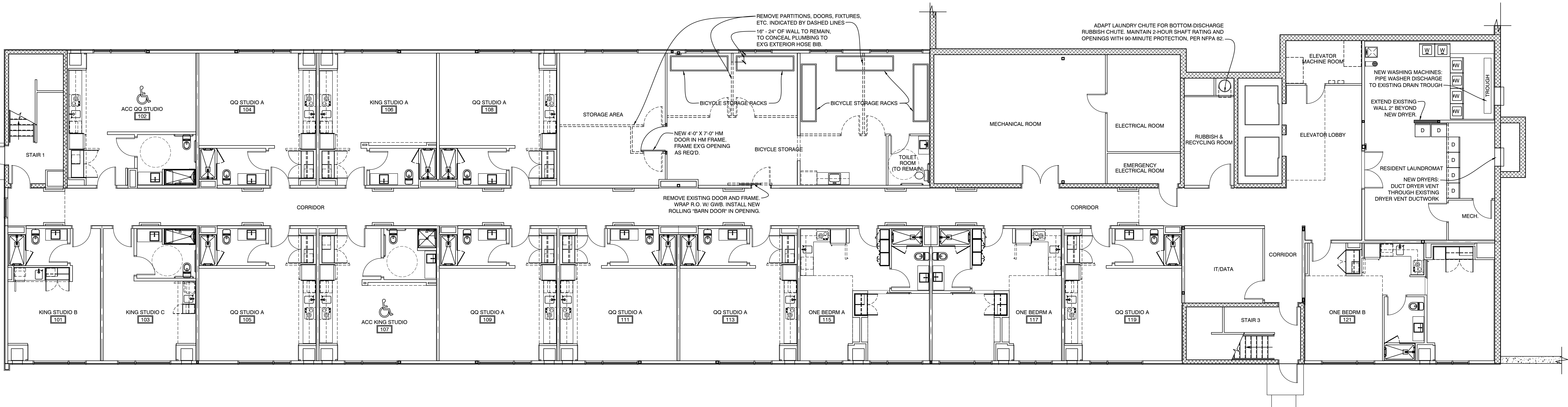


Proposed Electric Vehicle Plan	
A	8 EVSE-Installed (1 Existing)
B	29 Proposed EV Ready
C	94 Proposed EV Capable

SURVEYED BY:
BLEW & ASSOCIATES, P.A.
3825 N SHILOH DRIVE
FAYETTEVILLE, AR 72703
SURVEY@BLEWINC.COM



1 FIRST FLOOR PLAN
1/8" = 1'-0"



element hotel
25 Foothill Street
Lebanon, New Hampshire

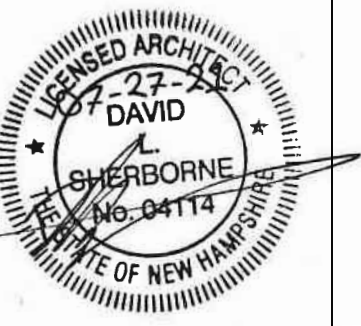
REVISION:
07-21-21 BARN DOOR ADDED @ BICYCLE STORAGE
07-27-21 BIKE RACK CONFIG, SINK & CABS TO REMAIN

ISSUED:
07-08-21
07-27-21 FOR BUILDING PERMIT

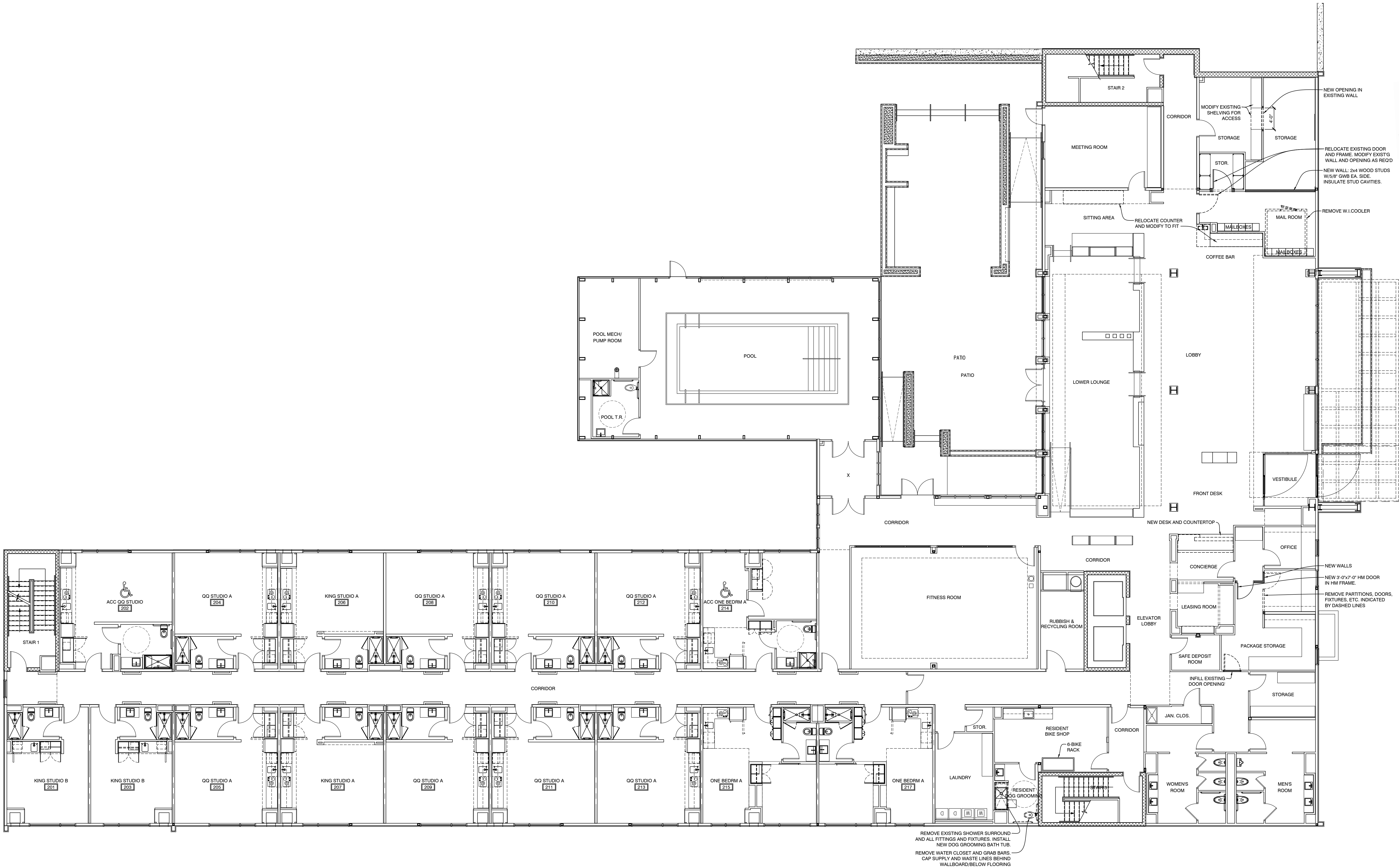
project architect: DLS
drawn by: BAR
revised by: BAR

1st FLOOR
RENOVATION
PLAN

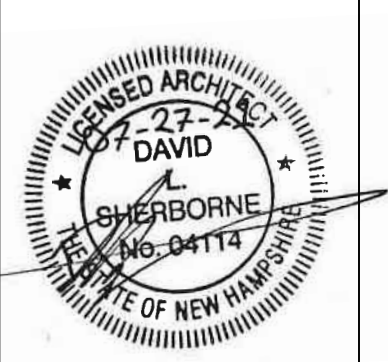
sheet number:
A1.01



OPECHEE
CONSTRUCTION CORPORATION
11 CORPORATE DRIVE
LEBANON, NH 03602
PHONE (603) 521-9900



1 SECOND FLOOR PLAN
1/8" = 1'-0"



element hotel
25 Foothill Street
Lebanon, New Hampshire

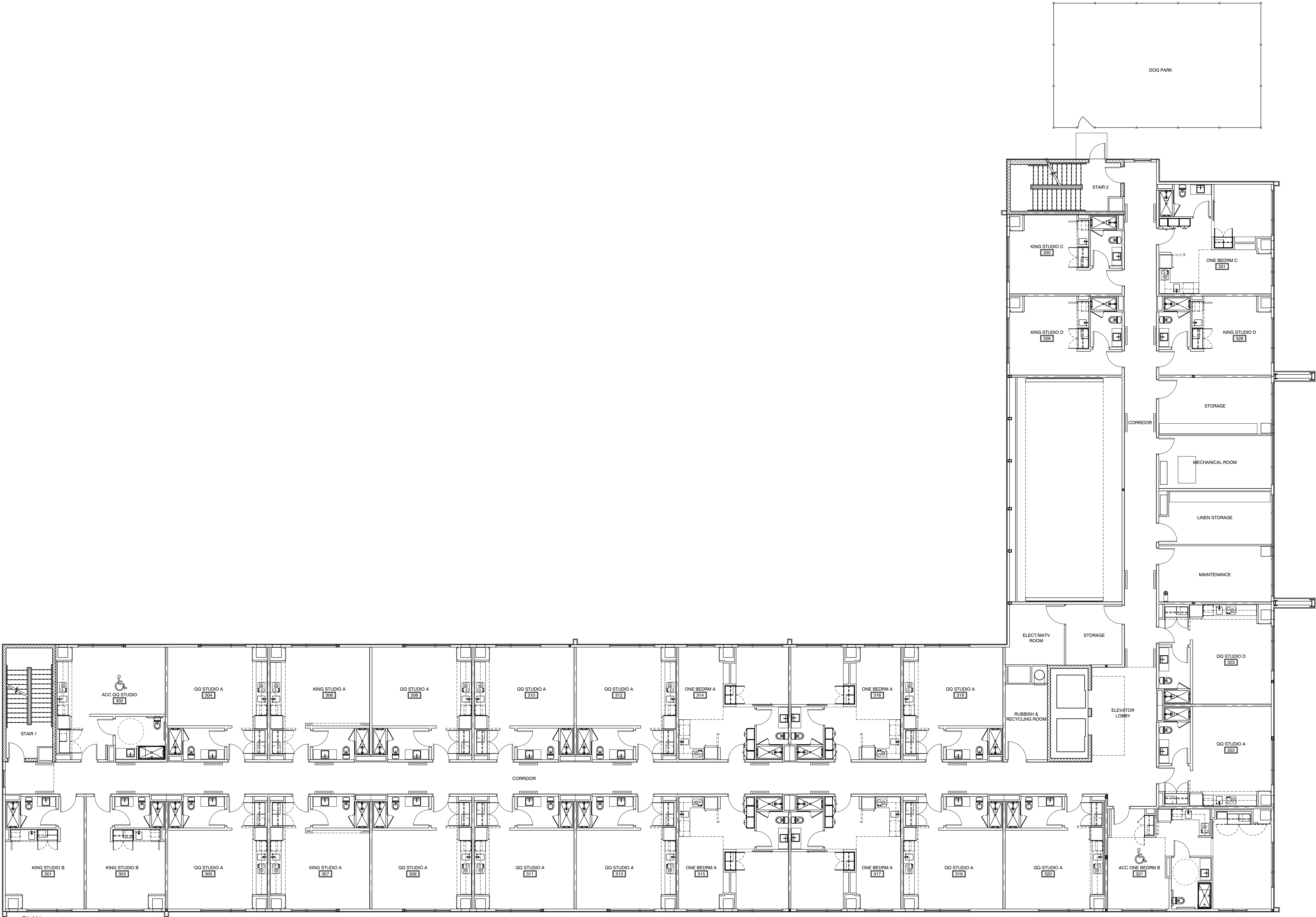
REVISION:
07-27-21 MAJUM STOR, PACKAGE STOR, BIKE REPAIR, DOG GROOM

ISSUED:
07-08-21
07-27-21 FOR BUILDING PERMIT

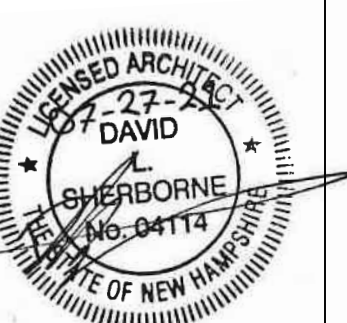
project architect: DLS
drawn by: BAR
revised by: BAR

2nd FLOOR
RENOVATION
PLAN

sheet number:
A1.02



1 THIRD FLOOR PLAN
1/8" = 1'-0"



element hotel
25 Foothill Street
Lebanon, New Hampshire

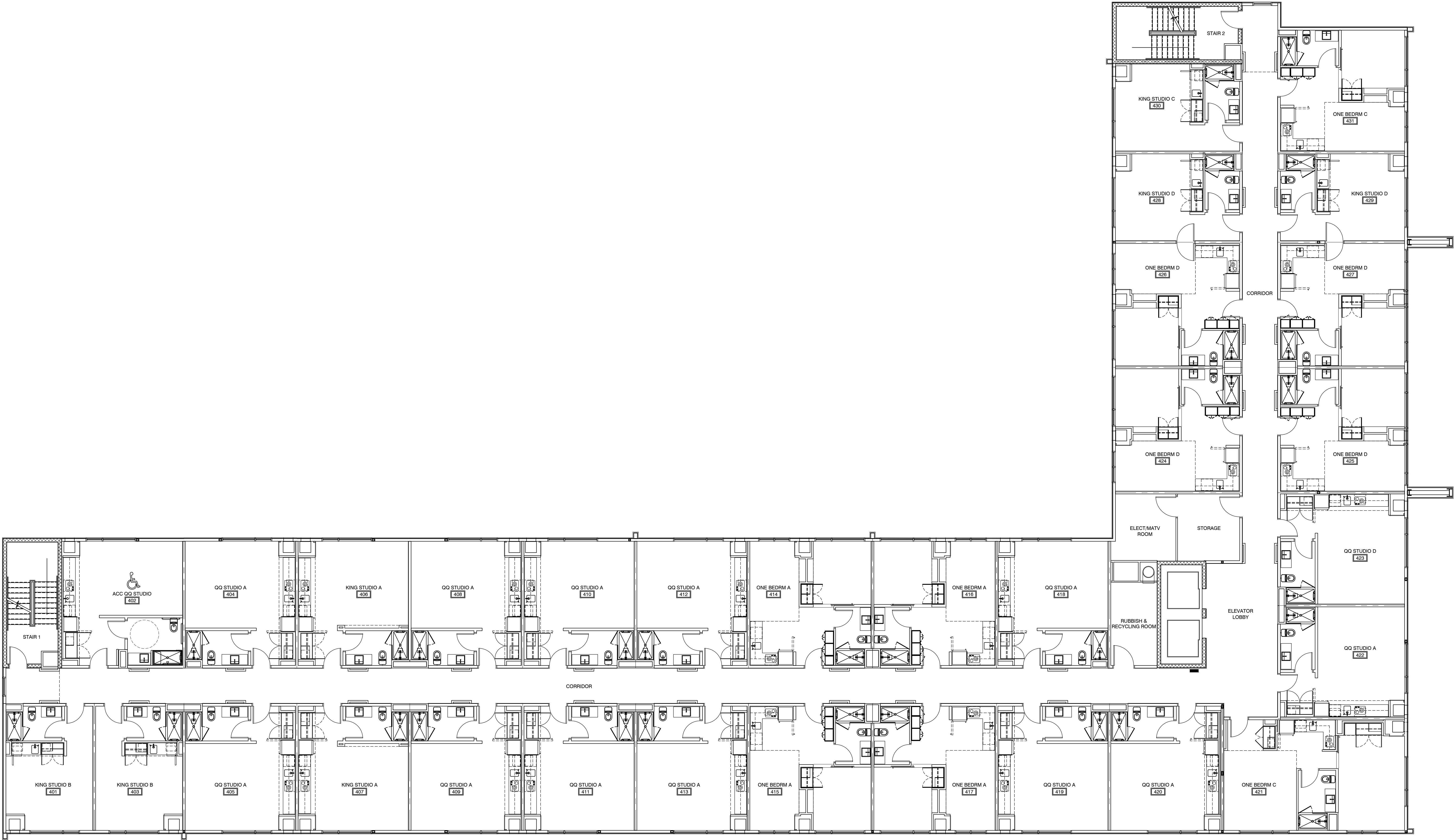
REVISION:
.

ISSUED:
07-08-21
07-27-21 FOR BUILDING PERMIT

project architect: DLS
drawn by: BAR
revised by: -

3rd FLOOR
RENOVATION
PLAN

sheet number:
A1.03



1 FOURTH FLOOR PLAN
1/8" = 1'-0"



element hotel
25 Foothill Street
Lebanon, New Hampshire

REVISION:
.

ISSUED:
07-08-21
07-27-21 FOR BUILDING PERMIT

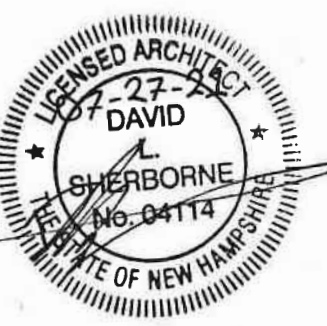
project architect: DLS
drawn by: BAR
revised by: -

4th FLOOR
RENOVATION
PLAN

sheet number:
A1.04



1 FIFTH FLOOR PLAN
1/8" = 1'-0"



element hotel
25 Foothill Street
Lebanon, New Hampshire

REVISION:
. . . .

ISSUED:
07-08-21
07-27-21 FOR BUILDING PERMIT

project architect: DLS
drawn by: BAR
revised by: -

5th FLOOR
RENOVATION
PLAN

sheet number:
A1.05

November 30, 2023

To the Zoning Board of Adjustment:

We, the members of the Lebanon Energy Advisory Committee (LEAC) are writing to comment on a request by AAM Lebanon Residences for a zoning variance to allow Hanover Place Apartments to offer leases longer than 184 days in what used to be the Element Hotel on Route 120. The zoning variance would change the building's classification from a hotel to a residential dwelling, according to reporting in *The Valley News*.

To the extent that the Zoning Board of Adjustment may grant a variance for this, it should condition its approval on compliance with Lebanon's Zoning Ordinance #2, adopted January 16, 2023, which requires installation of specified amounts of electric vehicle (EV) charging in new multi-unit housing developments. See pages 131-2 and 183-4 in the ordinance at <https://lebanonnh.gov/DocumentCenter/View/805/Current-Zoning-Ordinance-PDF>

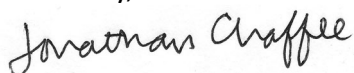
It is worth noting that in Section 103 of that document (see the bottom of page 6) it says that "No land in the City of Lebanon shall hereafter be used for building, development or otherwise and no structure shall be erected, enlarged, materially altered, moved or used, except in conformance with this Ordinance." In other words, the Ordinance applies to the hotel in question if it is to be granted a variance to become residential dwellings.

In Section 607.8 C.2, off-street parking in new multi-unit family dwellings must include, at minimum, 5% of parking spaces with EV chargers installed, 20% of spaces being EV-ready, and 65% of spaces being EV-capable. We don't know how many spaces are in the building's lot, but if there is at least 1 parking space for each of the 120 units, that would mean installation of at least six EV chargers, the infrastructure for 24 EV-ready spaces, and 78 EV-capable spaces.

To our knowledge, AAM Lebanon Residences has shown little interest in meeting the burgeoning demand for EV charging by drivers. None of the firm's other buildings at Alteria Business Park, including other residential buildings, offer EV charging, as far as we know. The Element Hotel had two EV chargers in its lot at one time that became dysfunctional because of a building fire. Those two charge ports appear to be inoperable. Meanwhile, the number of registered plug-in vehicles in Lebanon grew 127% between 2020 and 2022, according to data from the New Hampshire Department of Motor Vehicles. The number of EVs statewide grew 203% in that time period.

We urge the Zoning Board of Adjustment to follow Lebanon's Zoning Ordinance #2 and apply the EV charging requirements when considering the request for a zoning variance from AAM Lebanon Residents or any other developers.

Sincerely,



Jonathan Chaffee, Vice-Chair
Lebanon Energy Advisory Committee

September 28, 2023

City of Lebanon Planning Board
Attn: Nathan Reichert, Planning & Development Director
51 North Park Street
Lebanon, NH, 03766

Dartmouth Hitchcock Medical Center
Dartmouth Hitchcock Clinics Lebanon
Facilities Management

David F. Duncan
System Vice President
(603) 650-5738

Dear Nathan,

Tax Map: 24 Lot #14 Plot #100

I am writing in support of AAM Lebanon Residences, LLC's application for a variance to the zoning for its property located at 25 Foothill Street. The property, known as Hanover Place Residences, is an invaluable resource to Dartmouth Health as they work to address housing needs for critical hospital staff, who have direct impact on the health and well-being of the community.

Rezoning to allow longer-term leases will make more permanent housing available in the City of Lebanon. The City has a well-documented need for additional housing and the proposed variance will help make progress for the City and its residents. Dartmouth Health is supportive of changes that help meet the housing needs of the community, current and future employees and short-term travelling nurses and allied health professionals. Our health system is dependent on our highly-skilled workforce being able to live in and relocate to the Lebanon area to meet the growing demand for healthcare services in our region.

Travelling nurses and allied health technicians require short-term housing and typically work a 13 or 26 week contract. Under current lease limits at Hanover Place Residences, they are required to move between assignments which is dissatisfying, and could be a determining factor in accepting a contract extension. Travelers are often seeking furnished housing and units at Hanover Place Residences meet their needs. Longer-term leases will help to ensure our employees have a safe, convenient living situation close to our facilities.

If we can answer any question or provide additional supporting information, please do not hesitate to reach out.

Sincerely,

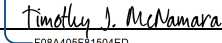
David F. Duncan
System Vice President



City of Lebanon
New Hampshire

CITY COUNCIL POLICY

ETHICS AND CONFLICT-OF-INTEREST FOR ELECTED AND APPOINTED CITY OFFICIALS

<i>Policy Number</i>	<i>Effective Date</i>	<i>Last Revision</i>	<i>Page No.</i>
CC-108 <i>Formally 12-02-C</i>	05/02/2012	08/04/2021	Page 1 of 6
<i>Approved by:</i>	City Council	DocuSigned by:  F08A405F81504ED...	

Section 1.0: PURPOSE

This policy is to set forth standards of ethical conduct to assist elected and appointed City officials when they are in the performance of their duties, so as to maintain and enhance a tradition of responsible and effective public service. As such, the City of Lebanon expects our elected and appointed City officials to:

- Act in the best interest of the City and not for any private or personal gain.
- Disclose any potential conflicts of interest— personal or pecuniary—in City matters that come before them for action.
- Recuse themselves from decision-making if they have a conflict of interest.
- Be honest, independent, impartial, and responsible in their actions.
- Make decisions and policies through the proper channels and procedures of government.
- Openly conduct the public's business, unless legally confidential under New Hampshire statute (RSA 91-A:3), in a respectful and civil atmosphere with due care, competence, and diligence.

Section 2.0: SCOPE

This policy applies to all City officials elected by the voters or appointed by the City Council.

Section 3.0: DEFINITIONS

Elected and Appointed City Official – City Councilors and Members of City Boards, Committees, and Commissions, when acting in a position other than as a member of the general public.

Body - A formal group of elected or appointed municipal officials, such as the City Council and any City Board, Committee, or Commission.



City of Lebanon
New Hampshire

CITY COUNCIL POLICY

ETHICS AND CONFLICT-OF-INTEREST FOR ELECTED AND APPOINTED CITY OFFICIALS

<i>Policy Number</i>	<i>Effective Date</i>	<i>Last Revision</i>	<i>Page No.</i>
CC-108 <i>Formally 12-02-C</i>	05/02/2012	08/04/2021	Page 2 of 6
<i>Approved by:</i>	City Council		

Conflict of Interest – A situation or circumstance in which one’s personal or pecuniary interest has the potential to interfere with the proper exercise of one’s public duty, particularly when deliberating or voting as a member of the City Council or any City Board, Committee or Commission. That interest must be “immediate, definite and capable of demonstration; not remote, uncertain, contingent or speculative” (*Atherton v. Concord*, 109 N.H. 164 (1968)).

Pecuniary Interest – Any private financial advantage (whether in the form of money, property, commercial or other interest), the primary significance of which is economic gain from the outcome of one’s official actions. Financial advantage applicable to the public at large, such as reduced taxes or increased general prosperity, does not constitute a pecuniary interest, for the purpose of this Ethics and Conflict-of-Interest Policy.

Personal Interest – Any direct benefit or non-financial interest in the outcome of a matter, when such benefit or interest could influence one’s official actions. Examples of direct personal benefit include family (by blood or marriage), employment, and/or business relationships that would bias one’s official decision-making against the public interest. Official interest as a function of one’s elected or appointed position does not constitute a personal interest, for the purpose of this Ethics and Conflict-of-Interest Policy.

Recuse – To remove or excuse oneself from participating in an official action due to an actual or potential conflict of interest. Recusal means removing oneself completely from all further participation as a public official in the matter in question. Elected or appointed City officials who are recused shall immediately leave the table of deliberation and sit in the audience with the other members of the general public. Recused officials shall not participate in further discussions unless they clearly state for the record that they are doing so only as a member of the general public.

Section 4.0: POLICY DETAIL



City of Lebanon
New Hampshire

CITY COUNCIL POLICY

ETHICS AND CONFLICT-OF-INTEREST FOR ELECTED AND APPOINTED CITY OFFICIALS

<i>Policy Number</i>	<i>Effective Date</i>	<i>Last Revision</i>	<i>Page No.</i>
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The proper operation of democratic government requires that elected and appointed public officials be independent, impartial, and responsible to the people; that government decisions and public policy be made through the proper channels of governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government officials to perform their duties free from private influence upon the public interest.

Section 5.0: PROCEDURES

1. Elected and appointed City officials shall avoid conflicts of interest and shall strive to recognize them.
2. When an elected or appointed City official recognizes a conflict of interest, he or she shall publicly disclose the reason(s) for the conflict at the earliest possible opportunity and shall recuse himself or herself from any and all official activity on the matter to which the conflict pertains.

When an uncertainty arises as to whether an elected or appointed City official has a conflict of interest in a particular circumstance, the body shall, at the request of that official or of another member of that body, vote on the question. Such vote shall be advisory and non-binding. Any member of the public may voice an objection to a body officials' participation, setting forth specific reasons, and may also request such a vote, but such a request shall be non-binding. Any such request or objection shall be made either prior to or at the commencement of the body's discussion or public hearing on that matter, or at such later time as the facts claimed to warrant disqualification first become known. No vote on disqualification shall be taken if the body's official steps down voluntarily.

The mayor, chair or presiding officer of the meeting shall ensure that the reason(s) for recusal are clearly stated (as stated by the member in person) and are recorded into the minutes of the meeting. Members of the Planning Board, Zoning Board of Adjustment, Building



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Code Board of Appeals, and Heritage Commission are further bound by the provisions of New Hampshire RSA 673:14.

3. Elected and appointed City officials shall not directly or indirectly solicit gifts, nor accept or receive any gift (whether money, services, loans, travel, entertainment, hospitality, equipment, premises or in some other form), under circumstances in which it could be reasonably inferred that the gift was intended to influence them in the performance of their duties or was intended as a reward for any recommendation or decision on their part.
4. Elected and appointed City officials shall not disclose nor improperly use confidential information obtained in the course of their official duties.
5. Elected and appointed City officials shall not use City letterhead or stationery for any purpose other than official City business. Under the City Charter, official City business is determined by formal action of the City Council and not by individual City Councilors. Members of Boards, Committees, and Commissions may use City letterhead only for purposes approved by their respective Board, Committee, or Commission.
6. Elected and appointed City officials shall not speak on behalf of their respective Council, Board, Committee, or Commission unless authorized to do so by said Council, Board, Committee, or Commission. Individual members speaking publicly shall clearly state that they are speaking only as an individual and not on behalf of the Council, Board, Committee, or Commission.
7. No member of the City Council, nor any member of a Board, Committee, or Commission, shall appear before his or her own public body on behalf of the private interests of third parties.

5.1 Distribution



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The City Clerk shall be responsible for providing a copy of this Ethics and Conflict-of-Interest Policy to all elected and appointed City officials, as defined in this Policy, upon its issuance and upon the subsequent appointment or re-appointment of any said official. The City Clerk shall have each elected and appointed City official sign a statement that he or she has read this Policy and shall comply with all requirements set forth in this Policy. This signed statement shall be available for public review.

5.2 Complaints

Complaints shall be addressed by the City Council in a manner to be determined by the body in accordance with the provisions of ADM-126.1. Boards, Committees, and Commissions are expected to govern themselves. If the complaint cannot be resolved at that level, it may be brought to the City Council for resolution.

The City Council shall consider compliance with this Ethics and Conflict-of-Interest Policy during the reappointment process for members of Boards, Committees, and Commissions.

Section 6.0: REFERENCES

1. ADM-126.1 Complaints & Investigations Policy
2. NH RSA 673:14 Disqualification of Member
3. NH RSA 95:1 Public Officials barred from certain private dealings
4. NH RSA 640:2 Bribery in official and political matters
5. NH RSA 640:3 Improper Influence
6. NH RSA 640:4 Compensation for Past Action
7. NH RSA 640:5 Gifts to Public Servants
8. NH RSA 640:6 Compensation for Services
9. NH RSA 640:7 Purchase of Public Office
10. City of Lebanon, Charter C419:20 Dealings of Council with City.
11. City of Lebanon, Charter C419:29 Non-Interference by the Council.
12. City of Lebanon, Charter C419:62 Disqualification of Councilor, Board Member or Employee.
13. City of Lebanon, Charter C419:63 Private Use of Public Property.



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14. NH RSA 49-C:33 Optional Provisions: Limitations, Section I(c).

Section 7.0: POLICY & PROCEDURE REVISION HISTORY

	Section	Revisions	Date
Original Adoption		Initially adopted 12-02-C	5/2/2012
Amendment		Reformatted, references added, renumbered	8/4/2021