FINAL

LEBANON PLANNING BOARD
Regular Session
Monday, November 13, 2023, 6:30 PM
Council Chambers, City Hall
or Remote Via Microsoft Teams
LebanonNH.gov/Live

MEMBERS PRESENT: Matthew Hall (Chair), Jeremy Rutter (Vice Chair), Karen Zook (City Council Rep), Richard Ford-Burley, Andrew Faunce, Bruce Garland, Patrick Kennelly, Kathie Romano-Remote, Laurel Stavis

MEMBERS ABSENT:

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

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1. Call to Order

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

2. Notice of Regional Impact

The following applications were received by the Planning and Development Department on or before November 13, 2023:

> **J-Powerhouse Plaza, LLP, 10 Benning Street (Tax Map 115, Lot 19), zoned GC:** Applicant requests a Conditional Use Permit per Section 607.6.B of the Zoning Ordinance to reduce the minimum number of required parking spaces for the Powerhouse Plaza shopping center. **PB2023-**

Mr. Corwin stated that the above application does not have the potential for regional impact.

A MOTION by Jeremy Rutter that the application of J-Powerhouse Plaza, LLP, 10 Benning Street (Tax Map 115, Lot 19), zoned GC, does not have the potential for regional impact.
The motion was seconded by Laurel Stavis.
Voting in Favor – Ms. Stavis, Mr. Ford-Burley, Mr. Garland, Mr. Hall, Mr. Rutter, Ms. Zook, Mr. Kennelly, Mr. Faunce, Ms. Romano
Voting Against – None
****The MOTION was approved (9-0).***

3. Public Hearing Items

A. **Johanna Cicotte & Edwards Properties, LLC, 30 Little Heater Road (Tax Map 78, Lot 61) and 1 Edwards Street (Tax Map 78, Lot 56), zoned IND-L:** Request for a Boundary Line Adjustment. **PB2022-42-BLA - Continued from October 9, 2023**

Attorney Barry Schuster appeared in support of the application.

Atty. Schuster explained the history of the Heater Road property and the boundary lines. Mr. Corwin noted that the research was undertaken due to concerns expressed by an abutter, and those concerns have been resolved.

Chair Hall invited Public Comment. There was none.

Chair Hall closed the Public Hearing.

A MOTION by Jeremy Rutter that the Lebanon Planning Board **APPROVE** the application of Johanna Cicotte & Edwards Properties, LLC, for a proposed Boundary Line Adjustment between 30 Little Heater Road (Tax Map 78, Lot 61) and 1 Edwards Street (Tax Map 78, Lot 56), PB2023-42-BLA, as shown on a plat titled "Boundary Line Adjustment Plan - Johanna Marie Cicotte and Edwards Properties, LLC", prepared by Paton Land Surveying, LLC, dated August 30, 2022, last revised January 12, 2023, Project No. 2021-282-60A, including any and all supplemental submissions and testimony provided during the public hearing.

In support of its decision, the Board finds that the applicant has submitted plans, testimony, and technical data prepared by a licensed land surveyor that together satisfactorily demonstrate compliance with the applicable requirements of the Subdivision Regulations except as may reasonably be addressed through the imposition of certain conditions of approval, set forth below.

This approval is subject to the following conditions:

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

A. Conditions to be satisfied prior to the signing and recording of the plat

1. The applicant shall provide a revised plat depicting the following changes to the satisfaction of the Planning and Development Department:
    a. Remove boundary lines within the former Edwards Street and Foch Street rights-of-ways that were eliminated with the voluntary merger of Lots 78-56, 78-49, and 78-58.
    b. For clarity, add recording information for reference plans 1 and 2.
    c. For clarity, add "See Ref Plan 2" to Note 5.
    d. Correct "Lots Before Boundary Adjustment" and "Lots After Boundary Adjustment" graphics to accurately depict Lot 78-56.
    e. For clarity, remove all references to lots that no longer exist and/or add a new note (Note 6) regarding the history of Lot 78-56. In the alternative, update notes for Lot 78-56 to identify Lot 78-49 as one of the former lots, include related deed reference, and identify recording information for the Voluntary Lot Merger of Tax Map 78, Lot 56; Tax Map 78, Lot 58; and Tax Map 78, Lot 49 (PB2023-32-VLM) approved on 9/13/23.
    f. Provide revision date and description of revisions.

2. The applicant shall provide to the Planning and Development Department a draft copy of the deed of the land transfer for review to ensure the transfer will be completed properly for Assessing and recording purposes.

3. The applicant shall provide to the Planning and Development Department a digital record drawing (Cad .dwg Format using NH State Plane Coordinate system).

B. **General Conditions**

1. The plat shall be recorded by no later than two (2) years from the date of the Notice of Action (Section 7.12.B of the Subdivision Regulations).

The motion was seconded by Bruce Garland.
Roll Call Vote:
Voting in Favor – Ms. Stavis, Mr. Ford-Burley, Mr. Garland, Mr. Hall, Mr. Rutter, Ms. Zook, Mr. Kennelly, Mr. Faunce, Ms. Romano
Voting Against – None
****The MOTION was approved (9-0).***

A MOTION by Jeremy Rutter that the Lebanon Planning Board authorizes the Chair to sign the Boundary Line Adjustment plat of Johanna Cicotte & Edwards Properties, LLC, PB2023-42-BLA, "Boundary Line Adjustment Plan - Johanna Marie Cicotte and Edwards Properties, LLC", prepared by Paton Land Surveying, LLC, dated August 30, 2022, last revised January 12, 2023, Project No. 2021-282-60A, as revised per the Planning Board's conditions of approval.

The motion was seconded by Bruce Garland.
Roll Call Vote:
Voting in Favor – Ms. Stavis, Mr. Ford-Burley, Mr. Garland, Mr. Hall, Mr. Rutter, Ms. Zook, Mr. Kennelly, Mr. Faunce, Ms. Romano
Voting Against – None
****The MOTION was approved (9-0).***

E. **City of Lebanon, 5 Airpark Road, 0 Hall Road & 0 Poverty Lane (Tax Map 131, Lot 1, Tax Map 159, Lot 7 & Tax Map 161, Lot 3), zoned IND-L, RL-1 & RL-3:** Request for Site Plan Review for safety improvements to taxiways, runways, relocate ILS localizer and shelter building together with related modifications to grading, drainage and electrical. **PB2023-39-SPR** (NOTE: This application will be reviewed as a Governmental Land Use pursuant to RSA 674:54)

Airport Manager Karl Gross appeared with Senior Environmental Project Manager Gregg Cohen and Associate Leslie Merrithew of Stantec in support of the application.

Ms. Merrithew shared a presentation and provided an overview of the safety improvements planned for the airport.

Mr. Vincent inquired about the state permits for the project. Mr. Gross noted that two permits will be required, and they are meeting with the State tomorrow.

The Board members inquired about

Chair Hall invited public comment.

David McLaughlin, an abutter, expressed concern regarding the grading and water runoff. Ms. Merrithew stated that there are no modifications to the terrain. Mr. Cohen explained the purpose of the Alternation of Terrain Permit and the provisions for protecting abutting property. Ms. Merrithew highlighted the new path for drainage away from the McLaughlin property and the plan for buffers to manage drainage.

Sue Reed inquired about the path of the runoff. Ms. Merrithew described the swales that are being created along with storm drains that will collect and manage stormwater. Mr. Cohen commented on the water conveyance system.

Chair Hall ended the discussion.

B. **Mason Storage, LLC, 38 Spencer Street (Tax Map 78, Lot 39), zoned LD:** Applicant requests an extension of time per Section 4.10.B of the Site Plan Review Regulations to obtain a building permit pursuant to an approved site plan for a 15,000 sq. ft. addition to an existing storage building, originally approved on October 25, 2021 (PB2021-13-SPR). **PB2023-36-EXT**

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

A MOTION by Jeremy Rutter that the application of Mason Storage, LLC, 38 Spencer Street (Tax Map 78, Lot 39), zoned LD, is complete enough for the Planning Board to accept jurisdiction and commence review.
The motion was seconded by Bruce Garland.
Roll Call Vote:
Voting in Favor – Ms. Stavis, Mr. Ford-Burley, Mr. Garland, Mr. Hall, Mr. Rutter, Ms. Zook, Mr. Kennelly, Mr. Faunce, Ms. Romano
Voting Against – None
****The MOTION was approved (9-0).***

Mr. Corwin distributed copies of two letters received by the Planning Department, one from Tackle Partners LLC, dated November 10, 2023, and the second from Community National Bank dated November 13, 2023.

Attorney Barry Schuster, Architect Frank Barrett, Jr., and Jeff Luter of Fulcrum Associates appeared in support of the application. Mason Storage owner Shawn Mason was also in attendance.

Atty. Schuster reviewed the applicable section of the regulations.

Mr. Barrett stated that a pre-engineered building is planned for the site. Over the two years, various manufacturers have been reviewed toward creating a budget. Several mitigating circumstances were cited as impacting the schedule. Without the extension, all the work to date would be wasted.

Mr. Luter stated that he joined as production manager and noted that it now takes 24 months to plan such a project rather than 12 months. Atty. Schuster noted that everything has been submitted to the Planning Department.

Mr. Corwin stated that both an extension for obtaining a building permit and achieving substantial progress need to be met within the two years already granted. Chair Hall inquired if there would need to be an adjustment to the plan. Mr. Barrett stated that most specifications for the building are the same, and no changes are needed. Mr. Mason stated that they are ready to obtain a building permit, and the changes required have been made.

Mr. Garland asked that the applicant explain the impact of the pandemic on the project. Mr. Barrett stated that the amount of available labor has decreased, and timeframes have doubled.

Mr. Faunce inquired about the time required to obtain the building permit and substantial completion. Mr. Barrett stated that the building permit would take two months, and substantial completion could likely be achieved in an additional six months or by June 2024. Mr. Rutter inquired if six months for the building permit and a year for the substantial completion would be acceptable. Mr. Corwin and Atty. Schuster both stated that the requested time would be adequate.

Ms. Romano suggested that being somewhat generous would be reasonable. It was agreed that a year would be an acceptable time.

Chair Hall closed the Public Hearing.

A MOTION by Jeremy Rutter that the Lebanon Planning Board **APPROVE** the application of Mason Storage, LLC, PB2023-36-EXT, for an extension of time per Section 4.10.B of the Site Plan Review Regulations to obtain a building permit pursuant to an approved site plan for a 15,000 sq. ft. addition to an existing storage building at 38 Spencer Street (Tax Map 78, Lot 39), zoned LD, originally approved on October 25, 2021 (PB2021-13-SPR), and for an extension of time per Section 8.4.A.3 to achieve active and substantial development, per application materials submitted and including any and all submissions and testimony provided for and during the public hearing.

In support of its decision, the Board finds that:

1. The applicant **HAS** submitted a complete and timely request for an extension pursuant to Section 4.10.B of the Site Plan Review Regulations;

2. Per Section 4.10.B, the applicant **HAS** demonstrated that an extension of time to obtain a building permit is warranted, considering the totality of the circumstances, including the extent and complexity of the conditions precedent, the extent of the progress made by the Applicant toward satisfying the conditions-precedent and/or starting construction, and whether the need for more time is attributable to unusual circumstances beyond the control of the Applicant rather than to the Applicant's neglect or failure to proceed with reasonable promptness; and

3. Per Section 8.4.A.3, the applicant **HAS** demonstrated good cause for an extension of time to achieve active and substantial development.

This approval is subject to the following conditions:

1. A building permit must be applied for *and issued* by no later than May 13, 2024.

2. "Active and substantial development," as defined in Section 8.4.A.1 of the Site Plan Review Regulations, shall be achieved by no later than October 25, 2024. If active and substantial development is not achieved by October 25, 2024, the development shall be subject to all changes in the City's land use regulations.

3. "Substantial completion," as defined in Section 8.4.B.1 of the Site Plan Review Regulations, shall be achieved within five (5) years of the October 25, 2021 approval for PB2021-13-SPR. If substantial completion is not achieved within that time, the development shall be subject to all changes in the City's land use regulations.

4. The applicant shall satisfy and comply with the Planning Board Notice of Action for PB 2021-13-SPR, dated October 25, 2021, and all conditions of approval thereof.

The motion was seconded by Richard Ford-Burley.
Roll Call Vote:
Voting in Favor – Ms. Stavis, Mr. Ford-Burley, Mr. Garland, Mr. Hall, Mr. Rutter, Ms. Zook, Mr. Kennelly, Mr. Faunce, Ms. Romano
Voting Against – None
****The MOTION was approved (9-0).***

C. **195 Mechanic Street, LLC, 195 Mechanic Street (Tax Map 105, Lot 114), zoned GC:** Applicant requests a Conditional Use Permit pursuant to Article III, Sections 305.2, 302.4(B) of the Zoning Ordinance to fit up 968 sq ft of space for an animal surgical center. **PB2023-37-CUP**

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

A MOTION by Bruce Garland that the application of 195 Mechanic Street, LLC, 195 Mechanic Street (Tax Map 105, Lot 114), zoned GC, is complete enough for the Planning Board to accept jurisdiction and commence review.
The motion was seconded by Jeremy Rutter.
Roll Call Vote:
Voting in Favor – Ms. Stavis, Mr. Ford-Burley, Mr. Garland, Mr. Hall, Mr. Rutter, Ms. Zook, Mr. Kennelly, Mr. Faunce, Ms. Romano
Voting Against – None
****The MOTION was approved (9-0).***

Mr. Corwin apologized for the late Staff Memo.

Jeremy Greeley, AIA, of R.T. Mudge & Assoc. Architects and Ed Kerrigan, property owner, appeared in support of the application.

Mr. Greeley described the request and noted that there are no significant changes to the building. Mr. Kerrigan provided details on the veterinary use.

Mr. Corwin noted that the Board members can ask questions.

Mr. Ford-Burley inquired about the square footage and asked for confirmation. Mr. Kerrigan stated that Dr. Kelly's veterinary office in Montpelier sustained significant damage, and there would be a vet working three days a week. There would be no change in the original square footage.
Mr. Ford-Burley noted that Staff recommended that no animals be housed overnight. Ms. Stavis inquired if this would be a permanent change of the location for Dr. Kelly's Montpelier office. Mr. Kerrigan stated

that the Montpelier location was severely damaged, and Dr. Kelly would like to relocate his veterinary surgery to Lebanon.
Mr. Corwin noted that there is discrepancy in the square footage regarding the original approval and the new request. The size of each unit in the commercial space needs to be clarified. Mr. Kerrigan stated that the commercial space is the same as originally approved. He added the size for each use of the space. Mr. Greeley confirmed the parking required.

Jeremy Rutter read the following into the record:
On November 13, 2023, at a duly noticed meeting of the Lebanon Planning Board, there appeared Jeremy Greeley, AIA, and Ed Kerrigan, Owner, on behalf of 195 Mechanic Street, LLC, regarding 195 Mechanic Street (Tax Map 105, Lot 114), zoned GC. Applicant requests a Conditional Use Permit per Section 305.2 of the Zoning Ordinance to fit up 968 sq. ft. of space for an animal surgical center. PB2023-37-CUP

I. <u>FINDINGS OF FACT</u>

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

1. The property is improved with a four (4)-story building containing 27 dwelling units with an attached one-story 4,500 sq. ft. (per City Assessor records) commercial building, constructed in 2021 pursuant to a site plan approved by the Planning Board on November 12, 2019 (PB2019-28-SPR).

2. The applicant proposes to use a 968 sq. ft. portion of the one-story commercial section of the building for an "animal surgical center," which is considered a "care and treatment of animals" use per the City of Lebanon Zoning Ordinance.

3. "Care and treatment of animals" is defined in Appendix A of the Zoning Ordinance as, "A veterinary establishment, riding school or kennels," and, pursuant to Section 305.2 of the Zoning Ordinance, is allowed in the GC District by Conditional Use Permit from the Planning Board.

4. Per Section 302.4.B of the Zoning Ordinance, the Planning Board may grant a Conditional Use Permit if it finds that the proposal meets the Enhanced Performance Standards set forth in Section 302.4.D.

II. <u>CONCLUSIONS OF LAW</u>

As a result of the above findings of fact and based on testimony given, application materials presented, and supporting documents submitted, the Planning Board concludes the following with respect to the Enhanced Performance Standards set forth in §302.4.D of the Zoning Ordinance:

1. The site **IS** suitable for the proposal. (§302.4.D.1)

2. The external impacts of the proposed use on abutting properties and the neighborhood **IS** commensurate with the impacts of adjacent existing uses or other uses permitted in the zoning district. (§302.4.D.2)

3. The criteria set forth in Section 302.4.D.3, 4 and 5 relate to new construction and, since no new construction is proposed, are inapplicable to the subject application.

III. DECISION

Now therefore be it resolved, the Planning Board, on this **13th day of November, 2023,** hereby **GRANTS** the request of 195 Mechanic Street, LLC, for a Conditional Use Permit per Section 305.2 of the Zoning Ordinance to convert a portion of the existing building at 195 Mechanic Street (Tax Map 105, Lot 114) to a care and treatment of animals use as set forth above and per testimony, plans, and materials submitted.

The motion was seconded by Bruce Garland.
Roll Call Vote:
Voting in Favor – Ms. Stavis, Mr. Ford-Burley, Mr. Garland, Mr. Hall, Mr. Rutter, Ms. Zook, Mr. Kennelly, Mr. Faunce, Ms. Romano
Voting Against – None
****The MOTION was approved (9-0).***

D. **LVM Residential, LLC, 1 Foundry Street, 25 & 43 Mechanic Street (Tax Map 91, Lots 263 & 267 & 106-34) zoned LD:** Pursuant to Section 9.1 of the Site Plan Review Regulations, applicant requests a modification to a previously approved Site Plan (PB2022-36-SPR) for a phased, 196-unit multi-family complex. Applicant proposes to reduce the number of dwelling units to 183 and to revise the building site configuration, together with related modifications to parking, utilities, landscaping, access, and other site improvements. Applicant also requests a Conditional Use Permit pursuant to Section 607.5.A of the Zoning Ordinance to allow off-lot parking at 43 Mechanic Street for the benefit of 1 Foundry Street. **PB2023-38-SPA - *Completeness review only on 11/13/2023, public hearing to commence on 12/11/2023***

Mr. Corwin stated that Staff recommends that the application is complete enough for the Planning Board to accept jurisdiction and commence review. The Board members inquired about changing the actual hearing of this application to this evening. Mr. Corwin stated that all the information is available, which was not expected. Chair Hall suggested moving forward and continuing the hearing for public comment. Councilor Zook agreed with the plan.

A MOTION by Bruce Garland that the application of LVM Residential, LLC, 1 Foundry Street, 25 & 43 Mechanic Street (Tax Map 91, Lots 263 & 267 & 106-34) zoned LD, is complete enough for the Planning Board to accept jurisdiction and commence review.
The motion was seconded by Richard Ford-Burley.
Roll Call Vote:
Voting in Favor – Ms. Stavis, Mr. Ford-Burley, Mr. Garland, Mr. Hall, Mr. Rutter, Ms. Zook, Mr. Kennelly, Mr. Faunce, Ms. Romano
Voting Against – None
****The MOTION was approved (9-0).***

Property Owner John Livadas, Nik Fiore of Engineering Ventures, and Ruthie Kuhlman and Eric Robinson of RODE Architects appeared in support of the application.

Mr. Livadas stated that one of the buildings was eliminated due to its negative impact on the overall project.

Ms. Kuhlman shared a presentation detailing the changes to the original plan. There will be fewer units with the same level of parking.

Mr. Corwin noted that there are proposed conditions of approval.

Chair Hall inquired about merging the lots. Mr. Livadas stated that it is easier for future development and financing to have them remain separate.

Mr. Garland asked for a review of the phasing plan. Mr. Livadas shared the phasing plan. Building 2 will be demolished.

Mr. Ford-Burley inquired about an updated plan. Mr. Livadas confirmed that the Mill Yard is the center of the site and is remaining.

Mr. Kennelly inquired about the parking. Mr. Livadas stated that parking spaces will be assigned. Mr. Rutter also inquired about the parking capacity. Mr. Livadas noted that the amount of parking will remain the same.

Ms. Romano inquired about handicap accessible parking. Ms. Kuhlman confirmed that it would not change. Ms. Romano asked about the transit pickup location being moved to a pullout where the building is being removed. Mr. Fiore stated that they would be putting in a bus stop by 25 Mechanic St. Ms. Romano noted that other developments have provided a pullout for the bus stop, which provides safety. She inquired about the mill building's location near the river. Ms. Kuhlman stated that the mill building is still adjacent to the flood plain. Ms. Romano inquired about the parking easement. Mr. Livadas stated that the easement would remain in place. They will come back to the Board if the parking changes. There is no option for creating a pullout currently.

Mr. Faunce inquired about commenting on other aspects of the project outside of the immediate request. Mr. Corwin stated that the discussion should be related to the pending request. Mr. Faunce noted that the previous review of the project overlooked the options for public transportation. He asked that they consider the public transportation.

Ms. Stavis stated that she agrees with the Chair that the considerations should be limited to the request at hand, and the City should take responsibility for amending the public transit situation. Mr. Corwin stated that there is a condition associated with public transit.

Mr. Garland inquired about the start date for the project. Mr. Livadas stated that a late summer start is expected, and they are excited about providing access to the river.

Mr. Faunce stated that it is a beautiful project, and the river access may change with global warming. Ms. Kuhlman noted that the river property does slope down. Mr. Livadas noted that the flood plain slopes away from the buildings.

A MOTION by Jeremy Rutter to continue the hearing until December 11, 2023, at 6:30 PM.
The motion was seconded by Richard Ford-Burley.
Roll Call Vote:
Voting in Favor – Ms. Stavis, Mr. Ford-Burley, Mr. Garland, Mr. Hall, Mr. Rutter, Ms. Zook, Mr. Kennelly, Mr. Faunce, Ms. Romano
Voting Against - None
****The MOTION was approved (9-0).***

4. Other Business

Chair Hall suggested a discussion of impact fees and the two-year limit for a building permit, which is not currently adequate. Mr. Corwin stated that it is by statute.

5. Approval of Minutes

A. October 9, 2023

The motion information missing from the draft minutes due to a sound failure was provided by the Board members.

A MOTION by Bruce Garland to approve the Planning Board Minutes of October 9, 2023, as amended.
The motion was seconded by Laurel Stavis.
Roll Call Vote:
Voting in Favor – Ms. Stavis, Mr. Ford-Burley, Mr. Garland, Mr. Hall, Mr. Rutter, Ms. Zook, Mr. Kennelly, Mr. Faunce, Ms. Romano
Voting Against - None
****The MOTION was approved (9-0).***

6. Adjournment

A MOTION by Bruce Garland to adjourn the meeting.
The motion was seconded by Laurel Stavis.
Roll Call Vote:
Voting in Favor – Ms. Stavis, Mr. Ford-Burley, Mr. Garland, Mr. Hall, Mr. Rutter, Ms. Zook, Mr. Kennelly, Mr. Faunce, Ms. Romano
Voting Against - None
****The MOTION was approved (9-0).***

The meeting was adjourned at 8:38 PM.

Respectfully submitted,

Holly Howes
Recording Secretary