



**LEBANON CITY COUNCIL
FEBRUARY 7, 2024 - 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: 553 291 537#). If you have trouble accessing this meeting, please [email Shaun Mulholland](#).

The February 7, 2024 Lebanon City Council Meeting is hereby called to order.

2. Pledge of Allegiance

3. Public Forum Announcement by the Mayor

Any member of the public who desires to speak on any item may do so when the item is taken up by the Council and will be allowed to speak on the subject for not more than three minutes. **(Note: Speakers are asked to state their name, ward of residence, and to use the microphone provided.)**

4. Open to the Public

5. Recognitions: None

6. Approval of Minutes

- A. MOTION TO approve the minutes as presented in the February 7, 2024 agenda packet.

7. Appointments

- A.
- Arts & Culture Commission, Benjamin Van Vliet (Reappointment Arts Organization Representative)
 - Lebanon Energy Advisory Committee, Thomas Benzel (Regular Member)
 - Planning Board, Laurel Stavis (Reappointment Regular Member)

8. Public Hearing Items

- A. Ordinance #2024-01 – A public hearing for the purpose of receiving public input and taking action to amend City Code Chapter 168, Vehicles and Traffic, to designate no parking areas along Eldridge Street, Laplante Road, and Prospect Street Extension, Lebanon.
- i. Presentation:
 - ii. Opening of the Public Hearing:
 - iii. Questions & Comments by the Public:

- iv. Closing of the Public Hearing:
 - v. Council Deliberation & Action:
 - B. Ordinance #2024-02 - A public hearing for the purpose of receiving public input and taking action to amend City Code Chapter 68, Fees, to include a fee schedule for applications to the Zoning Board of Adjustment and Building Code Board of Appeals, and administrative preparation of Zoning Verification Letters.
 - i. Presentation:
 - ii. Opening of the Public Hearing:
 - iii. Questions & Comments by the Public:
 - iv. Closing of the Public Hearing:
 - v. Council Deliberation & Action:
 - C. Proposed Amendments to the Zoning Ordinance for Council Adoption – Public hearing for the purpose of receiving public input and taking action on proposed zoning amendments for adoption by the City Council as follows:
 - Amendment #1 – To amend Section 213 (Impact Fees) to collect fees from residential additions larger than 500 sq. ft., to expand and clarify the type of development that is excluded from paying fees, and to amend the waiver and appeals provisions (Zoning Ordinance Sections 213.3(E) and 213.8)
 - Amendment #2 – To amend Section 305A.1 (GC-1 District Purpose), Section 305A.2 (GC-1 District Table of Uses) and Section 500 (Planned Developments Table) to allow Manufactured Housing Planned Unit Residential Development (PURDs) in the GC-1 District by Condition Use Permit from the Planning Board. (Zoning Ordinance Sections 305A.1, 305A.2, and 500)
 - Amendment #3 – To amend Section 410.3 (Description of Riverbank Protection District) to remove properties from the Riverbank Protection District if the properties are granted an Urbanized Shoreland Exemption by the NH Department of Environmental Services pursuant to NH RSA 483-B:12. (Zoning Ordinance Section 410.3)
 - Amendment #4 – To amend Section 610 (Accessory Dwelling Unit (ADU)) to update the size ratios for ADU calculations, to add a parcel size threshold for larger ADUs, to clarify the property owner temporary leave of absence requirement, and to create a clear checklist of items needed for the ADU application. (Zoning Ordinance Sections 610.B, 610.G, and 610.K)
 - Amendment #5 – To amend the definition of “Gross Living Area” in Appendix A (Definitions) to clarify the calculation of impact fees and the size of Accessory Dwelling Units.
 - Amendment #6 – To adopt miscellaneous minor amendments, including clarifying existing language and making minor editorial changes, clarifying the enabling authority for the Riverbank

Protection District, commercial and industrial PUD open space requirements, off-lot parking conditional use application requirements, ZBA administrative appeal procedures and definitions, ZBA application and hearing procedures, and changes to the definitions of “dwelling”, “primary/secondary educational facility”, “child day care facility”, “health club,” and “structure”. (Zoning Ordinance Sections 213, 410.2, 501.1.F.2.a, 607.5, 610, 801, 802, and Appendix A)

- Amendment #7 (Requested by Choice Storage, LLC) – Proposed Zoning Map change at 0 Etna Road (Tax Map 26, Lot 17), which is currently split-zoned between Light Industrial (IND-L) and Rural Lands Three (RL-3). The property owner has requested to rezone approximately 50 acres of RL-3 land to IND-L and, in exchange, to rezone approximately 50 acres of IND-L land to RL-3 to provide more protection for wetland areas, steep slopes, and a wildlife corridor existing in areas to be rezoned to RL-3, while allowing for development of the areas to be rezoned to IND-L.
- Amendment #8 (Requested by Cicotte Properties, LLC) – To amend Section 311A.2 (R-O-1 District Table of Uses) to allow one of the following uses in the R-O-1 District by Conditional Use Permit from the Planning Board: either “auto sales and service” or “vehicular sales”. (Zoning Ordinance Sections 311A.2)

- i. Presentation:
- ii. Opening of the Public Hearing:
- iii. Questions & Comments by the Public:
- iv. Closing of the Public Hearing:
- v. Council Deliberation & Action:

- D. Ordinance #2024-03 - A public hearing for the purpose of receiving public input and taking action to amend City Code Chapter 46, Cemeteries, to remove provisions for holiday burials.

- i. Presentation:
- ii. Opening of the Public Hearing:
- iii. Questions & Comments by the Public:
- iv. Closing of the Public Hearing:
- v. Council Deliberation & Action:

9. Old Business

- A. Discuss the City Manager’s proposal for development of city-owned parcels pursuant to City Council’s April 2022 Resolution on Housing – Request for determination that city-owned properties have redevelopment potential per City Council Policy, CC-102, Real Property Transactions
- B. Discuss Potential TIF District for the Main Street Area of West Lebanon
- C. Discuss possible NHMA Policy Positions for the 2024 NHMA Legislative Policy process

10. New Business

- A. Discuss changes to the City's Strategic Plan regarding the Financial Stability and Efficiency functional area
 - B. Discussion and Set Public Hearing for March 6, 2024: Request for Supplemental Appropriation in the amount of \$268,000 for Civic Park Playground Improvements; and to Authorize Disbursement of \$135,000 in Recreation Impact Fees
 - C. Discussion and Set Public Hearing for March 20, 2024: Layout of right-of-way widening for Trues Brook Road; Scheduling of on-site public meeting for personal examination of proposed roadway
 - D. Request for Exemption of Zoning Requirements per Section 214 of the Zoning Ordinance for City of Lebanon to Construct Public Infrastructure Improvements for the Trues Brook Road Bridge Reconstruction Project
 - E. Request for Exemption of Zoning Requirements per Section 214 of the Zoning Ordinance for City of Lebanon to Construct Public Infrastructure Improvements for the Lahaye Drive/Mt. Support Road Intersection Project
 - F. Request for Exemption of Zoning Requirements per Section 214 of the Zoning Ordinance for City of Lebanon to construct Lahaye Drive Multi-Use Path TAP Project
 - G. Discussion and Set Public Hearing for February 21, 2024: Establishment of a Redevelopment Properties Revolving Fund to include 0 Barrows Street (M/L 77-106 and 77-107), 0 Hanover St Ext (M/L 64-1), 3 Seminary Hill (M/L 86-56), and 5 S. Main St (M/L 86-55); Authorization to Transfer InvestNH grant funds into the Revolving Fund upon receipt
 - H. Discuss the City Manager's plan to Begin the Process of Determining the Development Options for Downtown Parking Lots
- 11. City Manager Report**
- 12. Council Representatives to Other Bodies Report**
- 13. Future Agenda Items**
- 14. Non-Public Session**
- A. RSA 91-A:3, II(a) – "The dismissal, promotion, or compensation of any public employee or the disciplining of such employee, or the investigation of any charges against him or her..."
 - B. RSA 91-A:3, II(a) – "The dismissal, promotion, or compensation of any public employee or the disciplining of such employee, or the investigation of any charges against him or her..."
- 15. Adjournment**

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.

Future Board/Committee/Commission Appointments - No pending appointments at this time.

Lebanon City Council Agenda
February 7, 2024

Proposed Future Agenda Items: Dates may be tentative and this list is not considered all-inclusive.

February 21, 2024

Public Hearing Items:

A. Establishment of a Redevelopment Properties Revolving Fund to include 0 Barrows Street (M/L 77-106 and 77-107), 0 Hanover St Ext (M/L 64-1), 3 Seminary Hill (M/L 86-56), and 5 S. Main St (M/L 86-55); Authorization to Transfer InvestNH grant funds into the Revolving Fund upon receipt

New Business:

A. Release of Public School Impact Fees (4th Quarter 2023)

B. Presentation of 2023-2024 Lebanon Historic Landmark Designations

C. Request for Authorization to Transfer Appropriated Funds in the Amount of \$125,000.00 from the General Fund to the Public Assistance Revolving Fund

March 6, 2024

Public Hearing Items:

A. Supplemental Appropriation For Civic Park Playground Improvements: Public hearing for the purpose of receiving public input and taking action to appropriate \$268,000.00 for Civic Park Playground Improvements; and to authorize disbursement of \$135,000.00 in Recreation Impact Fees as the means to pay for the work.

Old Business:

A. Discuss and issue directives regarding the determination of the feasibility of a Tax Increment Finance District in West Lebanon.

New Business:

A. Discuss and set public hearing to adopt City Code Chapter 55 Trees.

**Agenda
Lebanon City Council
February 7, 2024**

6. Acceptance Of Minutes:

Minutes To Be Accepted

- January 17, 2024

MOVED, to approve the minutes as presented in the February 7, 2024 agenda packet.

DRAFT

LEBANON CITY COUNCIL
REGULAR SESSION MINUTES
Wednesday, January 17, 2024 6:00 p.m.
Council Chambers

Remote Via Microsoft Teams: LebanonNH.gov/Live

MEMBERS PRESENT: Mayor Tim McNamara, Assistant Mayor Clifton Below, Erling Heistad, Christian Simon, George Sykes, Douglas Whittlesey, Devin Wilkie (remote), and Karen Zook (arrived at approximately 6:57PM)

MEMBERS ABSENT: Karen Liot Hill

STAFF PRESENT: City Manager Shaun Mulholland, Deputy City Manager David Brooks, Deputy Director of Planning & Development Tim Corwin, Finance Director Vicki Lee, Deputy Finance Director Alesia Williams, City Assessor Michael Pelletier, Planning Administrative Assistant Crystal Taplin

1. CALL TO ORDER: Mayor McNamara called the meeting to order at 6:05 p.m.

2. PLEDGE OF ALLEGIANCE: Councilor Simon led the Council in the Pledge.

- City Manager Shaun Mulholland announced the meeting criteria for the public.
- Councilor Wilkie attended remotely because he was recovering from COVID.

3. BOARDS and COMMITTEE REPORTS (4th Quarter):

Ped/Bike: Colin Smith, Chair

Chair Smith updated the Council on the work Ped/Bike has done over this quarter:

- Moving into the implementation phase of the Walk Bike Ride Lebanon Plan
- Tier 1 Projects: out of 10 projects, they chose 3: 1) Greenway extension to 12A; 2) Greenway Trail along the Riverside and Westboro Yard, and 3) the proposed DHMC connector.
- Will be looking at the other plan for the Walk Bike Ride Lebanon Plan for infrastructure.
- Event Planning: Bike and Walk to Work Day.

Conservation Commission: Sarah Riley, Chair

Chair Riley updated the Council on the work the Conservation Commission has done over this quarter:

- Reviewed and commented to the NH DES on the wetland permit application for the LaHaye & Mt. Support Road Roundabout Project.
- Update on the Wilder Dam Project.
- Participated in the Ethics Training Program.
- Discussed the Zoning Amendments and spent a considerable amount of time discussing the Map Amendment for Etna Road; changes to the City's Riverbank Protection District.
- Will be participating in the Upper Valley-wide Forest Health Program.

LEAC & LEAC EV Subcommittee: Henry Bromberg, Chair

Chair Bromberg updated the Council on the work that LEAC and the LEAC EV Subcommittee has done over this quarter:

- Introduced himself as the new Chair, and also noted the new members of LEAC.
- Community Power Coalition of New Hampshire
- Wastewater Energy Transfer Technology: Fire Station and DPW Garage
- EV Subcommittee: The CFI Grant (building public EV Charging Stations) was not successful, but they will be re-applying for these funds.
- Lebanon EV School Bus Grant: Deadline to apply is the end of January 2024 and they have not heard back from the School District yet. Mayor McNamara noted they will be having a joint meeting with the School Board in the next week and will bring this topic up at their meeting.
- Climate Pollution Reduction Grant through the NH DES.
- Working with the City to explore other grant opportunities to develop renewable energy and reduce fossil fuel use.

Diversity/Equity/Inclusion Board: City Manager Mulholland

- Report was filed in advance of this meeting.

Tree Advisory Board: City Manager Mulholland

- Working on a grant they have received and are starting to get ready and organized for this.
- Will be bringing Code 55 provisions before the Council in the month of March

Heritage Commission: Nicole Ford Burley, Chair

Chair Ford Burley updated the Council on the work the Heritage Commission has done over this past quarter.

- Lebanon Fire Station Replacement work done with Chief Wheatley: preserving connections with the history of this site
- Culture Heritage Emergency Preservation Project: Preparing a list of resources and will be working with Lebanon's Emergency Responders to develop updated plans to ensure First Responders are familiar with the resource/contents in order to follow a well thought out prioritization scheme outside of an emergency scenario.
- Lebanon's indigenous history video.
- Opera House Project application was approved.
- Resolution honoring Fran Hanchett, former City Historian and dedicated member of Lebanon's Historic Community.
- Dana House Tour/Restoration/Preservation Project.
- Colburn Park Historical District: Will be hiring a consultant in 2024 to expand this District to include structures and buildings that are now eligible for inclusion but were not eligible when the Historic District was created in 1986.

4. PUBLIC FORUM: Mayor McNamara made the Public Forum announcement.

5. OPEN TO PUBLIC: NO ONE CAME FORTH.

6. RECOGNITIONS: NONE

7. ACCEPTANCE OF MINUTES: January 3, 2024 (Regular Meeting)

1 **Councilor Heistad MOVED** to approve the January 3, 2024 minutes as written and presented in the
2 **January 17, 2024 City Council agenda packet.**
3 **Seconded by Councilor Whittlesey.**

4
5 **Roll Call Vote:**

6 **Assistant Mayor Below, and Councilors Heistad, , Simon, Sykes, Whittlesey, Wilkie, and Mayor**
7 **McNamara all voting Yea.**

8 **None voted Nay.**

9 **Absent from vote: Councilors Liot Hill and Karen Zook**

10
11 ***The Vote on the Motion was approved (7-0)**

12
13 **8. APPOINTMENTS:**

- 14 • Conservation Commission, Brandon Hill (Alternate Member)

15 **Assistant Mayor Below MOVED to NOMINATE Brandon Hill and an Alternate Member to the**
16 **Conservation Commission.**

17
18 **Roll Call Vote:**

19 **Assistant Mayor Below, and Councilors Heistad, , Simon, Sykes, Whittlesey, Wilkie, and Mayor**
20 **McNamara all voting Yea.**

21 **None voted Nay.**

22 **Absent from vote: Councilors Liot Hill and Karen Zook**

23
24 ***The Vote on the Motion was approved (7-0)**

25
26 **9. PUBLIC HEARING ITEMS:**

- 27 **A. Ordinance #2024-01 to amend City Code Chapter 168, Vehicles and Traffic, to designate**
28 **no parking areas along Eldridge Street, Laplante Road, and Prospect Street Extension,**
29 **Lebanon**

30
31 Included in the agenda packet: *(All supportive documents and information were included on Page 34 ,*
32 *Council agenda packet)*

33
34 **ACTION: MOTION to reschedule Public Hearing to February 7, 2024**

35
36 **Councilor Whittlesey MOVED, that the Lebanon City Council hereby reschedules a public hearing**
37 **for Wednesday, February 7, 2024, beginning at 7:00 p.m. in Council Chambers, City Hall, and Remote**
38 **via the City's Virtual Platform, for the purpose of receiving public input and taking action on proposed**
39 **Ordinance #2024-01 to amend City Code Chapter 168, Vehicles and Traffic, §168-1, No Parking, to**
40 **include a 520-foot section on both the north and south sides of Prospect Street Extension beginning at**
41 **the intersection of Laplante Road and moving in a westerly direction and to include a 230-foot section**
42 **on both the east and west sides of Laplante Road beginning at the intersection of Prospect Street**
43 **Extension and moving in a northerly direction, for a winter parking ban from December 1st to April**
44 **1st of every year; to include a 340-foot section on the south side of Eldridge Street beginning at the**
45 **intersection of Hanover Street and moving in a westerly direction; and to extend the existing no**
46 **parking restriction on the north side of Eldridge Street by 5 feet to a distance of 340 feet westerly from**
47 **the intersection of Hanover Street, as "No Parking" zones.**
48 **Seconded by Councilor Sykes.**

Councilor Zook arrived at approximately 6:57 PM.

Roll Call Vote:

Assistant Mayor Below, and Councilors Heistad, , Simon, Sykes, Whittlesey, Wilkie, Zook and Mayor McNamara all voting Yea.

None voted Nay.

Absent from vote: Councilor Liot Hill

**The Vote on the Motion was approved (8-0)*

B. Ordinance #2024-02 - A public hearing for the purpose of receiving public input and taking action to amend City Code Chapter 68, Fees, to include a fee schedule for applications to the Zoning Board of Adjustment and Building Code Board of Appeals, and administrative preparation of Zoning Verification Letters. **(To be postponed to February 7, 2024)**

Included in the agenda packet: *(All supportive documents and information can be found on Page 35, Council agenda packet)*

BACKGROUND

The City Council scheduled this public hearing at its January 3, 2024 regular meeting. However, due to a defect in the public hearing notice, the Administration requests that the public hearing be rescheduled to February 7, 2024.

ACTION: MOTION to reschedule Public Hearing to February 7, 2024.

Councilor Sykes MOVED that the Lebanon City Council hereby reschedules a public hearing for Wednesday, February 7, 2024, beginning at 7:00 pm, in Council Chambers, City Hall, and Remote via the City's Virtual Platform, for the purpose of receiving public input and taking action on proposed Ordinance #2024-02 to amend City Code Chapter 68, Fees, Article III, Miscellaneous Fees, §68-15, Enumeration of Fees, to enumerate, update, and establish filing fees for applications to the Zoning Board of Adjustment and the Building Code Board of Appeals, and to establish the administrative fee for the preparation of zoning verification letters.
Seconded by Councilor Whittlesey.

Roll Call Vote:

Assistant Mayor Below, and Councilors Heistad, , Simon, Sykes, Whittlesey, Wilkie, Zook and Mayor McNamara all voting Yea.

None voted Nay.

Absent from vote: Councilor Liot Hill

**The Vote on the Motion was approved (8-0).*

C. Amendment of Veterans Tax Credit amounts and Adoption of additional Veterans Tax Credit Programs – A public hearing for the purpose of receiving public input and taking action to change the amount of the Optional Veterans' Tax Credit from \$250 to \$750 in accordance with NH RSA 72:28; to change the amount of the All Veterans' Tax Credit from \$250 to \$750 in accordance with NH RSA 72:28-b; and to change the amount of the Service-Connected Total

1 Disability Tax Credit from \$1,400 to \$4,000 in accordance with NH RSA 72:35; and to consider
2 adoption of the Combat Service Tax Credit in the amount of \$500 in accordance with NH RSA
3 72:28-c, and to consider adoption of the Surviving Spouse Tax Credit in the amount of \$2,000 in
4 accordance with NH RSA 72:29-a.

5 Included in the agenda packet: *(All supportive documents and information can be found on Pages 36-*
6 *44, Council agenda packet)*

- 7 1. Finance Department table of Veteran's Tax Credits granted for 2023
- 8 2. NH RSA 72:27-a; RSA 72:28; RSA 72:28-b; RSA 72:28-c; RSA 72:29-a; RSA 72:35

9
10 Mayor McNamara, Councilor Heistad, and City Manager Mulholland recused themselves from this
11 discussion and vote because they are veterans and will/or have applied for a Veteran's Tax Credit.

12
13 It was noted that even though people have recused themselves there is still a physical quorum present.

14
15 **Assistant Mayor Below took over the role of moderator for this topic.**

16
17 Deputy City Manager David Brooks reviewed the background behind the proposed amendments to the
18 Veterans' Tax Credits.

19 20 **BACKGROUND**

21 The Optional Veterans' Tax Credit, the All Veterans' Tax Credit, and the Service-Connected Total
22 Disability Tax Credit are programs made available by the City for Lebanon's veterans and/or their
23 spouses. The tax credit reduces the total property taxes owed on the veteran's residential property by the
24 amount of the credit. Veterans and/or their spouses may qualify for either the Optional Veterans' Tax
25 Credit or the All Veterans' Tax Credit but cannot receive both.

26
27 The Optional Veterans' Tax Credit and the All Veterans' Tax Credit were re-adopted in the amount of \$250
28 each by the City Council on January 4, 2023 following statutory changes in the eligibility criteria for those
29 programs. The Veteran's Service-Connected Total Disability Tax Credit was last increased to \$1,400 for
30 eligible veterans or their surviving spouses on September 15, 1993.

31 The Finance Department and Assessing Division have prepared the table below showing the number of
32 individuals or households who applied and qualified for the various Veteran's Tax Credit programs offered
33 by the City and the corresponding amount of those tax credits granted for 2023. The table also shows the
34 estimated value of tax credits if the individual program amounts were raised to the maximum amounts
35 allowed by statute.

36 There are two additional Tax Credit Programs that have not currently been adopted by the City. The
37 discussion and the motion to set tonight's public hearing included consideration of adopting those programs,
38 so the motion that was made to set the Public Hearing includes the additional Tax Credits. In each case,
39 the amounts proposed are the maximum amounts allowed by Statute.

1 All of the above require individuals to file PS29s. If your property is in a Trust, you have to accompany
2 that application with a PA33, which tells them you are still the beneficiary of the Trust. All applications
3 are due by April 15th of the given tax year.
4

5 Assistant Mayor Below noted he has the utmost respect for Veterans and spoke about his life as a military
6 dependent. That being said, he felt that going from what we are giving today to the proposed maximum
7 credit allowed would result in a significant shift in the tax burden and would result in a projected increase
8 in the tax rate for this year from 4% to nearly 4.9%. He suggested going halfway (to the maximum) this
9 year and then we can consider going to the maximum next year and further described his financial
10 approach.
11

12 Council members first wanted to note their respect and admiration towards all Veterans and then held
13 discussions/debates regarding:

- 14 • Whether or not all Veterans who are eligible have applied for these tax credits, and if not, what
15 would be the impact on the City.
- 16 • How there is no database in the City that can determine which Veterans are moving into/or
17 currently in the area and who is/is not eligible.
- 18 • How the State of New Hampshire does project Veterans in each County (not done by individual
19 communities).
- 20 • The importance of the Council being aware of and mindful of the tax impacts on all taxpayers.
- 21 • How this would be the biggest project tax rate increase the City has seen in a while.
- 22 • How the potential tax increase for median household would only be approximately \$28.00/year.
23

24 **ACTION:**

25 *Councilor Sykes MOVED, that the Lebanon City Council hereby amends the Optional Veterans' Tax*
26 *Credit amount from \$250.00 to \$750.00 in accordance with NH RSA 72:28; amends the All Veterans'*
27 *Tax Credit amount from \$250.00 to \$750.00 in accordance with NH RSA 72:28- b; and amends the*
28 *Veteran's Service-Connected Total Disability Tax Credit amount from \$1,400.00 to \$4,000.00 in*
29 *accordance with NH RSA 72:35.*
30

31 *BE IT FURTHER MOVED, that the Lebanon City Council hereby adopts the Combat Service Tax Credit*
32 *in the amount of \$500.00 in accordance with NH RSA 72:28-c and adopts of the Surviving Spouse Tax*
33 *Credit in the amount of \$2,000.00 in accordance with NH RSA 72:29-a.*

34 *Seconded by Councilor Whittlesey.*
35

36 **Roll Call Vote:**

37 *Assistant Mayor Below, and Councilors Simon, Sykes, Whittlesey, Wilkie, and Zook all voting Yea.*

38 *None voted Nay.*

39 *Recused from discussions and Vote: Mayor McNamara and Councilor Heistad.*

40 *Recused from discussions: City Manager Mulholland*

41 *Absent from vote: Councilor Liot Hill*
42

43 **The Vote on the Motion was approved (6-0-2).*
44

45 *Mayor McNamara, Assistant Mayor Below, Councilor Heistad, and City Manager Mulholland*
46 *returned to their regular roles for this meeting.*
47

At the prompt of Deputy City Manager David Brooks, the Council returned to take action and vote on the motions that are to be rescheduled to February 7, 2024. Those three separate motions are listed on pages 27; page 8; and page 38. The action on these motions are listed on pages 3; 4; and 8 in these minutes.

D. Proposed Amendments to the Zoning Ordinance for Council Adoption – Public hearing for the purpose of receiving public input and taking action on proposed zoning amendments for adoption by the City Council **(To be postponed to February 7, 2024)**

BACKGROUND

The City Council scheduled this public hearing at its January 3, 2024 regular meeting. However, due to a defect in the public hearing notice, the Administration requests that the public hearing be **rescheduled** to February 7, 2024.

ACTION: MOTION to reschedule Public Hearing to February 7, 2024

*Councilor Simon MOVED, that the Lebanon City Council hereby reschedules a public hearing for Wednesday, February 7, 2024, beginning at 7:00pm, in Council Chambers, City Hall, and Remote via the City's Virtual Platform, for the purpose of receiving public input and taking action to adopt certain amendments to the City of Lebanon Zoning Ordinance and Zoning Map.
Seconded by Councilor Whittlesey.*

Roll Call Vote:

Assistant Mayor Below, and Councilors Heistad, , Simon, Sykes, Whittlesey, Wilkie, Zook and Mayor McNamara all voting Yea.

None voted Nay.

Absent from vote: Councilor Liot Hill

**The Vote on the Motion was approved (8-0)*

10. OLD BUSINESS: NONE

11. NEW BUSINESS

A. Request for Zoning Amendments: Cicotte Properties, LLC – Text Amendment for Light Industrial (IND-L) District

Included in the agenda packet: *(All supportive documents and information can be found on Pages 46-58, Council agenda packet)*

1. September 28, 2023 rezoning request letter from Dan Nash, of Advanced Geomatics, on behalf of Cicotte Properties, LLC, including attachments.

2. January 2, 2024 letter from Dan Nash, of Advanced Geomatics and Design, on behalf of Cicotte Properties, LLC, including attachment.

Deputy City Manager David Brooks reviewed the detailed background for the request above as listed on *pages 46-48, Council agenda packet.*

RECOMMENDATIONS:

Staff recommended the City Council consider postponing the applicant's request in light of a pending land use study of the Route 120 corridor. Pursuant to the recommendations of the Master Plan (as described

above), the City has contracted with VHB to prepare a neighborhood plan for the Route 120 corridor extending from Exit 18 to the Hanover line. A project “kick off” meeting was held with staff on January 3, 2024. The study will identify existing land uses and projected development demands along the corridor and will likely result in proposed amendments to the Zoning Ordinance to accommodate desired growth and uses. To add “vehicular sales” at this time on an ad-hoc basis is premature given the pending neighborhood master planning effort, the results of which are expected in the late spring/summer with zoning amendments to be presented to the City Council for “kick off” in October.

Mr. Barry Schuster (Ward-3) came forth on behalf of Cicotte Properties, LLC and also reviewed and explained their request to add in the IND-L a category under Additional Uses for a Conditional Use Permit to allow Automotive Sales and Services, noting all they are trying to do is put some ability for a car dealership to maintain its use without having to get a Special Variance. A Conditional Use Permit will allow a Planning Board Review of anything that happens there, so it cannot go uninspected.

The City Council elected to proceed and take action on the Cicotte Amendment #2. The Planning and Development Department also recommended that the Council establish a tentative schedule for review, as is required pursuant to Section 1000.3.A of the Zoning Ordinance. The schedule is listed in the Motion below.

ACTION:

Assistant Mayor Below MOVED, that the Lebanon City Council, in accordance with the City of Lebanon Zoning Ordinance, Article X, Section 1000.3, Amendment Procedures, hereby submits the Zoning Ordinance amendment to add “Vehicular sales” to the Light Industrial (IND-L) District Table of Uses as a use allowed by Conditional Use Permit as described in a January 2, 2024 letter from Daniel Nash of Advanced Geomatics & Design to the Planning Board, Conservation Commission, and Zoning Board of Adjustment for their review and comment. The City Council hereby sets the following tentative review schedule:

City Council’s decision to proceed – January 17, 2024

Legal Review – by February 1, 2024

Planning Board – February 26, 2024

Zoning Board of Adjustment March 4, 2024

Conservation Commission – March 14, 2024

City Council Work Session – March 20, 2024

City Council Public Hearing – April 3, 2024

Seconded by Councilor Whittlesey.

Roll Call Vote:

Assistant Mayor Below, and Councilors Heistad, , Simon, Sykes, Whittlesey, Wilkie, Zook and Mayor McNamara all voting Yea.

None voted Nay.

Absent from vote: Councilor Liot Hill

****The Vote on the Motion was approved (8-0)***

B. Proposed River Valley Reliability Project Presentation by National Grid

Included in the agenda packet: *(All supportive documents and information can be found on Pages 59-63, Council agenda packet)*

1. River Valley Reliability Project Fact Sheet
2. River Valley Reliability Project Introduction Letter dated November 16, 2023

BACKGROUND

National Grid employees were in attendance and presented the proposed [River Valley Reliability Project](#) as listed on the link above.

Ms. Kaytlynn Monroe, Ms. Bethany Rocha and the National Grid Project Team introduced themselves and reviewed their proposed project with the Council and answered their questions. Highlights from their PowerPoint presentation are presented below:



Project in Lebanon

River Valley Reliability Project

- Replace 91 existing structures
- 7.9 total miles
- Approximately 7 miles will be offset approximately 40ft to the west
- Approximately 1 mile of structures will remain on existing alignment
- Existing maintained right-of-way widths are 100ft to 125ft
- Proposed maintained right-of-way widths will be approximately 155ft, **all within existing easements.**

Preliminary Project Schedule

**Dates subject to change*



National Grid | January 17, 2024

11

Permitting Process

Environmental Permitting (not all inclusive):

USACE Section 404 PCN

- S106 Consultation
- S7 Consultation

EPA NPDES CGP Coverage

NH DES Permitting:

- Standard Wetlands Permit
- NHB/NH F&G coordination
- NHDHR coordination
- Shoreland Permit
- Alteration of Terrain Permit

There will be opportunity for input from the town. National Grid will work collaboratively with each town throughout the required permitting and construction phases of this project.

Thank You

We understand that communities deserve comprehensive conversations and two-way communication about our work. Through local presentations, town-based community meetings, one-on-one discussions, mailings, a comprehensive website, toll-free hotline number, and other methods we will provide timely, comprehensive information to individuals and groups interested in the project. Above all, our team is committed to ongoing, open conversations about the project every step of the way.

For more information, please visit or reach our outreach team at:

Dedicated Project Hotline: 833-874-6988

Email: outreach@rivervalleyreliabilityproject.com

Website: www.rivervalleyreliabilityproject.com

ACTION: *No action is required by Council; item was for informational purposes only.*

- C. Request from Salt hill Pub for an Exemption (per §14-5) of City Code Chapter 14, Alcoholic Beverages, to permit the serving of alcoholic beverages on City property

Included in the agenda packet: *(All supportive documents and information can be found on Pages 64--66, Council agenda packet)*

1. January 1, 2024 Letter from Josh Tuohy, Salt hill Pub
2. Location Map of Outdoor Seating Areas for Three Tomatoes Trattoria and Salt hill Pub

BACKGROUND

Beginning in 2020, the City Council approved an expanded outdoor seating area for Salt hill Pub that included additional space within the pedestrian mall, as well as the parking area on West Park Street in front of Salt hill Pub and the 20 West Park Street building. Salt hill Pub requested renewal of their exemption to include those expanded seating areas approved since 2020.

City Administration has no objection to the closure of the parking area for use by Salt hill Pub as has been done since 2020.

1
2 City Code Chapter 14, Alcoholic Beverages, §14-5, Exemption, states that, “Any person, publicly
3 recognized organization, organized group, family group or business may be exempted from the provisions
4 of this article for a short period of time not exceeding 12 hours, upon first obtaining permission from the
5 City Manager after consultation with and approval by the Chief of Police. For a period of time exceeding
6 12 hours but not exceeding one year, permission must first be obtained from the Lebanon City Council
7 and reviewed on an annual basis.” Whereas the current request is for the alcohol exemption/permit to
8 cover the entire year period from January through December, Council approval is required pursuant to
9 §14-5 above.

10
11 **ACTION:**

12 ***Councilor Whittlesey MOVED that the Lebanon City Council hereby grants an exemption to Salt hill***
13 ***Pub pursuant to §14-5 of City Code Chapter 14, Alcoholic Beverages, to serve alcoholic beverages on***
14 ***the Lebanon Pedestrian Mall and the closed portion of Court Street as shown on the map included in***
15 ***the January 17, 2024 City Council Agenda Packet. The exemption shall be valid beginning January***
16 ***18, 2024 and shall expire on December 31, 2024.***

17 ***Seconded by Councilor Simon***

18
19 **Roll Call Vote:**

20 ***Assistant Mayor Below, and Councilors Heistad, , Simon, Sykes, Whittlesey, Wilkie, Zook and Mayor***
21 ***McNamara all voting Yea.***

22 ***None voted Nay.***

23 ***Absent from vote: Councilor Liot Hill***

24
25 ****The Vote on the Motion was approved (8-0)***

- 26
27 **D.** Request from Three Tomatoes for an Exemption (per §14-5) of City Code Chapter 14,
28 Alcoholic Beverages, to permit the serving of alcoholic beverages on City property

29
30 Included in the agenda packet: ***(All supportive documents and information can be found on Pages 67-***
31 ***69, Council agenda packet)***

- 32 1. January 4, 2024 Letter from Louise Clark on behalf of Three Tomatoes
33 2. Location Map of Outdoor Seating Areas for Three Tomatoes Trattoria and Salt hill Pub

34
35 **Assistant Mayor Below recused himself from this discussion and vote because he has an interest in**
36 **The building.**

37
38 **BACKGROUND**

39 Three Tomatoes is requesting renewal of their exemption to serve alcohol in their “normal” awning area
40 on the Pedestrian Mall and their expanded seating on Court Street. Please see attached letter from Louise
41 Clark.

42 City Administration has no objection to the closure of the portion of Court Street for use by Three Tomatoes
43 as has been done since 2020.

44 As has been done in the past, alcohol will be served in the outdoor seating areas. City Code Chapter 14,
45 Alcoholic Beverages, §14-5, Exemption, states that, “Any person, publicly recognized organization,
46 organized group, family group or business may be exempted from the provisions of this article for a short

period of time not exceeding 12 hours, upon first obtaining permission from the City Manager after consultation with and approval by the Chief of Police. For a period of time exceeding 12 hours but not exceeding one year, permission must first be obtained from the Lebanon City Council and reviewed on an annual basis.” Whereas the current request is for the alcohol exemption/permit to cover the entire year period from January through December, Council approval is required pursuant to §14-5 above.

Ms. Rebecca Kitter (W-3): She spoke about her objections and concerns regarding the Mall and Court Street being used by restaurants for open seating during the summers.

ACTION:

Councilor Whittlesey MOVED that the Lebanon City Council hereby grants an exemption to Three Tomatoes pursuant to §14-5 of City Code Chapter 14, Alcoholic Beverages, to serve alcoholic beverages on the Lebanon Pedestrian Mall and the closed portion of Court Street as shown on the map included in the January 17, 2024 City Council Agenda Packet. The exemption shall be valid beginning January 18, 2024 and shall expire on December 31, 2024.

Seconded by Councilor Sykes.

Councilor suggested the Council should start to think about adding additional handicapped parking spaces to the Downtown area of the City.

Roll Call Vote:

Assistant Mayor Below, and Councilors Heistad, , Simon, Sykes, Whittlesey, Wilkie, Zook and Mayor McNamara all voting Yea.

None voted Nay.

Absent from vote: Councilor Liot Hill

***The Vote on the Motion was approved (8-0).**

E. Request from Lalo’s Taqueria for an Exemption (per §14-5) of City Code Chapter 14, Alcoholic Beverages, to permit the serving of alcoholic beverages on City property

Included in the agenda packet: *(All supportive documents and information can be found on Pages 70-72, Council agenda packet)*

1. Letter from Nick Yager, Lalo’s Taqueria requesting exemption pursuant to City Code Chapter 14 (Letter undated. Received by the City Manager’s Office January 5, 2024)
2. Map depicting proposed outdoor seating area

BACKGROUND

Lalo’s Taqueria, located at the west end of the pedestrian mall, established an outdoor dining area in 2021 and is planning to continue the service in 2024. As the restaurant serves alcoholic beverages as part of its dining menu, they would like to serve alcohol as part of their outdoor dining service.

City Code Chapter 14, Alcoholic Beverages, regulates the consumption of alcohol on City- owned property. Section 14-5, Exemption, states that, “Any person, publicly recognized organization, organized group, family group or business may be exempted from the provisions of this article for a short period of time not exceeding 12 hours, upon first obtaining permission from the City Manager after consultation with and approval by the Chief of Police. For a period of time exceeding 12 hours but not exceeding one year, permission must first be obtained from the Lebanon City Council and reviewed on an annual basis.” Whereas

the current request is for the alcohol exemption/permit to cover the entire year period from January through December.

ACTION:

Councilor Whittlesey MOVED that the Lebanon City Council hereby grants an exemption pursuant to §14-5 of City Code Chapter 14, Alcoholic Beverages, to Lalo's Taqueria to serve alcoholic beverages on the Lebanon Pedestrian Mall within the area shown on the maps included in the January 17, 2024 City Council Agenda Packet. The exemption shall be valid beginning January 18, 2024 and shall expire on December 31, 2024.

Seconded by Councilor Heistad.

Roll Call Vote:

Assistant Mayor Below, and Councilors Heistad, , Simon, Sykes, Whittlesey, Wilkie, Zook and Mayor McNamara all voting Yea.

None voted Nay.

Absent from vote: Councilor Liot Hill

**The Vote on the Motion was approved (8-0)*

F. Request from Lebanon Outing Club for an Exemption (per §14-5) of City Code Chapter 14, Alcoholic Beverages, to permit the serving of alcoholic beverages on City property

Included in the agenda packet: *(All supportive documents and information can be found on Pages 73-75, Council agenda packet)*

1. December 21, 2023 email from Lebanon Outing Club, Cory Grant
2. Map of requested areas

BACKGROUND

Lebanon Outing Club (LOC) is requesting an alcohol exemption to serve alcohol on city-owned property at Storrs Hill Ski Lodge and immediate surrounding areas. Please see the attached email from Lebanon Outing Club President Cory Grant. City Administration has no objection to the request.

City Code Chapter 14, Alcoholic Beverages, §14-5, Exemption, states that, "Any person, publicly recognized organization, organized group, family group or business may be exempted from the provisions of this article for a short period of time not exceeding 12 hours, upon first obtaining permission from the City Manager after consultation with and approval by the Chief of Police. For a period of time exceeding 12 hours but not exceeding one year, permission must first be obtained from the Lebanon City Council and reviewed on an annual basis." Whereas the current request is for the alcohol exemption/permit to cover a one-year period.

ACTION:

Councilor Whittlesey MOVED, that the Lebanon City Council hereby grants an exemption to Lebanon Outing Club (LOC) pursuant to §14-5 of City Code Chapter 14, Alcoholic Beverages, to serve alcoholic beverages on city owned property at Storrs Hill Ski Lodge and immediate surrounding areas. The exemption shall be valid beginning January 18, 2024 and shall expire on December 31, 2024.

Seconded by Councilor Heistad.

Roll Call Vote:

1 *Assistant Mayor Below, and Councilors Heistad, , Simon, Sykes, Whittlesey, Wilkie, Zook and Mayor*
2 *McNamara all voting Yea.*

3 *None voted Nay.*

4 *Absent from vote: Councilor Liot Hill*

6 **The Vote on the Motion was approved (8-0).*

8 **G. Discussion & Set Public Hearing for February 7, 2024: Ordinance #2024-03 to amend City**
9 **Code Chapter 46, Cemeteries, to remove provisions for holiday burials.**

11 Included in the agenda packet: *(All supportive documents and information can be found on Pages 76--*
12 *77, Council agenda packet)*

13 1. Proposed Ordinance #2024-03

15 **BACKGROUND**

16 In an effort to streamline operations and create equity amongst staff within the Department of Public
17 Works, Public Works Administration is proposing that burials no longer be permitted on any holiday
18 officially observed by the City. As proposed, weekends immediately preceding or immediately following
19 a holiday would be included as part of the holiday and burials would not be permitted on these days.

20 By current regulation, burials are not permitted on New Year's Day, Memorial Day, Independence Day,
21 Labor Day, Thanksgiving Day, or Christmas Day unless otherwise approved by the Director of Public
22 Works. Burials have not been previously approved on any of these holidays for as long as staff can recall.

24 The other observed annual holidays are Martin Luther King, Jr./Civil Rights Day (Third Monday in
25 January); Presidents' Day (Third Monday in February); and Veterans' Day (November 11).

26 A calendar would be created annually to show available burial dates and would be available to the public
27 via the City's website or in-person at the DPW Admin Building. The calendar would also be furnished to
28 our local churches and funeral home(s). Should this Ordinance be adopted as proposed on February 7,
29 2024, there would be 17 days for the remainder of the year where burials would not be permitted.

31 The Council was asked to set a public hearing for February 7, 2024, to consider the adoption of Ordinance
32 #2024-03.

34 **Council Discussions:**

35 Councilor Whittlesey noted that in the Jewish tradition it is required that a body be buried within 24
36 hours.

38 Deputy City Manager David Brooks also informed the Council about the regulations regarding weekend
39 and holiday burials as they stand now.

41 **ACTION:**

42 *Councilor Sykes MOVED that the Lebanon City Council hereby schedules a public hearing for*
43 *Wednesday, February 7, 2024, beginning at 7:00 pm, in Council Chambers, City Hall, and Remote via*
44 *City's Virtual Platform, for the purpose of receiving public input and taking action on proposed*
45 *Ordinance #2024-03 to amend City Code Chapter 46, Cemeteries, to revise regulations with regard to*
46 *holiday burials.*

47 *Seconded by Assistant Mayor Below.*

1
2 **Roll Call Vote:**

3 *Assistant Mayor Below, and Councilors Heistad, , Simon, Sykes, Whittlesey, Wilkie, Zook and Mayor*
4 *McNamara all voting Yea.*

5 *None voted Nay.*

6 *Absent from vote: Councilor Liot Hill.*

7
8 **The Vote on the Motion was approved (8-0)*
9

10 **H. Review and Discussion of the West Lebanon Revitalization Advisory Committee's**
11 **Recommendation for Redevelopment of 14, 28, and 30 Main Street, West Lebanon**
12

13 Included in the agenda packet: *(All supportive documents and information can be found on Pages 78-*
14 *87, Council agenda packet)*

- 15 1. West Lebanon Revitalization Advisory Committee's Final Decision on Recommendation to
16 City Council on Redevelopment of 14, 28, and 30 Main Street, December 4, 2023
17 2. Results of Future Use Survey for 14, 28, and 30 Main Street conducted by West Lebanon
18 Revitalization Advisory Committee
19

20 Councilor Simon reviewed the background and the reasons behind the West Lebanon Revitalization
21 Advisory Committee's recommendation as stated above
22

23 **BACKGROUND**

24 On May 31, 2023, the City completed the acquisition of properties located at 14, 28, and 30 Main Street
25 in West Lebanon. Subsequently, the City Council asked the West Lebanon Revitalization Advisory
26 Committee (WLRAC) to lead a process of engaging the community to determine the preferred disposition
27 and redevelopment of the properties.
28

29 WLRAC discussed the issue at numerous committee meetings during the Summer and Fall of 2023. In
30 addition, WLRAC conducted an online survey to obtain community feedback concerning potential
31 redevelopment scenarios. The survey results from 350 respondents are included as an attachment.
32

33 On December 4, 2023, WLRAC adopted the attached motion below, which Councilor Simon read into the
34 record, summarizing its recommendations to the City Council on the redevelopment of the Main Street
35 properties. Members of the West Lebanon Revitalization Advisory Committee and the Planning and
36 Development Department were present at the Council meeting to review and discuss the process and
37 resulting recommendations.
38

39 Councilor Simon read into the record the WLRAC Final Decision on their recommendations to the Council
40 as listed below:

**West Lebanon Revitalization Advisory Committee
Final Decision on Recommendation to City Council on
Redevelopment of 14, 28 and 30 Main Street
December 4, 2023 Regular Meeting**

Motion made by: Andrew Faunce

Upon the request of the Lebanon City Council the West Lebanon Revitalization Advisory Committee was charged with exploring options for making recommendations and seeking the community's input on the properties at 14, 28 and 30 Main Street in West Lebanon concerning the disposition of said properties based upon West Lebanon community's preferences.

Therefore, based on testimony given, materials presented, community feedback, a neighborhood survey and supporting documents submitted, I move that the West Lebanon Revitalization Advisory Committee approve the following recommendations for City Council's Consideration concerning the future disposition of 14, 28 and 30 Main Street:

1. The subject properties should be converted into a mixed-use building, including commercial uses occupying the 1st floor and residential units occupying the upper floors.
 - a. To help achieve a walkable and more sociable downtown, street-level storefronts should create outdoor space for informal gatherings. This could be achieved by an overhang or a greater setback at street level, with the upper floors extending to create a contiguous weather protected street adjacent space. Parking should be included as well.
 - b. Commercial offerings that support residents and attract others to visit and spend time in town - for example one or more eateries to offer service across the day are preferred to "hit and run" retail opportunities.
 - c. Given the lack of redevelopment on Main Street recently, it may be necessary for the City to subsidize the project in some way (sell property at reduced price, favorable lease terms etc) to bring these goals to fruition.
2. That 28 and 30 Main Street should be unified into one parcel.
3. Dependent upon viability of the project it may be appropriate to abandon the Church Street public right of way and add 14 Main Street to the other merged lots. This would create a contiguous connected street frontage on Main Street and make Church Street dead end on the property's east side. Alternatively, consideration could be given to developing over the public right of way to support maximum residential uses and to either preserve the full right of way or sustain pedestrian access to Main St while creating additional (rentable) outdoor social space.
4. If possible, the intermittent stream to the rear of the properties should be designed in such a way as to maximize daylighting for the stream and to create a positive environmental impact.

DRAFT MOTION

West Lebanon Revitalization Advisory Committee
Council Recommendation
14, 28 and 30 Main Street
Page 2 of 2

5. If possible, the rear area of 30 Main Street should be designed in such a way to include a recreational pocket park area for area residents to enjoy.
6. Recommend that the Lebanon City Council begin the RFP process. The RFP should give priority to projects that meet the criteria in bullet point numbers one, three, four and five. If these items are not practically or economically feasible, developers should indicate what concessions the City might offer to make their project(s) viable.
7. Recommend that the West Lebanon Revitalization Advisory Committee be kept apprised of the RFP process and that it be given the opportunity to review and comment on RFP responses, as appropriate.
8. Recommend that the City Council assign the RFP process to the appropriate staff members, with the goal of a release date not later than February 1, 2024.

Motion seconded by: James Mashal

Vote: Unanimous (7-0)

1 **Council Discussions:**

2
3 Mayor McNamara was encouraged by the number of respondents to the questionnaire noting these would
4 help the Council with an evaluation of any proposals that are submitted.

5
6 Councilor Simon noted that if you removed the respondents that were not residents in West Lebanon, the
7 number wanting to see a Fire Station in West Lebanon rose by about 8-10% on the graph. This was a
8 higher number for the folks in West Lebanon wanting to see a Fire Station built along Main Street.

9
10 Assistant Mayor Below spoke about his reasons why he felt there could be both a Fire Station and a
11 significant mixed-use development on the site (i.e., a drive through, 3-bay garage to the street on the
12 southern end of the lot, and still go up (build) 3-4 stories /55ft.). He knows the City does not have the
13 capacity to finance a new Fire Station in West Lebanon for quite a while but thought that when we are
14 looking at West Lebanon, in terms of emergency response, this is the right vicinity to have an optimal
15 fire/ambulance response time and further explained his reasons. He questioned if the RFP could include
16 (as an alternate) having someone build and finance the Fire Station then have the City rent it and further
17 explained his reasons on how this could be done.

18
19 Councilor Simon noted the Committee looked at this when they were having discussions, but wanted to
20 go with what the majority of respondents were looking for and also did not want to overload themselves
21 beyond what they were charged to do and further explained his reasons.

22
23 Councilor Sykes spoke about his concerns: 1) The challenge of trying to find a location for the Fire
24 Station, and 2) Firefighters who will have a secondary living situation as compared to the new Fire
25 Station situation (i.e., a Fire Station that has serious problems), noting the impetuosity of trying to look out
26 for the safety of the firefighters who give so much.

27
28 Councilor Wilkie spoke about his reasons for including some below market rate residential housing to the
29 RFP, perhaps even having this as a priority.

30
31 Councilor Whittlesey concurred, noting the statement could read: Additional consideration will be
32 provided to proposals that will include below market rate housing and further explained his reasons.

33
34 **Mr. Dan Nash (W-1 and Economic Development Committee-EDC)** came forth and spoke about how the
35 West Lebanon Fire Station could be constructed to accommodate mixed-use/or housing and other
36 suggestions for Front Street.

37
38 City Manager Mulholland wanted the Council to be very careful with changing the way the Motion from
39 the WLRAC is written right now. It is the way it should be written and nothing more should be added
40 (i.e., nothing about a Fire Station/workforce housing/below market rate housing). If the Council wants to
41 add these things, they have to be included in the Council's motion.

42
43 Councilor Sykes spoke about his reasons why he did not feel this RFP needed to be rushed and was
44 reluctant to wordsmith a motion.

1 Mayor McNamara noted the WLRAC has done a tremendous amount of work and came up with some
2 things that are very clear. He would like the City to hold onto this for as short a period of time as
3 possible.

4
5 Councilor Simon noted the WLRAC was asked to do this in a very short turnaround time. He reiterated
6 again that they did discuss some of these topics, but they decided to keep the RFP (as presented) and
7 spoke about his reasons why he felt the Council should take action on this tonight, noting if there is
8 enough interested in adding on what Assistant Mayor Below or Councilor Wilkie suggested this could be
9 done relatively easily. If this gets kicked backed to the Committee, he felt they would be very
10 disappointed and upset.

11
12 The Council continued their discussions regarding the mixed use suggestion; having a walkable West
13 Lebanon; having the RFPs remain open; how “perfect is the enemy of the good,” and this RFP is good
14 and does not need to be perfect for the Council to move forward; and the suggestion that the RFP be
15 modeled after Spencer Street to give additional points to those proposals that incorporate workforce
16 housing.

17
18 **ACTION (1):**

19 *Assistant Mayor Below MOVED that the Lebanon City Council hereby authorizes and directs the City*
20 *Manager to prepare and advertise a Request For Proposals (RFP) for the redevelopment of city- owned*
21 *properties located at 14, 28, and 30 Main Street, West Lebanon, incorporating the recommendations of*
22 *the West Lebanon Revitalization Advisory Committee as set forth in the January 17, 2024 City Council*
23 *Agenda Packet, with options for incorporating the replacement West Lebanon Fire Station into a mixed-*
24 *use project and consideration of workforce housing as an option or an optional factor with a goal of*
25 *advertising the RFP by March 1, 2024.*

26
27 Assistant Mayor Below noted he shifted the date because it would take more time to think about the RFP
28 that includes workforce housing and/or a proposal that might incorporate a replaced Fire Station into a
29 mixed-use project, which would include a description of what that need might look like, noting this may
30 not be a good time for a developer(s) proposal and further explained his reasoning. However, if we do not
31 put the Fire Station on the table, we will not see any proposals that suggest that.

32
33 ***Seconded by Councilor Sykes.***

34
35 City Manager Mulholland spoke about his concerns noting he would not be able to come up with a plan/
36 design for a West Lebanon Fire Station; or what developers would expect from him; etc. For the record,
37 he did not support this motion.

38
39 The Council continued their discussions and spoke about the pros/cons and their reasons for either
40 supporting or not supporting this motion. In summary, their discussions included: The complexity of
41 adding the West Lebanon Fire Station and/or below market housing to the proposed RFP; the difference
42 between incentivizing vs. asking for a Fire Station and what would happen if there is a proposal for a Fire
43 Station that does not meet the needs of the City; how workforce housing could take a number of forms
44 and become very complicated; tweaking the language in the RFP that would allow the City to have a
45 space to develop a Fire Station that would meet West Lebanon’s needs; the difficulties in determining
46 how much space should be set aside for the Fire Station and/or future development by the City; seeing
47 this site redeveloped in the short term and then deal with the West Lebanon Fire Station issue at another

1 site in the future; how the potential for a limited access road between Sachem Village and the DHMC
2 access road would significantly impact a decision on where a West Lebanon Fire Station would go;
3 leaving workforce housing out of the RFP but giving extra credit to developers who consider workforce
4 housing. *(NOTE: Details of the Councils discussions and a transcript can be found on the City's*
5 *website for January 17, 2024.)*
6

7 Assistant Mayor Below noted he wanted to amend his previous Motion's date to September 1, 2024.
8

9 City Manager Mulholland wanted to make it very clear for the record that this change would cause the
10 taxpayers money.
11

12 Councilor Simon suggested the Council stick with the original motion as suggested by the WLRAC.
13

14 **ACTION (2):**

15 *Assistant Mayor Below MOVED that the Lebanon City Council hereby authorizes and directs the City*
16 *Manager to prepare and advertise a Request For Proposals (RFP) for the redevelopment of city- owned*
17 *properties located at 14, 28, and 30 Main Street, West Lebanon, incorporating the recommendations of*
18 *the West Lebanon Revitalization Advisory Committee as set forth in the January 17, 2024 City Council*
19 *Agenda Packet, with conditional options for consideration of incorporating a replacement West Lebanon*
20 *Fire Station and/or consideration of incorporation consideration of workforce housing with a goal of*
21 *advertising the RFP by ~~March 1,~~ September 1, 2024.*
22 *Seconded by Councilor Sykes.*
23

24 **Roll Call Vote:**

25 *Voting Yea: Assistant Mayor Below, and Councilor Sykes*

26 *Voting Nay: Whittlesey, Zook, Simon, Heistad, Wilkie, and Mayor McNamara*

27 *Absent from vote: Councilor Liot Hill.*
28

29 **The Vote on the Motion FAILED (2-6).*
30

31 Councilor Whittlesey spoke about his reasons for supporting the original motion with the additional
32 option on the workforce housing and took the following action:
33

34 **ACTION (3):**

35 *Councilor Whittlesey MOVED that the Lebanon City Council hereby authorizes and directs the City*
36 *Manager to prepare and advertise a Request For Proposals (RFP) for the redevelopment of city- owned*
37 *properties located at 14, 28, and 30 Main Street, West Lebanon, incorporating the recommendations of*
38 *the West Lebanon Revitalization Advisory Committee as set forth in the January 17, 2024 City Council*
39 *Agenda Packet, with additional optional consideration for workforce housing included in the RFP with*
40 *a goal of advertising the RFP by March 1, 2024.*
41 *Seconded by Councilor Wilkie.*
42

43 **Roll Call Vote:**

44 *Voting Yay: Assistant Mayor Below, and Councilors Heistad, Simon, Sykes, Whittlesey, Wilkie, Zook*
45 *and Mayor McNamara*

46 *None voted Nay.*

47 *Absent from vote: Councilors Liot Hill.*
48

1 **The Vote on the Motion was unanimously approved by the members present (8-0).*

2
3 **I. Discuss Potential TIF District for the Main Street Area of West Lebanon**

4
5 Included in the agenda packet: *(All supportive documents and information can be found on Pages 88-*
6 *90, Council agenda packet)*

- 7
8 1. Agenda Request Form Submitted by Councilor Simon re: Tax Increment Financing District for
9 Main Street West Lebanon.

10
11 **BACKGROUND**

12 Councilor Simon reviewed his request as presented in the agenda packet, noting the West Lebanon
13 Revitalization Advisory Committee (WLRAC) has talked about this and rather than having the
14 Committee put a lot of time into this, he wanted to bring this before the Council first for their review. He
15 also would like the Economic Development Commission (EDC) involved as well.

16
17 Mayor McNamara noted the Council received a letter from Lyme Properties (developer of River Park) in
18 support of a TIF District and suggested that if the Council were to consider a TIF District for Downtown
19 West Lebanon, that this be expanded to include River Park.

20
21 At the request of Councilor Sykes, City Manager Mulholland described the models used for the different
22 TIF Districts (i.e., Define the area and specific purpose; must achieve some objective; needs to have a
23 development plan and an economic analysis of how much revenue it would produce.)

24
25 Councilor Whittlesey requested the City Manager to come up with bulletpoints that Councilor Simon
26 could take back to WLRAC/EDC regarding the requirements/financials for a TIF District for their review.

27
28 Assistant Mayor Below spoke about how certain public improvements are a pre-requisite for achieving
29 certain new investments and further explained how/why the different Lebanon TIF Districts were
30 established.

31
32 City Manager Mulholland spoke about how the TIF District funds were used to help redevelop/build more
33 tax base into the City's economy. If not done correctly, TIF Districts can have consequences for the
34 taxpayers. A motion will be prepared for the next meeting so the WLRAC/EDC/knows what needs to be
35 done.

36
37 **ACTION: No action taken at this time.**

38
39 **J. Discuss the City Manager's proposal for development of city-owned parcels pursuant to**
40 **City Council's April 2022 Resolution on Housing**

41
42 Included in the agenda packet: *(All supportive documents and information can be found on Pages 84-*
43 *88, Council agenda packet)*

- 44 1. City Council's Resolution on Housing, dated April 21, 2022 *(Page 91-95, agenda Packet)*

45
46 Deputy City Manager David Brooks and Mayor McNamara reviewed and explained the reasons for the
47 proposal listed above.

BACKGROUND: *Please refer to pages 91-92, Council agenda packet for complete details.*

On April 21, 2022, the City Council unanimously adopted a Resolution directing the City Manager to take steps to Enable, Incentivize, and Partner in the development of housing needs not currently being addressed by the market through a variety of actions.

To date, the Administration has identified three city-owned parcels that appear to have the potential for new, small-scale, infill residential development. The City has begun to take some due diligence steps on one of the parcels, including authorizing a boundary survey and wetlands delineation. Additional steps will be required for all of the parcels. The properties include the following city-owned parcels:

Barrows Street:

- ~1.51 acres (in two existing parcels) at the west end of Barrows Street (Tax Map/Lot 77- 106 and 77-107); It is envisioned that the end of the Barrows Street right-of-way would be discontinued to allow for the merger of the two properties into a single, large parcel to maximize redevelopment potential.
- Zoned: Residential Three (R-3) District



Hanover Street Extension:

- ~1.92 acres on Hanover Street Extension (Tax Map/Lot 64-1)
- Zoned: Residential One (R-1) District



Seminary Hill Road:

- ~0.50 acres at 3 Seminary Hill Road (Tax Map/Lot 86-56) and potentially parts of 5 South Main Street (Tax Map/Lot 86-55) depending on the final design of intersection improvements associated with the Dry Bridge project
- Zoned: Central Business (CB) District



The Administration was looking for feedback and guidance from the City Council for continuing to work on this proposed project and to act in furtherance of the City Council's goals as stated in the April 2022 Resolution on Housing.

Council Discussions:

Mayor McNamara noted the market rate for rental apartments are being addressed nicely by developers, particularly along Mt. Support Road. Similarly, we have organizations like the Lebanon Housing Authority and Twin Pines who are building apartments that are affordable. What we do not have is affordable single-family owner occupied housing, noting that the average value of a house in Lebanon now is well over \$400K and exceeds \$565K.

What we are hearing from the businesses is that there is a retention problem because some of their employees are wanting to transition from renting an apartment to owning their own single family home. The market is not going to address this situation, so he moved toward what is sometimes called Cottage Communities or Pocket Neighborhoods. He spoke about his experiences of visiting some of these types of housing opportunities in other parts of the country and what impressed him is that they were situated into existing neighborhoods in a way that did not detract from but enhanced the neighborhood and allowed parcels that were often too small to be of interest to a developer.

The key feature of these pocket neighborhoods is that they utilize architecturally designed homes. Very few homes in this country today are actually designed by an architect. However, it is possible to build intelligently designed, energy/space efficient homes that are perfectly suitable for many families. The other key feature about Pocket Neighborhoods is that they can be designed around a central common space. Typically, they will have an HOA (Homeowners Association) who are responsible for common maintenance. Pocket Neighborhoods are also great for young families looking for an affordable starter home and for older folks who want to downsize

The common features of Pocket Neighborhoods are: Small, intelligently designed homes; common open space; and the fact that they can typically be done on smaller lots. We have two types of property in the City where this could potentially happen: 1) City-owned properties not currently on the tax rolls, and 2)

1 We can identify a number of correctly zoned, privately owned +/-2 acre lots that folks might want to
2 develop on their own.

3
4 Since this is a new concept not only in Lebanon, but also in New England, he would like to see one of
5 these areas developed. If we can do one of these (Pocket Neighborhoods) correctly, we show these to
6 enhance a neighborhood and it fulfills what the City is trying to do (having affordable owner occupied
7 housing), which may hold an interest for outside developers.

8
9 **Ms. Rebecca Kitter (W-3):** She came forth again and passionately spoke about the reasons why she
10 objected to having a Pocket Neighborhood project that abuts her property. She also spoke about the
11 potential option of buying the property that abuts hers.

12
13 Mayor McNamara explained to Ms. Kitter that when he saw these, they have integrated well into
14 neighborhoods.

15
16 The Council and Deputy City Manager David Brooks had further discussions regarding the property that
17 abuts Ms. Rebecca Kitter's property that included the wetlands involved and the buildability of the land
18 involved.

19
20 Next steps:

- 21 • Preparation of a motion that would allow the City to move forward with a project.
- 22 • Identify properties that have the potential for redevelopment.

23
24 **ACTION: No action taken at this meeting.**

25
26 **K. Discuss possible NHMA Policy Positions for the 2024 NHMA Legislative Policy process.**

27
28 Included in the agenda packet: *(All supportive documents and information can be found on Pages 96-97,*
29 *Council agenda packet)*

- 30 1. 2025-2026 NHMA Explanation of Proposed Policy form

31
32 **BACKGROUND**

33 It is the time of year when the New Hampshire Municipal Association (NHMA) begins planning for the
34 Legislative Policy Conference in the Fall. The policy process begins with solicitation of policy proposals
35 from local officials to create an initial issues list. The deadline for submission of a policy proposal is April
36 15, 2024.

37 NHMA's legislative policy committees - Finance and Revenue; General Administration and Governance;
38 and Infrastructure, Development and Land Use – will review all policy proposals in order to make
39 recommendations which will go to the NHMA Legislative Policy Conference in September.

40
41 City Manager Mulholland noted no action needs to be taken on this tonight, but suggested the Council
42 continue to think about what they would like added to the NHMA Policy Proposals.

43
44 **ACTION: No action taken at this meeting.**

45
46 **L. Vote to approve annual compensation for the City Manager**

1 **BACKGROUND**

2 City Manager Shaun Mulholland was appointed as the City Manager on January 22, 2018. The City
3 Council sets the level of compensation for the City Manager on an annual basis.
4

5 **ACTION:**

6 *Councilor Simon MOVED that in accordance with City Charter §C419:24, Salaries, the City Council*
7 *hereby increases the compensation of the City Manager by 6.0%, with an effective date of the first pay*
8 *period of 2024.*

9 *Seconded by Councilor Heistad.*
10

11 **Roll Call Vote:**

12 *Assistant Mayor Below, and Councilors Heistad, , Simon, Sykes, Whittlesey, Wilkie, Zook and Mayor*
13 *McNamara all voting Yea.*

14 *None voted Nay.*

15 *Absent from vote: Councilor Liot Hill.*
16

17 **The Vote on the Motion was approved (8-0)*
18

19 **12. City Manager Report:**

20 **City Manager Mulholland updated the Council on the following:**

- 21 • Westboro Yard Status: City Manager Mulholland and Mayor McNamara informed the Council
- 22 about the discussions they had with the NH DOT/NH DES/AG this past week.
- 23 • Long-term Plans for the Storrs Hill Ski area: He is forming a Working Group to look into this.
- 24 • Public Needs Assessment: Part of the Strategic Plan. Effort has been launched.
25

26 **13. COUNCIL REPRESENTATIVES TO OTHER BODIES: NONE**
27

28 **14. FUTURE AGENDA ITEMS:**
29

30 **15. NON-PUBLIC SESSION: NONE**
31

32 **16. ADJOURNMENT:**
33

34 *Assistant Mayor MOVED for adjournment.*

35 *Seconded by Councilor Whittlesey.*
36

37 **Roll Call Vote:**

38 *Assistant Mayor Below, and Councilors Heistad, , Simon, Sykes, Whittlesey, Wilkie, Zook and Mayor*
39 *McNamara all voting Yea.*

40 *None voted Nay.*

41 *Absent from vote: Councilor Liot Hill.*
42

43 **The Vote on the Motion was approved (8-0)*
44

45 **The meeting was adjourned at 10:01 PM.**
46

47 Respectfully submitted,

- 1 Dona E. Gibson
- 2 Recording Secretary

Agenda
Lebanon City Council
February 7, 2024

7. Appointments:

Appointments

Board/Committee Appointments as presented by City Clerk/Tax Collector Jaseya Ewing

- Arts & Culture Commission, Benjamin Van Vliet (Reappointment Arts Organization Representative)
- Lebanon Energy Advisory Committee, Thomas Benzel (Regular Member)
- Planning Board, Laurel Stavis (Reappointment Regular Member)

Included in this Section:

1. Memo from City Clerk/Tax Collector Jaseya Ewing dated February 7, 2024.



Office of the City Clerk & Tax Collector
51 N. Park Street
Lebanon, NH 03766

MEMORANDUM

DATE: February 7, 2024
TO: The Honorable Mayor & City Council
FROM: Jaseya Ewing, City Clerk & Tax Collector
RE: **Appointments Proposed for Council Discussion/Action:**

If the Council wishes to proceed with action on the appointments below, a nomination should be made and voted on for each appointment.

Note: nominations do not need to be seconded.

Arts & Culture Commission

- **Benjamin Van Vliet** – Reappointment as an Arts Organization Representative for a one-year term.

Term: 01/24-01/25

Lebanon Energy Advisory Committee

- **Thomas Benzel** – Appointment as a regular member of the Lebanon Energy Advisory Committee for a two-year term. Interviewed by: Devin Wilkie

Term: 02/24-02/26

Planning Board

- **Laurel Stavis** – Reappointment as a regular member of the Planning Board for a three-year term. Recommended for reappointment by: Shaun Mulholland.

Term: 01/24-02/27

From: [Kara Tracy](#)
To: [Kara Tracy](#)
Subject: FW: [EXTERNAL] Online Form Submission #9314 for Board Member Application
Date: Thursday, January 25, 2024 4:27:39 PM

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

Board Member Application

Application Process

After submitting this application, you will be contacted and interviewed by one of our City Councilors. Your application will then go before the full Council at one of their regular meetings for consideration of appointment. If you have questions, please contact the City Clerk's Office at 603-448-3054 or cityclerk@lebanonnh.gov.

Basic Requirements

- *Lebanon/West Lebanon resident (except for those boards whose membership makeup includes non-resident)*
- *Willingness to learn*
- *Commitment to attend meetings*
- *Treat people fairly*
- *Consider the best interest of the community as a whole when making decisions*
- *Must have attended one meeting of the board that you wish to apply to within the last six months to observe the process and function of the board.*

(Section Break)

First Name	Benjamin
------------	----------

Last Name	Van Vliet
-----------	-----------

Physical Address	
------------------	--

City	
------	--

State	NH
-------	----

Zip Code	
----------	--

Is this your mailing address?	Yes
Home Phone Number	
Work Number	
Email Address	
How long have you resided in Lebanon?	5.5 years
(Section Break)	
Is this an application for re-appointment?	This application is for re-appointment.
For which board, committee, or commission are you applying?	Arts and Culture Commission
Other Committee	<i>Field not completed.</i>
Why would you like to serve?	Arts and culture are vital to a strong community both socially and economically. Having lived in West Lebanon for five years, I would like to help arts flourish in my community, and I have personal and professional experience that can be an asset to the commission. Most importantly, I can help the commission pursue a collaborative and strategic approach to its work, which is essential in order to achieve long-lasting benefits for our city.
State a few of what you feel your qualifications are or why you wish to be appointed to this board / committee.	I work as the Executive Director of the Upper Valley Music Center and as a professional musician. I will bring my administrative and leadership skills, plus my experience as a professional performing artist. Personally, my wife and I have two young children who attend Lebanon schools, and I have a first hand perspective on the needs of young families in Lebanon.
Certification	I hereby certify that I meet the basic requirements for applying to a Lebanon board / committee.

Email not displaying correctly? [View it in your browser.](#)

From: [Kara Tracy](#)
To: [Kara Tracy](#)
Subject: RE: [EXTERNAL] Online Form Submission #9366 for Board Member Application
Date: Thursday, December 28, 2023 7:53:54 AM

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

Board Member Application

Application Process

After submitting this application, you will be contacted and interviewed by one of our City Councilors. Your application will then go before the full Council at one of their regular meetings for consideration of appointment. If you have questions, please contact the City Clerk's Office at 603-448-3054 or cityclerk@lebanonnh.gov.

Basic Requirements

- *Lebanon/West Lebanon resident (except for those boards whose membership makeup includes non-resident)*
- *Willingness to learn*
- *Commitment to attend meetings*
- *Treat people fairly*
- *Consider the best interest of the community as a whole when making decisions*
- *Must have attended one meeting of the board that you wish to apply to within the last six months to observe the process and function of the board.*

(Section Break)

First Name	Thomas
------------	--------

Last Name	Benzel
-----------	--------

Physical Address	
------------------	--

City	
------	--

State	
-------	--

Zip Code	
----------	--

Is this your mailing address?	Yes
Home Phone Number	[REDACTED]
Work Number	<i>Field not completed.</i>
Email Address	[REDACTED]
How long have you resided in Lebanon?	1.5 years
(Section Break)	
Is this an application for re-appointment?	This application is not for re-appointment.
For which board, committee, or commission are you applying?	Lebanon Energy Advisory Committee
Other Committee	<i>Field not completed.</i>
Why would you like to serve?	Dear Selection Committee, I am excited to submit my qualifications for consideration as a member of the City of Lebanon Energy Advisory Committee. My extensive professional experience at Freudenberg and Co., along with my specialized training and involvement in efficiency and infrastructure projects, has equipped me with a unique skill set and a deep understanding of energy management, which I believe would be invaluable to the committee. I enjoyed attending your meeting last night and found it extremely interesting. Professional Background: Long-term Employee at Freudenberg and Co.: I have had a fulfilling career at Freudenberg, culminating in my role as Vice President of Freudenberg Business Services North America. This position provided me with extensive experience in managing various operational aspects of a large, multinational corporation. Expertise in Indirect Purchasing: My responsibilities included overseeing indirect purchasing, encompassing items outside of direct materials, such as capital equipment and energy. This role offered me substantial exposure to diverse aspects of corporate operations. Retirement and Consulting: Following my retirement, I continue to engage as a consultant for Freudenberg, maintaining an active role in the industry and contributing my expertise.

Relevant Experience:

Global Operations Insight: Having been part of an organization that operates in 60 countries with 55,000 employees, I have gained a global perspective on business and energy practices.

Leadership in North American Operations: As part of the leadership team for the North American operations, headquartered outside of Detroit with 120 locations, I have acquired a comprehensive understanding of the regional and national energy landscape.

Involvement in Infrastructure Projects: My involvement in construction and infrastructure projects, especially heating, ventilating, and air-conditioning systems, has provided me with hands-on experience in energy-efficient solutions.

Skills and Competencies:

Strategic Planning: My experience in overseeing large-scale projects has honed my skills in strategic planning and project management.

Lean Systems Training: I have been trained in Lean Systems, which has enhanced my ability to identify and implement energy-saving measures effectively.

Experience in Kaizens and 3Ps: My participation in numerous Kaizens and 3P events for equipment planning has sharpened my skills in continuous improvement and process optimization.

Energy Efficiency Knowledge: Through my professional journey, I have gained valuable insights into energy efficiency, directly relevant to the goals of the Energy Advisory Committee.

Leadership and Collaboration: My leadership role at Freudenberg has equipped me with strong collaborative and team-building skills, essential for contributing effectively to a committee setting.

I am enthusiastic about the opportunity to bring my background and expertise to the City of Lebanon Energy Advisory Committee. I believe that my diverse experience and specialized training in managing energy-related aspects in a multinational context provide me with a unique perspective that could be beneficial in achieving the committee's objectives.

Thank you for considering my application.

Sincerely,
Thomas Benzel

State a few of what you feel your qualifications are or why you wish to be appointed to this board / committee.

See above

Certification

I hereby certify that I meet the basic requirements for applying to
a Lebanon board / committee.

Email not displaying correctly? [View it in your browser.](#)

Councilor Interview Report Form

Councilor Name: Devin R. Wilkie

Date of Interview: 24 Jan 2024

Applicant Name: Thomas Benzel

Board(s) to Which Applied: LEAC

☒ Regular Seat

☐ Alternate Seat

Has Applicant Attended Meeting of Board to Which Applying? ☒ Yes ☐ No

(If yes, indicate date of meeting.) Date: 2 LEAC meetings and 2 EV Subcommittee meetings

Recommend Appointment: ☒ Yes ☐ No

☒ Regular Seat

☐ Alternate Seat

General Comments: I am happy to recommend Thomas for LEAC. He brings valuable perspective and experience to the work being done and to future opportunities.

(PLEASE NOTE: THIS FORM WILL BE INCLUDED IN THE AGENDA MATERIALS WHEN APPLICANT IS SCHEDULED TO APPEAR BEFORE THE CITY COUNCIL.)

Standard Questions for All Applicants:

1) What do you believe is the purpose of this Board/Committee?

Advisory to City Council, to bring forth opportunities that are beneficial to community.

2) Are you familiar with the meeting dates and time commitments of this Board/Committee?
Would you be available for additional meetings, site visits, or other official events when necessary?

Yes, attended two meetings of LEAC and of EV subcommittee.

3) Do you have any previous experience working with this type of Board/Committee, or in a related field, in this community or any other community?

Freudenberg – indirect purchasing, combining disparate business groups for purchasing leverage. Plant engineer in a factory, experience in infrastructure. Also energy procurement and energy efficiency opportunities. Has testified at PUC regarding utility opportunities and challenges.

4) Do you have any interest in attending educational presentations and seminars in order to further educate yourself relative to the work of this Board/Committee?

Absolutely.

5) Do you anticipate that you would have to recuse yourself from more than an occasional meeting due to a conflict of interest (perceived or real) relating to your past or present employment, organizational membership, real estate holdings, family ties, or other reasons?

No.

6) What do you think are the key challenges for this Board/Committee?

Don't want to invest in a technology that may become obsolete; need to be aware of new technologies and ready to examine them quickly. Liberty Utilities drag their feet with CPCNH, battery programs, etc.

7) What do you think are the key opportunities for this Board/Committee?

Perpetual change in energy field: opportunities to keep abreast of all changes. Stay tuned in to future change.

8) What would you like to see this Board/Committee accomplish in the next year?

Policy deployment – outlining and pursuing goals of city plans. Great groundwork laid, need to make it come to fruition.

From: [Kara Tracy](#)
To: [Kara Tracy](#)
Subject: FW: APPLICATION FW: [EXTERNAL] Online Form Submission #9451 for Board Member Application
Date: Thursday, January 25, 2024 4:33:41 PM

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

Board Member Application

Application Process

After submitting this application, you will be contacted and interviewed by one of our City Councilors. Your application will then go before the full Council at one of their regular meetings for consideration of appointment. If you have questions, please contact the City Clerk's Office at 603-448-3054 or cityclerk@lebanonnh.gov.

Basic Requirements

- *Lebanon/West Lebanon resident (except for those boards whose membership makeup includes non-resident)*
- *Willingness to learn*
- *Commitment to attend meetings*
- *Treat people fairly*
- *Consider the best interest of the community as a whole when making decisions*
- *Must have attended one meeting of the board that you wish to apply to within the last six months to observe the process and function of the board.*

(Section Break)

First Name	Laurel
------------	--------

Last Name	Stavis
-----------	--------

Physical Address	
------------------	--

City	
------	--

NH

State	
Zip Code	██████
Is this your mailing address?	Yes
Home Phone Number	██████████
Work Number	<i>Field not completed.</i>
Email Address	██████████████████
How long have you resided in Lebanon?	25 years
(Section Break)	
Is this an application for re-appointment?	This application is for re-appointment.
For which board, committee, or commission are you applying?	Planning Board
Other Committee	<i>Field not completed.</i>
Why would you like to serve?	I would like to continue to be of service to the City.
State a few of what you feel your qualifications are or why you wish to be appointed to this board / committee.	I have been on the PB for 7 years, am a State Representative, and also serve on the West Lebanon Revitalization Advisory Committee.
Certification	I hereby certify that I meet the basic requirements for applying to a Lebanon board / committee.

Email not displaying correctly? [View it in your browser.](#)

Agenda

Lebanon City Council

February 7, 2024

8. Public Hearing Items:

8.A – Ordinance #2024-01 to amend City Code Chapter 168, Vehicles and Traffic, to designate no parking areas along Eldridge Street, Laplante Road, and Prospect Street Extension, Lebanon

A public hearing for the purpose of receiving public input and taking action on proposed Ordinance #2024-01 to amend City Code Chapter 168, Vehicles and Traffic, §168-1, No Parking, to include a 520-foot section on both the north and south sides of Prospect Street Extension beginning at the intersection of Laplante Road and moving in a westerly direction and to include a 230-foot section on both the east and west sides of Laplante Road beginning at the intersection of Prospect Street Extension and moving in a northerly direction, for a winter parking ban from December 1st to April 1st of every year; to include a 340-foot section on the south side of Eldridge Street beginning at the intersection of Hanover Street and moving in a westerly direction; and to extend the existing no parking restriction on the north side of Eldridge Street by 5 feet to a distance of 340 feet westerly from the intersection of Hanover Street, as "No Parking" zones.

The City Council scheduled this public hearing at its January 17, 2024 regular meeting. The public hearing was properly noticed in the *Valley News* on January 27, 2024 in accordance with City Code and State Law.

Background

Earlier this year, the Public Safety Committee convened to address a request brought forward by the Highway Superintendent. The proposal under consideration sought the establishment of a "No Parking Zone" in two locations:

1. On Prospect Street Extension, extending 520 feet on the north and south sides of the road from the intersection of Skylark Drive to Laplante Road; and
2. On Laplante Road, extending 230 feet on the east and west sides of the road beginning from the intersection of Prospect Street Extension and moving in a northerly direction.

The primary objective behind this request is to enhance the efficiency of snow plowing operations within the specified area. Recognizing the importance of maintaining smooth traffic flow and ensuring the safety of both motorists and pedestrians during winter weather conditions, the Committee engaged in thorough discussions to assess the viability and necessity of implementing the requested parking restrictions. The finding of the Committee was that a "No Parking Zone" in the above specified locations would increase plowing efficiencies by eliminating issues with parked cars at the intersections impacted by this change.

In addition, on September 6, 2023, Public Works received a complaint about parked vehicles blocking the entrance to the private parking lot at 76 Hanover Street on a frequent basis. Upon investigation, it was found that the entrance to the private parking lot is blocked by vehicles parking on Eldridge Street causing vehicles to be blocked in or out of the parking lot.

The recommendation seeks the establishment of a "No Parking Zone" in one additional location:

3. On Eldridge Street, extending 340 feet on the south side of the street beginning at the intersection of Hanover Street moving in a westerly direction.

It is noted that City Code Chapter 168, §168-1, No Parking, already includes a no parking restriction on a 335-foot section on the north side of Eldridge Street westerly from the intersection with Hanover Street. As a result, the pending proposal would apply the No Parking restriction to both sides of Eldridge Street for a distance of 340 feet westerly from the intersection with Hanover Street.

Action

If the Council decides to move forward, the following motion is offered for consideration:

MOVED, that the Lebanon City Council hereby adopts Ordinance #2024-01 to amend City Code Chapter 168, Vehicles and Traffic, §168-1, No Parking, as presented in the February 7, 2024 City Council agenda packet, effective upon passage.

Included In This Section:

1. Proposed Ordinance #2024-01
2. Aerial Map of Proposed Change Area along Prospect Street Extension and Laplante Road
3. Aerial Map of Proposed Change Area along Eldridge Street
4. Notice of Public Hearing as published in the January 27, 2024 Edition of the *Valley News*

CITY OF LEBANON
ORDINANCE #2024-01

AN ORDINANCE TO AMEND the Code of the City of Lebanon, Chapter 168, Vehicles and Traffic, Section 168-1, No Parking, in order to include a 520-foot section on both the north and south sides of Prospect Street Extension beginning at the intersection of Laplante Road and moving in a westerly direction and to include a 230-foot section on both the east and west sides of Laplante Road beginning at the intersection of Prospect Street Extension and moving in a northerly direction, for a winter parking ban from December 1st to April 1st of every year; to include a 340-foot section on the south side of Eldridge Street beginning at the intersection of Hanover Street moving in a westerly direction; and to extend the existing no parking restriction on the north side of Eldridge Street by 5 feet to a distance of 340 feet westerly from the intersection of Hanover Street.

BE IT ORDAINED, by the City Council of the City of Lebanon, as follows:

Section 1:

The Code of the City of Lebanon is hereby amended to revise Chapter 168, "Vehicles and Traffic", §168-1, No Parking, for the purpose of amending language referring to Elridge Street and adding language referring to Laplante Road and Prospect Street Extension, as follows:

§ 168-1. No Parking.

It shall be unlawful for the owner of any vehicle or any person having the custody or control of any vehicle to park said vehicle or permit the same to be parked in violation of the following provisions:

Name of Street	Side	Location
Eldridge Street	North <u>Both</u>	From the intersection of Eldridge Street and Hanover Street <u>westerly for a distance of 335 340 feet westerly.</u>
<u>Laplante Road</u>	<u>Both</u>	<u>From the intersection of Prospect Street Extension northerly for a distance of 230 feet, between December 1st and April 1st each year</u>
<u>Prospect Street Extension</u>	<u>Both</u>	<u>From the intersection of Laplante Road westerly for a distance of 520 feet, between December 1st and April 1st each year</u>

Section 2: Severability.

The provisions of this ordinance are declared to be severable, and if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or parts of this ordinance.

Section 3: Effective Date.

The Ordinance shall become effective upon passage.

109-20

109-23

109-22

109-21

109-20

109-19

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109-11

109-10

109-9

109-8

109-7

109-6

109-5

109-4

109-3

109-2

109-1

123-10

123-17

123-18-1

123-18-2

123-18-100

230 Feet

230 Feet

520 Feet

520 Feet

Google AppGeo

1" = 144.64801025341578 ft

Page 48 of 261



MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT

City of Lebanon, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 11/20/2023
Data updated 11/18/2018

Print map scale is approximate.
Critical layout or measurement
activities should not be done using
this resource.



**LEBANON CITY COUNCIL
NOTICE OF PUBLIC HEARINGS
Wednesday, February 7, 2024 - 7:00pm
Council Chambers, City Hall or
REMOTE VIA VIRTUAL PLATFORM
LebanonNH.gov/LIVE**

The Lebanon City Council will hold public hearings on February 7, 2024, beginning at 7:00pm for the following:

- A. Ordinance #2024-01** – A public hearing for the purpose of receiving public input and taking action to amend City Code Chapter 168, Vehicles and Traffic, to designate no parking areas along Eldridge Street, Laplante Road, and Prospect Street Extension, Lebanon.
- B. Ordinance #2024-02** – A public hearing for the purpose of receiving public input and taking action to amend City Code Chapter 68, Fees, to include a fee schedule for applications to the Zoning Board of Adjustment and Building Code Board of Appeals, and administrative preparation of Zoning Verification Letters.
- C. Proposed Amendments to the Zoning Ordinance for Council Adoption** – Public hearing for the purpose of receiving public input and taking action on proposed zoning amendments for adoption by the City Council as follows:

Amendment #1 – To amend Section 213 (Impact Fees) to collect fees from residential additions larger than 500 sq. ft., to expand and clarify the type of development that is excluded from paying fees, and to amend the waiver and appeals provisions (Zoning Ordinance Sections 213.3(E) and 213.8)

Amendment #2 – To amend Section 305A.1 (GC-1 District Purpose), Section 305A.2 (GC-1 District Table of Uses) and Section 500 (Planned Developments Table) to allow Manufactured Housing Planned Unit Residential Development (PURDs) in the GC-1 District by Conditional Use Permit from the Planning Board. (Zoning Ordinance Sections 305A.1, 305A.2, and 500)

Amendment #3 – To amend Section 410.3 (Description of Riverbank Protection District) to remove properties from the Riverbank Protection District if the properties are granted an Urbanized Shoreland Exemption by the NH Department of Environmental Services pursuant to NH RSA 483-B:12. (Zoning Ordinance Section 410.3)

Amendment #4 – To amend Section 610 (Accessory Dwelling Unit (ADU)) to update the size ratios for ADU calculations, to add a parcel size threshold for larger ADUs, to clarify the property owner temporary leave of absence requirement, and to create a clear checklist of items needed for the ADU application. (Zoning Ordinance Sections 610.B, 610.G, and 610.K)

Amendment #5 – To amend the definition of "Gross Living Area" in Appendix A (Definitions) to clarify the calculation of impact fees and the size of Accessory Dwelling Units.

Amendment #6 – To adopt miscellaneous minor amendments, including clarifying existing language and making minor editorial changes, clarifying the enabling authority for the Riverbank Protection District, commercial and industrial PUD open space requirements, off-lot parking conditional use application requirements, ZBA administrative appeal procedures and definitions, ZBA application and hearing procedures, and changes to the definitions of "dwelling", "primary/secondary educational facility", "child day care facility", "health club," and "structure" (Zoning Ordinance Sections 213, 410.2, 501.1.F.2.a, 607.5, 610, 801, 802, and Appendix A)

Amendment #7 (Requested by Choice Storage, LLC) – Proposed Zoning Map change at 0 Etna Road (Tax Map 26, Lot 17), which is currently split-zoned between Light Industrial (IND-1) and Rural Lands Three (RL-3). The property owner has requested to rezone approximately 50 acres of RL-3 land to IND-1 and, in exchange, to rezone approximately 50 acres of IND-1 land to RL-3 to provide more protection for wetland areas, steep slopes, and a wildlife corridor existing in areas to be rezoned to RL-3, while allowing for development of the areas to be rezoned to IND-1.

Amendment #8 (Requested by Cicotte Properties, LLC) – To amend Section 311A.2 (R-O-1 District Table of Uses) to allow one of the following uses in the R-O-1 District by Conditional Use Permit from the Planning Board: either "auto sales and service" or "vehicular sales". (Zoning Ordinance Sections 311A.2)

- D. Ordinance #2024-03** – A public hearing for the purpose of receiving public input and taking action to amend City Code Chapter 46, Cemeteries, to remove provisions for holiday burials.

The February 7, 2024 City Council agenda packet and documents pertaining to the above-described public hearings will be available on the City's website beginning February 2, 2024: LebanonNH.gov/Agendas

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.

The foregoing notice was published in the *Valley News*, a newspaper of general circulation in the City of Lebanon, in accordance with the Code of the City of Lebanon on Saturday, January 27, 2024.

Jaseya Ewing

Jaseya Ewing, City Clerk

Agenda

Lebanon City Council

February 7, 2024

8. Public Hearing Items:

8.B – Ordinance #2024-02 to amend City Code Chapter 68, Fees, Article III, Miscellaneous Fees, §68-15, Enumeration of Fees, to include a Fee Schedule for Applications to the Zoning Board of Adjustment and Building Code Board of Appeals, and Administrative Preparation of Zoning Verification Letters

A public hearing for the purpose of receiving public input and taking action on proposed Ordinance #2024-02 to amend City Code Chapter 68, Fees, Article III, Miscellaneous Fees, §68-15, Enumeration of Fees, to enumerate, update, and establish filing fees for applications to the Zoning Board of Adjustment and the Building Code Board of Appeals, and to establish the administrative fee for the preparation of zoning verification letters.

The City Council scheduled this public hearing at its January 17, 2024 regular meeting. The public hearing was properly noticed in the *Valley News* on January 27, 2024 in accordance with City Code and State Law.

Background

The Planning & Development Department proposes to amend Chapter 68 of the Lebanon City Code to enumerate, update, and establish filing fees for the Zoning Board of Adjustment, to establish the filing fee for the Building Code Board of Appeals, and to establish an administrative fee for the preparation of zoning verification letters. Currently, §68-15.A provides that, “Zoning fees shall be set by Council,” but does not specify any fee categories or amounts.

A. Zoning Board of Adjustment

Filing fees for the Zoning Board of Adjustment are currently enumerated in the Zoning Board of Adjustment Fee Schedule, a copy of which is attached for reference, as follows:

- Variance - \$150.00
- Special Exception (including “Wetlands Special Exception” and “Riverbank Special Exception” which, for historical reasons, are listed separately on the Fee Schedule)- \$150.00
- There are currently no filing fees charged for an appeal of an administrative decision or for a rehearing request.

It is not known when these fees were last amended. However, in reviewing prior fee schedules, it is clear that the \$150.00 filing fees for Special Exception and Variance applications have been in place since at least 2007. To adjust for inflation and better account for staff administrative time, the Planning & Development Department proposes to increase the filing fee for Special Exception and Variance applications to \$300.00.

The Planning & Development Department also proposes to establish filing fees for Administrative Appeals, Equitable Waivers of Dimensional Requirements, Rehearing Requests, and Rehearings. All of these applications require staff time to review and administer, which the proposed fees, as follows, are intended to help cover:

- Administrative Appeal - \$300.00
- Equitable Waiver of Dimensional Regulation - \$300.00
- Rehearing Request - \$100.00
- Rehearing - \$300.00

Note that with respect to a rehearing application, the proposed ordinance language would require the fee to be waived if the Zoning Board, in granting the rehearing request, determines that it did or may have made a prejudicial technical or legal error in its original decision. The rationale for this waiver is that an applicant shouldn't have to pay another \$300 filing fee (on top of the \$300 fee for filing the original application) if the Board determines a rehearing is warranted based on a mistake that the Board has made, rather than for a reason within the control of the applicant.

The proposed Zoning Board application fees are nearly identical to the Town of Hanover Zoning Board application fees and are in line with other larger New Hampshire communities including:

- Nashua: \$330-\$900
- Portsmouth: \$200-\$400
- Concord: \$370-\$460
- Manchester: \$350 (Administrative Appeals and Equitable Waivers)

While the proposed increases will help to more fully cover administrative costs for simple applications, in other instances, the fee will continue to account for only a fraction of staff's time depending on the complexity or contentiousness of the subject matter.

Finally, note that the proposed changes to Chapter 68, §68-15.A are concurrent with a proposed change to Section 802 of the Zoning Ordinance to clarify that application fees are established by the City Council pursuant to City Code Chapter 68 and not by the Zoning Board of Adjustment. See Council Agenda Item #10.G.

B. Zoning Verification Letters

Zoning Verification letters are prepared by Planning & Development Department staff upon request, most frequently for lenders in connection with the closing of non-residential and multi-family dwelling properties. The letter typically includes a substantial amount of background information related to the property including, for example, a history of land use and Building Code approvals, and determinations relative to the status of non-conforming properties, uses and structures. Currently, a \$50 fee is charged to prepare these letters. The fee helps to pay for staff's time to prepare these letters, which can be significant. It is not known when the \$50 fee was established, but it is believed to have been in place for at least the past 15-20 years. It is also not known who and how the fee was established; to staff's knowledge, the current \$50 fee is not memorialized anywhere.

The Planning & Development Department staff proposes that the Council establish the zoning verification letter fee by ordinance, and to increase the \$50 fee that the Department has charged as a matter of course and by custom to \$100 to better account for the actual amount of staff time needed to prepare a typical zoning verification letter.

C. Building Code Board of Appeals

Pursuant to Chapter 36, §36-13.A of the City Code, the Zoning Board of Adjustment is designated to act as the Building Code Board of Appeals. Filing fees to the Building Code Board of Appeals are not currently identified in either Chapter 36 or Chapter 68, and if such a fee was

ever established, it has not been memorialized to staff's knowledge. The Planning & Development Department proposes to amend City Code §68-15 to establish a filing fee for the Building Code Board of Appeals in the amount of \$300, which is identical to the Zoning Board of Adjustment filing fee for an Administrative Appeal.

Action:

If the Council decides to move forward, the following motion is offered for consideration:

MOVED, that the Lebanon City Council hereby adopts Ordinance #2024-02 to amend City Code Chapter 68, Fees, Article III, Miscellaneous Fees, §68-15, Enumeration of Fees, as presented in the February 7, 2024 City Council agenda packet, effective upon passage.

Included in this Section:

1. Ordinance #2024-02
2. Zoning Board of Adjustment Fee Schedule, last revised 8/30/21
3. Notice of Public Hearing as published in the January 27, 2024 Edition of the *Valley News*

**CITY OF LEBANON
ORDINANCE #2024-02**

AN ORDINANCE TO AMEND the Code of the City of Lebanon, Chapter 68, Fees, Article III, Miscellaneous Fees, by amending §68-15, Enumeration of Fees, to enumerate, update, and establish filing fees for applications to the Zoning Board of Adjustment and the Building Code Board of Appeals, and to establish the administrative fee for the preparation of zoning verification letters.

BE IT ORDAINED, by the City Council of the City of Lebanon, as follows:

Section 1:

The Code of the City of Lebanon is hereby amended to revise Chapter 68, Fees, Article III, Miscellaneous Fees, §68-15, Enumeration of Fees, for the purpose of enumerating, updating, and establishing filing fees for applications to the Zoning Board of Adjustment and establishing the administrative fee for the preparation of zoning verification letters, as follows:

§68-15.A Zoning. Zoning fees shall be ~~set by Council.~~ as follows:

(1) Zoning Board of Adjustment fees:

(a) Filing fees:

[1] Administrative Appeal per Section 801.1 of the Zoning Ordinance or per Code Chapter §74-18 ("Floodplain Appeal Board"): \$300.00.

[2] Variance per Section 801.2 of the Zoning Ordinance or per Code Chapter §74-18 ("Floodplain Appeal Board"): \$300.00.

[3] Special Exception per Section 801.3 of the Zoning Ordinance: \$300.00.

[4] Equitable Waiver of Dimensional Regulations per Section 801.4.B of the Zoning Ordinance: \$300.00.

[5] Rehearing requests per Section 802.5 of the Zoning Ordinance: \$100.00.

[6] Rehearing: \$300.00. Should the Zoning Board grant a rehearing request, the party initiating the rehearing request shall be responsible for all fees associated with the rehearing. The application fee of \$300 shall be waived if the Board, in granting the rehearing request, determines that it did or may have made a prejudicial technical or legal error in its original decision.

(b) Advertising fees and legal notification fees shall be determined by the City Manager pursuant to Code Chapter §68-14 ("Miscellaneous nonscheduled fees").

(2) Zoning Verification letter administrative fee: The fee for issuing a zoning verification letter prepared by the Planning and Development Department shall be \$100.00.

Section 2:

The Code of the City of Lebanon is hereby amended to revise Chapter 68, Fees, Article III, Miscellaneous Fees, §68-15, Enumeration of Fees, for the purpose of establishing filing fees for applications to the Building Code Board of Appeals, as follows:

§68-15.H Building Code Board of Appeals. The filing fee for an application to the Building Code of Board Appeals per Code Chapter §36-13 shall be \$300.00. Advertising fees and legal notification fees shall be determined by the City Manager pursuant to Code Chapter § 68-14 ("Miscellaneous nonscheduled fees").

Section 3: Severability

The provisions of this ordinance are declared to be severable, and if any section, subsection, sentence, clause, or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses, or parts of this ordinance.

Section 4: Effective Date

This Ordinance shall become effective upon passage.

FEE SCHEDULE
ZONING BOARD OF ADJUSTMENT
(Revised 8/30/2021, postage increase)

SPECIAL EXCEPTION:

		TOTALS
FILING FEE	\$150.00	\$150.00
ADVERTISING FEE	\$100.00	\$100.00
NOTIFICATION FEE (SEE NOTE)	\$4.28 per certified notice x _____ notices	
TOTAL DUE		\$

VARIANCE:

		TOTALS
FILING FEE	\$150.00	\$150.00
ADVERTISING FEE	\$100.00	\$100.00
NOTIFICATION FEE (SEE NOTE)	\$4.28 per certified notice x _____ notices	
TOTAL DUE		\$

APPEAL OF AN ADMINISTRATIVE DECISION:

		TOTALS
ADVERTISING FEE	\$100.00	\$100.00
NOTIFICATION FEE (SEE NOTE)	\$4.28 per certified notice x _____ notices	
TOTAL DUE		\$

***REHEARING:**

		TOTALS
*ADVERTISING FEE	\$100.00	\$100.00
NOTIFICATION FEE (SEE NOTE)	\$4.28 per certified notice x _____ notices	
TOTAL DUE		\$

* Fees are only required if the motion for rehearing is granted by the board.

**FEE SCHEDULE
ZONING BOARD OF ADJUSTMENT**

WETLANDS SPECIAL EXCEPTION:		
		TOTALS
FILING FEE	\$150.00	\$150.00
ADVERTISING FEE	\$100.00	\$35.00
NOTIFICATION FEE (SEE NOTE)	\$4.28 per certified notice x _____ notices	
TOTAL DUE		\$

RIVERBANK SPECIAL EXCEPTION:		
		TOTALS
FILING FEE	\$150.00	\$150.00
ADVERTISING FEE	\$100.00	\$35.00
NOTIFICATION FEE (SEE NOTE)	\$4.28 per certified notice x _____ notices	
TOTAL DUE		\$

NOTE - THE NOTIFICATION FEE IN ALL SECTIONS ABOVE INCLUDES THE FOLLOWING: 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.



**LEBANON CITY COUNCIL
NOTICE OF PUBLIC HEARINGS
Wednesday, February 7, 2024 - 7:00pm
Council Chambers, City Hall or
REMOTE VIA VIRTUAL PLATFORM
LebanonNH.gov/LIVE**

The Lebanon City Council will hold public hearings on February 7, 2024, beginning at 7:00pm for the following:

A. Ordinance #2024-01 – A public hearing for the purpose of receiving public input and taking action to amend City Code Chapter 168, Vehicles and Traffic, to designate no parking areas along Eldridge Street, Laplante Road, and Prospect Street Extension, Lebanon.

B. Ordinance #2024-02 – A public hearing for the purpose of receiving public input and taking action to amend City Code Chapter 68, Fees, to include a fee schedule for applications to the Zoning Board of Adjustment and Building Code Board of Appeals, and administrative preparation of Zoning Verification Letters.

C. Proposed Amendments to the Zoning Ordinance for Council Adoption – Public hearing for the purpose of receiving public input and taking action on proposed zoning amendments for adoption by the City Council as follows:

Amendment #1 – To amend Section 213 (Impact Fees) to collect fees from residential additions larger than 500 sq. ft., to expand and clarify the type of development that is excluded from paying fees, and to amend the waiver and appeals provisions (Zoning Ordinance Sections 213.3(E) and 213.8)

Amendment #2 – To amend Section 305A.1 (GC-1 District Purpose), Section 305A.2 (GC-1 District Table of Uses) and Section 500 (Planned Developments Table) to allow Manufactured Housing Planned Unit Residential Development (PURDs) in the GC-1 District by Conditional Use Permit from the Planning Board. (Zoning Ordinance Sections 305A.1, 305A.2, and 500)

Amendment #3 – To amend Section 410.3 (Description of Riverbank Protection District) to remove properties from the Riverbank Protection District if the properties are granted an Urbanized Shoreland Exemption by the NH Department of Environmental Services pursuant to NH RSA 483-B:12. (Zoning Ordinance Section 410.3)

Amendment #4 – To amend Section 610 (Accessory Dwelling Unit (ADU)) to update the size ratios for ADU calculations, to add a parcel size threshold for larger ADUs, to clarify the property owner temporary leave of absence requirement, and to create a clear checklist of items needed for the ADU application. (Zoning Ordinance Sections 610.B, 610.G, and 610.K)

Amendment #5 – To amend the definition of "Gross Living Area" in Appendix A (Definitions) to clarify the calculation of impact fees and the size of Accessory Dwelling Units.

Amendment #6 – To adopt miscellaneous minor amendments, including clarifying existing language and making minor editorial changes, clarifying the enabling authority for the Riverbank Protection District, commercial and industrial PUD open space requirements, off-lot parking conditional use application requirements, ZBA administrative appeal procedures and definitions, ZBA application and hearing procedures, and changes to the definitions of "dwelling", "primary/secondary educational facility", "child day care facility", "health club," and "structure" (Zoning Ordinance Sections 213, 410.2, 501.1.F.2.a, 607.5, 610, 801, 802, and Appendix A)

Amendment #7 (Requested by Choice Storage, LLC) – Proposed Zoning Map change at 0 Etna Road (Tax Map 26, Lot 17), which is currently split-zoned between Light Industrial (IND-1) and Rural Lands Three (RL-3). The property owner has requested to rezone approximately 50 acres of RL-3 land to IND-1 and, in exchange, to rezone approximately 50 acres of IND-1 land to RL-3 to provide more protection for wetland areas, steep slopes, and a wildlife corridor existing in areas to be rezoned to RL-3, while allowing for development of the areas to be rezoned to IND-1.

Amendment #8 (Requested by Cicotte Properties, LLC) – To amend Section 311A.2 (R-O-1 District Table of Uses) to allow one of the following uses in the R-O-1 District by Conditional Use Permit from the Planning Board: either "auto sales and service" or "vehicular sales". (Zoning Ordinance Sections 311A.2)

D. Ordinance #2024-03 – A public hearing for the purpose of receiving public input and taking action to amend City Code Chapter 46, Cemeteries, to remove provisions for holiday burials.

The February 7, 2024 City Council agenda packet and documents pertaining to the above-described public hearings will be available on the City's website beginning February 2, 2024: LebanonNH.gov/Agendas

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.

The foregoing notice was published in the *Valley News*, a newspaper of general circulation in the City of Lebanon, in accordance with the Code of the City of Lebanon on Saturday, January 27, 2024.

Jaseya Ewing

Jaseya Ewing, City Clerk

Agenda

Lebanon City Council

February 7, 2024

8. Public Hearing Items:

8.C – Proposed Amendments to the Zoning Ordinance for Council Adoption

A public hearing for the purpose of receiving public input and taking action on proposed amendments to the City of Lebanon Zoning Ordinance and Zoning Map.

The City Council scheduled this public hearing at its January 17, 2024 regular meeting. The public hearing was properly noticed in the *Valley News* on January 27, 2024 in accordance with City Code and State Law.

Background

At its October 4, 2023 meeting, the City Council was presented with a number of proposed amendments to the Zoning Ordinance. The Council took action to accept the amendments as presented and forwarded them for review and comment by the Planning Board, Conservation Commission, and Zoning Board of Adjustment. Legal review has been obtained, and all boards have completed their review.

In addition, on October 18, 2023, the City Council was presented with a separate set of zoning map and text amendments requested by Cicotte Properties, LLC. The Council took action to accept the Cicotte Properties' amendments as presented and forwarded them for review on the same timeline as the City's zoning amendments. However, due to changes in the Cicotte Properties' amendments during the course of review, the City's attorney advised that only one of the proposed amendments was ready for consideration at the public hearing. The remaining proposed amendment was "kicked-off" by the City Council on January 17, 2024 with a separate review and hearing schedule.

The final proposed amendments along with Board/Commission comments and legal review were presented to the City Council on January 3, 2024. All of the proposed amendments are addressed in the attached comprehensive memorandum and supporting materials drafted by Planning & Development Department staff.

All proposed amendments are under the authority of the Council and do not require placement on the Ballot for consideration by voters. As a reminder, the Council has the authority to place any of the proposed amendments on the Ballot, including those that are under the Council's sole purview.

The amendments that the Council is considering include the following:

Amendment #1 – To amend Section 213 (Impact Fees) to collect fees from residential additions larger than 500 sq. ft., to expand and clarify the type of development that is excluded from paying fees, and to amend the waiver and appeals provisions (**Zoning Ordinance Sections 213.3(E) and 213.8**)

Amendment #2 – To amend Section 305A.1 (GC-1 District Purpose), Section 305A.2 (GC-1 District Table of Uses) and Section 500 (Planned Developments Table) to allow Manufactured Housing Planned Unit Residential Development (PURDs) in the GC-1 District by Condition

Use Permit from the Planning Board. **(Zoning Ordinance Sections 305A.1, 305A.2, and 500)**

Amendment #3 – To amend Section 410.3 (Description of Riverbank Protection District) to remove properties from the Riverbank Protection District if the properties are granted an Urbanized Shoreland Exemption by the NH Department of Environmental Services pursuant to NH RSA 483-B:12. **(Zoning Ordinance Section 410.3)**

Amendment #4 – To amend Section 610 (Accessory Dwelling Unit (ADU)) to update the size ratios for ADU calculations, to add a parcel size threshold for larger ADUs, to clarify the property owner temporary leave of absence requirement, and to create a clear checklist of items needed for the ADU application. **(Zoning Ordinance Sections 610.B, 610.G, and 610.K)**

Amendment #5 – To amend the definition of “Gross Living Area” in Appendix A (Definitions) to clarify the calculation of impact fees and the size of Accessory Dwelling Units.

Amendment #6 – To adopt miscellaneous minor amendments, including clarifying existing language and making minor editorial changes, clarifying the enabling authority for the Riverbank Protection District, commercial and industrial PUD open space requirements, off-lot parking conditional use application requirements, ZBA administrative appeal procedures and definitions, ZBA application and hearing procedures, and changes to the definitions of “dwelling”, “primary/secondary educational facility”, “child day care facility”, “health club,” and “structure”. **(Zoning Ordinance Sections 213, 410.2, 501.1.F.2.a, 607.5, 610, 801, 802, and Appendix A)**

Amendment #7 (Requested by Choice Storage, LLC) – Proposed Zoning Map change at 0 Etna Road (Tax Map 26, Lot 17), which is currently split-zoned between Light Industrial (IND-L) and Rural Lands Three (RL-3). The property owner has requested to rezone approximately 50 acres of RL-3 land to IND-L and, in exchange, to rezone approximately 50 acres of IND-L land to RL-3 to provide more protection for wetland areas, steep slopes, and a wildlife corridor existing in areas to be rezoned to RL-3, while allowing for development of the areas to be rezoned to IND-L.

Amendment #8 (Requested by Cicotte Properties, LLC) – To amend Section 311A.2 (R-O-1 District Table of Uses) to allow one of the following uses in the R-O-1 District by Conditional Use Permit from the Planning Board: either “auto sales and service” or “vehicular sales”. **(Zoning Ordinance Sections 311A.2)**

Action:

If the Council decides to move forward with the proposed amendments as presented, the following motion is offered for consideration:

MOVED, that the Lebanon City Council hereby approves amendments #1-8 to the Lebanon Zoning Ordinance as presented in the February 7, 2024 City Council Agenda Packet.

Included in this Section:

1. January 4, 2024 Memo to the Lebanon City Council from Planning & Development Department Staff re: Public Hearing on Proposed Zoning Amendments for Consideration and Adoption by the City Council, which includes:

- December 21, 2023 Memo to the Lebanon City Council from Planning & Development Department Staff re: 2023-2024 Proposed Zoning Amendments, which includes the following:
 - Existing Zoning Map of 0 Etna Road (Tax Map 26, Lot 17), dated November, 2023
 - Proposed Zoning Map of 0 Etna Road (Tax Map 26, Lot 17)
 - 2023-2024 Draft Amendments to Zoning Ordinance (Red-lined Version, last revised December 21, 2023)
- 2. January 4, 2024 Memo to the Lebanon City Council from Planning & Development Department Staff re: Public Hearing on Proposed Zoning Amendments by Cicotte Properties, LLC for Consideration and Adoption by the City Council, with attachments
- 3. January 22, 2024 letter from Sarah Riley, Chair, Lebanon Conservation Commission
- 4. Notice of Public Hearing as published in the January 27, 2024 Edition of the *Valley News*

Available, but not included in this Section:

1. [January 3, 2024 City Council Agenda Packet](#)



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

MEMORANDUM

TO: Lebanon City Council

CC: Shaun Mulholland, City Manager
David Brooks, Deputy City Manager

FROM: Planning and Development Department Staff

RE: Public Hearing on Proposed Zoning Amendments for Consideration and Adoption by the City Council

DATE: January 4, 2024

Honorable Mayor and City Councilors,

A public hearing has been scheduled for January 17, 2024 to consider the adoption of proposed amendments to the City's Zoning Ordinance and Zoning Map. The proposed amendments are discussed in the attached staff memo dated December 21, 2023, and are highlighted in the attached redlined excerpt of the Zoning Ordinance. New or revised text is blue and underlined. Text to be deleted is shown as ~~red with a strike-out~~. Please note that the attached redline includes only those pages of the Zoning Ordinance affected by the amendments.

In advance of the January 17th public hearing, staff will mail a public hearing notice to all property owners impacted by the proposed Zoning Map amendments, as required by NH RSA 675:7, I-a.

Per Section 1000.4.A of the Zoning Ordinance, a referendum vote is not required for the proposed amendments for the following reasons: (a) none of the text amendments (i.e. amendments #1-6, and #8 described in the attached staff memo dated December 21, 2023) alter the zoning district designations or alter the Table of Uses or the Table of Area, Dimensions and Coverage for any Residential or Rural Lands districts within the City, and (b) regarding the map amendment (i.e. amendment #7 described in the attached staff memo dated December 21, 2023), the area of the RL-3 District proposed to be rezoned is less than 10 times the minimum size required for a Class 3 lot in the existing zoning district.

Adoption of the proposed amendments is recommended at this time in accordance with the procedures outlined in Section 1000.4.B of the Zoning Ordinance, as follows:

Article X, 1000.4 Action Upon Proposed Zoning Amendments.

Any proposed zoning amendment shall be acted upon and adopted or rejected as follows:
[...]

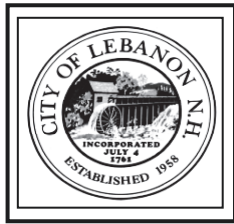
- B. Action by the Council: The Council shall act on any proposed Zoning amendment not requiring a referendum vote in which case adoption of the Zoning Amendment shall require a majority vote of five members of the City Council; or alternatively, the Council may decide that such an amendment shall

be submitted to the voters at the annual City election, even though such a referendum is not required.

Staff recommends that the City Council approve the text amendments collectively (i.e. amendments #1-6 described in the attached staff memo dated December 21, 2023), as depicted in the attached redline. Staff further recommends that the Zoning Map amendment (i.e. amendment #7 described in the attached staff memo dated December 21, 2023) should be adopted separately from the text amendments.

ATTACHMENTS

- Staff Memo to City Council dated December 21, 2023, with the following attachment:
 - Proposed Zoning Map of 0 Etna Road (Tax Map 26, Lot 17), dated December, 2023
- Redline excerpt of current Zoning Ordinance (redline last revised December 21, 2023)



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

MEMORANDUM

TO: Lebanon City Council

CC: Shaun Mulholland, City Manager
David Brooks, Deputy City Manager

FROM: Planning and Development Department Staff

RE: 2023-2024 Proposed Zoning Amendments

DATE: December 21, 2023

Honorable Mayor and City Councilors,

Since the City Council kicked-off the zoning amendment process on October 4th, the Planning and Development Department has coordinated with legal counsel and has met with the Land Use Boards for review and comment on the proposed changes to the Zoning Ordinance. Additionally, staff held a public informational meeting at the Kilton Library on December 5th to discuss and answer questions about the proposed amendments. Staff has made some revisions to the amendments based on the comments from legal counsel and the Land Use Boards, as further described below.

The draft text amendments are highlighted in the attached red-lined excerpt of the Zoning Ordinance, dated last revised 12/21/23. New or revised text is blue and underlined. Text to be deleted is shown as ~~red with a strike-out~~. Note that terms that are defined in Appendix A of the Zoning Ordinance appear in ***bold italics***. Also attached are copies of the relevant portions of the Planning Board, Conservation Commission, and Zoning Board of Adjustment minutes for the meetings at which the amendments were discussed. Note that the Conservation Commission's discussion occurred on both November 9th and December 14th. The minutes for the December 14th meeting are not yet available at the time of the writing of this staff memo, but will be provided to the Council at or before the January 3rd meeting.

An overview of the proposed amendments is set forth below. Please note that miscellaneous minor amendments that appear throughout the attached redline – such as correcting punctuation, and correcting references in the Zoning Ordinance necessitated by other amendments – are not specifically reviewed in this memo.

OVERVIEW OF AMENDMENTS

A. Text Amendments

1. Amend Section 213 (“Impact Fee”) (see p. 1-2 of the redline) to:

- **500 square foot additions:** Collect impact fees for residential additions larger than 500 sq. ft. The proposal is intended to address a “loophole” whereby once a dwelling is completed, any future additions are exempt from impact fees regardless of the size of the addition and regardless of the size of the addition compared to

the size of the original home. For example, a 1,000 sq. ft. addition to a 500 sq. ft. home would be wholly exempt from impact fees. The typical case scenario is that an applicant will show the smallest number of square feet for a project on a plan to minimize impact fee costs. Then, once completed, they will finish all habitable space in the home. In one case, an impact fee was based on an application of 1,200 square feet; two years later, the same applicant has another application for a related use and claims the home's living area exceeds 5,000 square feet including area finished in the attic, walk out basement, and above the connected garage. Closing this loophole will allow the Department to accomplish two tasks. The first will be closing a loophole in the code and making the impact fees fairer for all homeowners in Lebanon. Second, when discovering unpermitted finished work in a home that exceeds 500 square feet, an impact fee can be required, thereby bringing equality to the system. Closing this loophole will help build a culture of compliance with permit requirements within the community as it will encourage applicants to permit all square footage upfront and avoid having to pay the impact fee when the work is discovered.

- **Amend the waiver and appeals provisions.** The Planning Board recently had its first case where an applicant brought forward an appeal to waive school impact fees for apartments under 500 square feet that were included in the project's previous approval. After the hearing, the Planning Board recommended that staff make the process of appeal easier for the applicant as there are no articulated standards that the Board had in the Zoning Ordinance to make the decision. Based upon the recommendation of the Planning Board's experience with the existing regulations, staff has brought forward several proposed reforms to the process:
 - Administrative approvals for waiver of impact fees. If the waiver is based upon easily verifiable standards such as 500 square feet or smaller, or a deed restriction, then the Zoning Administrator is empowered to waive the school impact fee administratively. The standard of review is rather simple: it either meets the criteria or it does not. If the standard is met, then the waiver is granted.
 - The second classification of review contains a more subjective standard of "hardship" and, as such, is best left to a Board to interpret. Removing a judgement of hardship from an administrative determination leaves the Applicant a pathway to a waiver but a slightly higher bar to prove to the Board that a hardship exists and therefore a waiver should be granted.
 - As presented to the Council on October 4th, staff had proposed changing the review board from the Planning Board to the Zoning Board. However, as a result of concerns raised during staff's discussions with legal counsel, these changes have been removed and are no longer included in the attached redline.

2. **Amend Section 305A.2 ("GC-1 District Table of Uses") and Section 500 (planned developments table)** (see p. 3-4 of the redline) to allow Manufactured Housing Planned Unit Residential Developments (PURDs) in the GC-1 District by Conditional Use Permit from the Planning Board per Section 504 of the Zoning Ordinance. This amendment is in furtherance of a concept recently presented by DHMC to Planning staff for a single-family development utilizing a "CrossMod" product at DHMC's property on the east side of Route 120 (between Jesse's restaurant and Centerra). The "CrossMod" product (pictured below) constitutes "manufactured housing" as defined in the City of Lebanon Zoning Ordinance. The GC-1 District already allows multi-family development with density to be determined by the Planning Board through Site Plan Review. As such, Manufactured Housing PURDs

is a less intensive use than those already permitted in the GC-1 and will allow for much needed affordable single unit detached home ownership opportunities to serve the City's workforce. The development remains subject to the extensive regulatory framework for PURDs, including the requirement to provide a minimum of 50% open space, and per Section 504, a maximum permitted density of 1 unit per 5,000 sq. ft. Staff also recommends removing the references to "multi-family" in the purpose statement so that the housing references therein are inclusive of manufactured housing and not exclusive to multi-family.



Example of a "CrossMod" single family residence where a portion of the home is stick-built on site which meets the State Building Code, and a portion of the house is built at an off-site facility which meets HUD housing code.

3. **Amend Section 410.3 ("Description of Riverbank Protection District")** (see p. 4 of the redline) to remove properties within the Lebanon Downtown (LD) District from the Riverbank Protection District. This amendment is in tandem with an application that the City is preparing to the NH Department of Environmental Services (NHDES) requesting an exemption for downtown Lebanon from the provisions of the state's Shoreland Water Quality Protection Act (SWQPA). Many of New Hampshire's historic downtowns in cities and towns of comparable size to Lebanon have already requested and been approved for such an exemption, which has been available since the original passage of the SWQPA's predecessor in 1991 (the Comprehensive Shoreland Protection Act). The exemption allowed by the SWQPA recognizes that New Hampshire's historic downtowns were typically built up to and around a river (or other water body) – for example, the Cocheco River in Dover, the Merrimack River in Manchester, the Nashua River in Nashua, the Androscoggin River in Berlin, and in Lebanon, the Mascoma River. What the SWQPA is intended to protect or prevent is no longer attainable in these areas and only serves as an unnecessary impediment to much needed downtown redevelopment. Likewise, the Riverbank Protection District regulations – which substantially mirror the requirements of the SWQPA – also create a regulatory barrier to downtown redevelopment without any significant benefit to the community. Please note that FEMA Flood Zone building requirements remain in effect within this area.

As reflected in the attached meeting minutes of November 9, 2023 and December 14, 2023, the Conservation Commission is opposed to the proposed amendment.

Note that following the October 4th City Council meeting, staff relocated the proposed language so that the exemption applies generally to any property that is also exempted by NHDES from the State's shoreland regulations, and not specifically to properties located along the Mascoma River.

4. **Amend Section 610 ("Accessory Dwelling Unit (ADU)")** (see p. 6-8 of the redline). Staff brings forward several ADU reforms based upon our lived experience with the ADU

regulations over the last year. The ADU standards have begun to catch on and we are seeing more homeowners seek to permit ADUs.

- *“FHA only requires that a home be marketable in the area and have adequate space necessary to assure suitable living, sleeping, cooking and dining accommodations and sanitary facilities.”* Traditionally, FHA underwriting has used 960 square feet as a minimum number of square feet for a house to meet the articulated standard. Thus, there is not an interpretive question about the size of the dwelling unit if 960 square feet standard is made. Based upon this 960 sq ft FHA standard staff recommends amending the size ratios for ADU calculations as the present 750 square foot standard is too small to meet a traditional FHA habitability standard. Thus, the number is proposed to be changed to allow a larger ADU to be constructed.
- Square footage calculation has been a major concern with several ADU cases currently seeking permits that are running up against the smaller ratio standards. The definition of “gross living area” in Appendix A is proposed to be amended to make the calculation clearer.
- Further, square footage ratios are increased to allow for a larger ratio-based home with a by-right standard of 960 square feet, thereby resolving permitting log jams by making meeting the ratios easier for many applicants and not adversely impacting surrounding neighborhoods.
- The large 4-acre lot provision was added to ease ratio concerns and permit mass and proportionality continuity. We have several cases currently seeking approval for a larger ADU on a very large lot. The 4 acres number allows for ample room for septic and well configuration for both units. The larger ratio of 50% of the main house creates a scenario where the Large House and Small house remain more proportional to the scale of the neighborhood and house/lot configuration. The large lot standard allows for a significant second dwelling unit to be created, often in a configuration where the primary house and the ADU appear more as neighboring houses as opposed to a Primary/ADU relationship. Consequently, allowing the larger ADU will maintain mass proportionality and not adversely impact a neighborhood with pre-existing large lots. Additionally, if configured correctly, a larger ratio may underwrite the ease of sub-dividing a lot in the future and creating a stand-alone home on its own lot that meets all the regulatory standards while fitting the character of the neighborhood.
- A clear checklist of items needed for the ADU is included to inform an applicant of the necessary submissions at the time of application. Informing the applicant before an application is made helps develop a clear understanding of timelines and necessary obligations to achieve a favorable permit outcome and generate a successful project.

5. Amend Appendix A (“Definitions”) (see p. 10-11 of the redline) to:

- “Gross Living Area” - For purposes of calculating impact fees and the size of accessory dwelling units, amend the definition of “gross living area” to specify more clearly those areas of a dwelling unit – including walk out basements - that are included as part of the “gross living area”.

6. Miscellaneous minor amendments:

- **Amend Section 408.4 (Historic District Certificate of Approval requirements)** to clarify the activities within the Historic District that require a Certificate of

Approval from the Heritage Commission. As a result of concerns raised by legal counsel in the attached opinion dated October 20, 2023, the proposed changes to Section 408 have been removed and are no longer included in the attached redline. More significantly, it is noted the City has received a Certified Local Government grant from the NH Department of Historic Resources and will be contracting with a consultant in 2024 to undertake a project with the Heritage Commission, part of which includes a comprehensive re-write of the Historic District regulations set forth in Section 408 of the Zoning Ordinance. Consequently, it was determined that making the proposed changes to Section 408 at this time would be premature in light of the pending study.

- **Amend Section 410.2 (Riverbank Protection District enabling authority)** (see *p. 4 of the redline*) to remove the reference to RSA 674:21 (innovative land use controls) which implicates the cumbersome procedural requirements for innovative land use controls, and which are not currently followed by City staff in the administration of the Riverbank Protection District.
- **Amend Section 501.1.F.2.a (commercial and industrial PUD open space requirements)** (see *p. 5 of the redline*) to make the minimum open space requirements consistent with the minimum open space requirements of the Lebanon Subdivision Regulations (which require a minimum of 15% whereas the commercial and industrial PUD regulations only require 10%).
- **Amend Section 607.5 (off-lot parking requirements)** (see *p. 6 of the redline*) to require that the legal documentation securing the right to use the off-lot parking is provided as part of the Conditional Use Permit application.
- **Amend Section 801** (see *p. 9 of the redline*) to amend the ZBA administrative appeal procedures for consistency with state statutory requirements.
- **Amend Section 802** (see *p. 9-10 of the redline*) to amend the ZBA application and hearing procedures and to clarify that application fees are established pursuant to City Code Chapter 68.
- To clarify existing language and to make certain editorial changes to Section 213 ("Impact Fees"), Section 410 ("Riverbank Protection District"), Section 610 ("Accessory Dwelling Unit (ADU)"), and Appendix A (revise definitions of "child day care facility," "dwelling," "educational facility, primary/secondary," and "health club").

B. Map Amendment

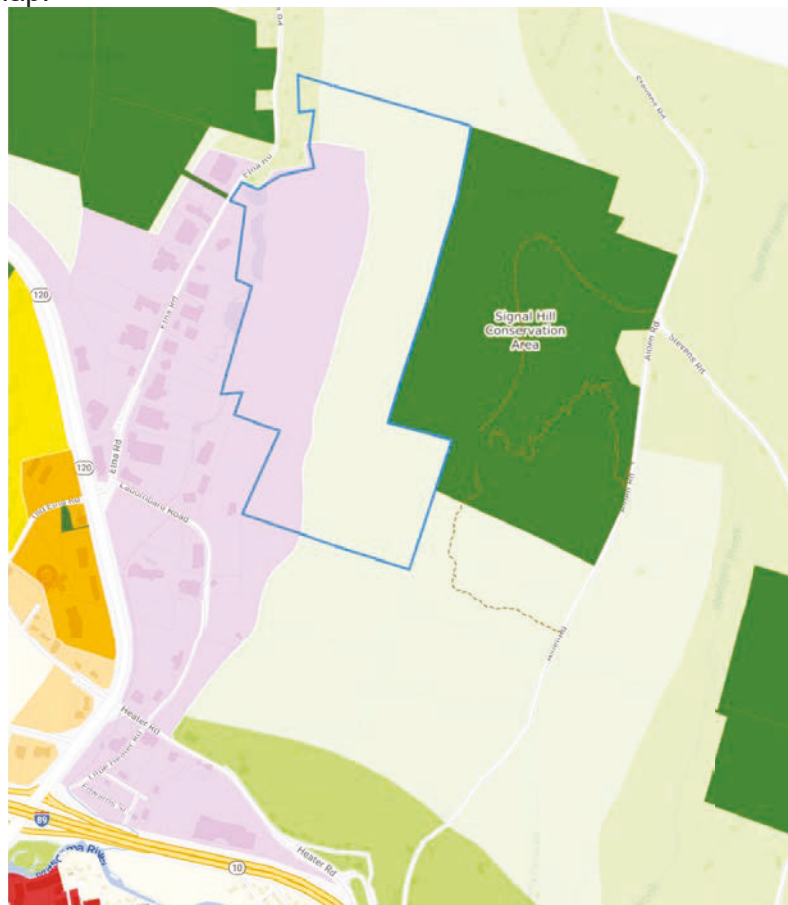
7. 0 Etna Road (Tax Map 26, Lot 17) (see *attachments provided by the property owner, Choice Storage, LLC, depicting the existing and proposed zoning*):

The subject property is a +/-182 acre lot (per City assessing records) that is split-zoned IND-L and RL-3, and is situated immediately west of the City's Signal Hill Conservation Area (see image below). The use of the property is identified as "Rural" on the Future Land Use Map. The property owner has requested that the Council rezone approximately 50 acres of the RL-3 portion of the property to IND-L in exchange for the rezoning of approximately 50 acres that is currently zoned IND-L to RL-3. It is the applicant's intent to transfer some of the land to be rezoned to RL-3 to the City of Lebanon for the development of recreational playing fields and the applicant has been working with the Recreation, Arts and Parks Department on preliminary concepts.

However, it should be noted that the rezoning request cannot be made contingent on the City's acquisition of any portion of the property. The property owner has provided the attached exhibits depicting the existing and proposed zoning and will be present at the City Council's meeting on January 3rd to describe the rezoning proposal in more detail. Note that the property owner has made changes to the proposed rezoning boundaries since originally presenting the amendment to the City Council. Now to a greater extent, the proposed rezoning supports several of the City's Master Plan natural resource protection goals by:

- Providing more protection for wetlands located along the western boundary of the property by relocating the Light Industrial zoning further away from areas located within the Wetland Protection District;
- Placing the wildlife corridor that runs along the northern portion of the property within the RL-3 District and out of the IND-L District; and
- Protecting steep slopes on the property that are currently located in the IND-L District (where the Steep Slopes District does not apply) and rezoning those areas to RL-3 which is subject to the steep slopes regulations set forth in Section 403 of the Zoning Ordinance.

Current Zoning Map:



SCHEDULE

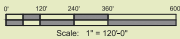
At the January 3, 2024 City Council meeting, staff will review the changes to the draft amendments that have been made as a result of the Land Use Board and legal review, and will ask the Council to schedule a public hearing for the Council's meeting on January 17, 2024. Following the public hearing, the City Council may adopt the proposed zoning amendments and Zoning Map amendment, per Section 1000.4.B of the Zoning Ordinance. Although none of the proposed

amendments require voter approval, it is noted that the Council may choose to place any or all proposed amendments on the March ballot. See Section 1000.4.A of the Zoning Ordinance.

ATTACHMENTS

- Existing Zoning Map of 0 Etna Road (Tax Map 26, Lot 17), dated November, 2023
- Proposed Zoning Map of 0 Etna Road (Tax Map 26, Lot 17), dated September 19, 2023
- Proposed Zoning Map of 0 Etna Road (Tax Map 26, Lot 17), dated December, 2023
- Redline excerpt of current Zoning Ordinance (redline last revised December 21, 2023)
- Legal opinion from Christine Fillmore, Esq., dated October 20, 2023
- Excerpt of Planning Board meeting minutes from October 23, 2023
- Excerpt of Zoning Board of Adjustment meeting minutes from November 6, 2023
- Excerpt of Conservation Commission meeting minutes from November 9, 2023
- Excerpt of Conservation Commission meeting minutes from December 14, 2023 (*to be provided prior to the January 3, 2024 City Council meeting*)

SIGNAL PARK
DRAFT ZONING PLAN
EXISTING ZONING



NOVEMBER 2023

RL-3

EXISTING IND-L
± 96.9 ACRES

RL-2

Signal Park
Proposed Zoning Amendment
Map 26 / Lot 17

0 500 1,000
Feet



Signal Hill Conservation Property

RL-3

RL-3

94.8 ac.
Industrial Light

Etna Road

Etna Road

120

Date Printed: 1/30/2024

DRAFT AMENDMENTS TO THE CITY OF LEBANON ZONING ORDINANCE

ARTICLE II GENERAL PROVISIONS

[...]

SECTION 213 IMPACT FEES.

[...]

213.3 Definitions.

[...]

E. New development means an activity that results in:

- (1) The creation of a new ***dwelling unit*** or units or new ***manufactured housing***; or
- (2) The conversion of a legally existing use, or additions thereto, which would result in a net increase in the number of ***dwelling units***; or
- (3) Construction resulting in a new non-residential ***building*** or a net increase in the ***gross floor area*** of any non-residential ***building***; or
- (4) The conversion of a lawful existing use to another use if such change would result in a net increase in the demand on public capital facilities that are the subject of impact fee assessment.

(5) A net increase in a residential building's gross floor area greater than 500 square feet.

Notwithstanding the above, new development shall not include:

- a. The creation of any new-studio or one-bedroom ***accessory dwelling unit*** with a ***gross living area*** of 500 sq. ft. or less;
- b. The replacement of an existing ***manufactured housing*** unit or any existing ***dwelling unit***; or
- c. The reconstruction of a ***structure*** that has been destroyed by fire or natural disaster where there is no change in size, density, or type of use that would increase the demand on capital facilities for which impact fees are assessed.

[...]

213.8 Waivers.

- A. The ~~Planning Board~~ Zoning Administrator ~~may~~ may administratively grant full or partial waivers of impact fees to an assessed property where the ~~Administrator~~ Board based on credible evidence presented by the applicant, finds that one or more of the following criteria are met with respect to the particular public capital facilities for which impact fees are normally assessed:

~~1.A.~~—An assessed property may apply for a full or partial waiver of public-school impact fees for those residential units that are lawfully restricted to occupancy by senior citizens age 62 or over in a development that is also maintained in compliance with the provisions of RSA 354-A: 15, Housing For Older Persons. The ~~Planning Board~~ Administrator may waive school impact fee assessments on restricted-occupancy units where it finds that the ***dwelling unit*** will be bound by lawful deeded restrictions on occupancy by senior citizens age 62 or over for a period of at least 20 years.

~~2.B.~~—2. An assessed property may apply for a full or partial waiver of public-school impact fees for those studio or one-bedroom residential units that have a ***gross living*** _____ ***area*** of 500 sq. ft. or less.

- B. The Planning Board may grant full or partial waivers of impact fees to an assessed property where the Board based on credible evidence presented by the applicant finds that one or more of the following criteria are met with respect to the particular public capital facilities for which impact fees are normally assessed:

~~1. a.C.~~—An assessed property may apply to the Planning Board for a full or partial waiver of impact fee assessments imposed by this Ordinance on the basis of other contributions toward public capital facilities. The amount of such a waiver shall not exceed the value of land, facilities construction, or other contributions for public capital facilities. The value of on-site and off-site improvements which are required by the Planning Board as a result of subdivision or site plan review, and which would have to be completed by the developer, regardless of the impact fee provisions, shall not be considered eligible for waiver under this Ordinance. The value of contributions or improvements shall be credited only toward facilities of like kind, and may not be credited to other categories of impact fee assessment. All costs incurred by the City for the review of a proposed waiver, including consultant and counsel fees, shall be paid by the applicant.

~~1.2.~~ D.—The Planning Board may waive an impact fee, in whole or in part where, in the opinion of the Board, such fee would ~~;~~ due to interference with constitutionally-vested rights, pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of this Ordinance.

[...]

ARTICLE III USE DISTRICTS

SECTION 305A GENERAL COMMERCIAL ONE DISTRICT (GC-1).

305A.1 Purpose.

The purpose of the GC-1 District is to provide opportunities for a mix of commercial and ~~multi-family~~ residential uses within close proximity to regional employers, public transportation routes, and pedestrian and biking trails. The GC-1 District is intended to provide for uses that are compatible with the limited access design of Route 120, and which would tend to retain and enhance the existing character of the area. New ~~multi-family~~ housing is encouraged to provide convenient access to major centers of employment, to facilitate future economic growth along the Route 120 corridor, and to complement the existing array of services and amenities within walking or biking distance of the GC-1 District.

305A.2 Table of Uses.

<u>Permitted Uses</u>	<u>Uses by Conditional Use Permit</u> (see Section 302.4)
<u>Residential</u> 1. Multi-family dwelling (see Section 305A.4) <u>Commercial/Non-Residential</u> 2. Dwelling unit(s) above first floor 3. Essential service 4. Financial institution 5. Group day care facility per Section 604 6. Office 7. Personal service 8. Renewable energy system per Section 612	<u>Commercial/Non-Residential</u> 1. Alternative treatment center per Section 613 2. Drycleaning pick-up station 3. Educational facility, college/university 4. Inpatient rehabilitation facility 5. Light industry 6. Research laboratory 7. Restaurant , sandwich shop 8. Retail store <u>Planned Developments</u> 9. Commercial PUD per Section 501 10. <u>Manufactured Housing PURD per Section 504</u>

[...]

ARTICLE IV OVERLAY DISTRICTS

[...]

SECTION 410 RIVERBANK PROTECTION DISTRICT.

[...]

410.2 Authority.

This section of the Zoning Ordinance is adopted pursuant to the authority granted by RSA 483-B:8, Shoreland Water Quality Protection Act: Municipal Authority; and RSA 674:16, Grant of Power to Zone; ~~and RSA 674:21, I(j), Innovative Land Use Controls: environmental characteristics zoning.~~

410.3 Description of the Riverbank Protection District.

The Riverbank Protection District includes all areas in the City that are located within an area beginning at the **ordinary high water mark** of the following designated **public rivers**, streams, and lakes:

- (1) Connecticut River
- (2) Mascoma River
- [...]

as identified by the United States Geological Survey, and depicted on the official Lebanon Riverbank Protection District Overlay Map, and extending inland to fifty (50) horizontal feet, with septic waste systems and fuel storage restrictions extending to one hundred and twenty-five (125) horizontal feet, as set forth in 410.7.F and 410.7.H. Lots granted an Urbanized Shoreland Exemption by the NH Department of Environmental Services pursuant to RSA 483-B:12 are excluded from the Riverbank Protection District and the regulations of Section 410.

[...]

ARTICLE V SUBDIVISIONS AND PLANNED DEVELOPMENTS

SECTION 500 GENERAL.

[...]

- B. [...] Planned developments shall be permitted in accordance with the following table:

District	PURD per Section 501.2	PRec per Section 501.3	Industrial PUD per Section 501.4	Commercial PUD per Section 501.4	Manufactured Housing PURD per Section 501.24 / Manufactured Housing Park per Section 503	Recreational Camping Parks per Section 505	Medical Center Complexes per Section 506	Planned Business Park per Section 508	Cottage Development
IND-L			CUP					CUP	
IND-RA			CUP					CUP	
GC				CUP					
GC-1				CUP	<u>CUP (Manufactured Housing PURD per Section 501.4 only)</u>				
CB				CUP					
LD									
R-1	CUP				CUP / P				CUP
R-2	CUP								CUP
R-3	CUP*								CUP

R-O	CUP								CUP
R-O-1	CUP								CUP
PB						SE			
RL-1	CUP *	CUP			CUP / P	SE			
RL-2	CUP *	CUP			CUP / P	SE			
RL-3	CUP *	CUP							
MC				CUP			P		

P = permitted

SE = **special exception** required

CUP = **conditional use** permit required

*Subject to Section 501.2.B.1.

SECTION 501 PLANNED UNIT DEVELOPMENT (PUD).

501.1 General Requirements.

[...]

F. Open Space.

[...]

2. Minimum Required Open Space.

[...]

- a. Commercial or Industrial PUD. At least ~~ten (10)~~15% percent of the property utilized for a Commercial or Industrial PUD shall be preserved as Open Space. None of the **curtilage** of a **principal building** shall be used to meet the ~~10-percent~~15% criteria.

[...]

ARTICLE VI ADDITIONAL STANDARDS FOR SPECIFIC USES

[...]

SECTION 607 PARKING.

[...]

607.5 Off-Lot Parking.

Parking shall be provided on the same **lot** as the use for which the parking is accessory, except as follows:

- A. In the IND-L, IND-H, IND-RA, GC, GC-1, CB, LD, RO, RO-1, PB, and MC Districts, the Planning Board may approve private off-lot parking as a **conditional use** permit. Instead of the findings required by Section 302.4, the Board shall determine that:

[...]

4. Such parking arrangements are either permanently deeded and recorded or conveyed by an irrevocable 99-year lease or some other legal instrument, acceptable to an attorney representing the City, and submitted with the Conditional Use Permit application for approval by the Planning Board. Such legal agreement shall ~~that will~~ ensure that such parking arrangement will remain as long as the need exists.

[...]

- B. For conversions of **one-** or **two-family dwellings** to **multi-family dwellings** or where adding additional **dwelling units** to an existing **multi-family dwelling**, the Planning Board may approve private off-lot parking, as a **conditional use** permit. Instead of the findings required by Section 302.4, the Board shall determine that:

[...]

5. Such parking arrangements are permanently and irrevocably deeded and recorded or conveyed by an irrevocable 99-year lease or some other legal instrument, acceptable to an attorney representing the City, and submitted with the Conditional Use Permit application for approval by the Planning Board. Such legal agreement shall ~~that will~~ ensure that such parking arrangement will remain as long as the need exists.

[...]

SECTION 610 ACCESSORY DWELLING UNIT (ADU).

Accessory dwelling units are intended as an option for homeowners to offer separate and independent living space for their extended families, or to offer small **dwelling units** as rentals to offset the expense of maintaining the **dwelling**.

An **accessory dwelling unit** shall comply with the following criteria:

- A. An **ADU** is allowed on any **lot** in any zoning district with a **one-family dwelling**. For lots in any zoning district with a **two-family dwelling**, a detached or attached ADU is allowed. Only one such **ADU** is permitted per **lot**. The dwelling unit density requirements of the underlying zoning district shall not apply to ADUs.
- B. ~~The~~ If attached, the appearance and character of the existing or proposed **ADU** shall remain single family in nature if converting a one-family dwelling to a one-family dwelling with an ADU, and shall remain two-family in nature if converting a two-family dwelling to a two-family dwelling with an ADU. If detached, the ADU shall maintain the primary building's architectural style, proportional mass, size, and height to ensure it is not taller than the principal building on the lot. A detached ADU may be permitted to be taller than the principal building by special exception.
- C. The property owner must occupy one of the **dwelling units** as their permanent residence. A temporary leave of absence of no more than one (1) year by the property owner is allowed, provided the owner-occupied unit is not rented or occupied by anyone other than the property owner during the temporary leave or absence.

Prior to the issuance of a zoning/~~building~~-permit, the owner shall record in the Grafton County Registry of Deeds an ~~acknowledgment of the above owner-occupancy requirement~~ Accessory Dwelling Unit Owner Occupancy Restriction, in a form satisfactory to the Zoning Administrator, in order to put prospective buyers on notice of the prohibition against renting out both units. All recording fees shall be the responsibility of the applicant.

- D. The **ADU** must be located in the same **building** as the principal **dwelling unit(s)** unless the **lot** meets or exceeds the minimum required lot size for the respective zoning district. If the **lot** meets or exceeds the required minimum lot size, the **ADU** may be located in a separate detached accessory **structure** such as a garage or barn, provided the existing accessory **structure** conforms with the minimum required **yard** requirements for the respective zoning district. An **ADU** may also be in a new **structure**. By **special exception**, the Zoning Board of Adjustment may allow an **ADU** to be located in a detached **structure** on a **lot** that is non-conforming to the minimum lot size and/or to be allowed in an existing accessory **structure** that is legally non-conforming to the applicable minimum yard requirements.
- E. If the **ADU** is located within or by an addition to the existing **principal building**, an interior door shall be provided between the **ADU** and the principal **dwelling unit** or between the **ADU** and one of the principal **dwelling units** if the principal building is a **two-family dwelling**.
- F. If applicable, the owner must seek a permit from the State of NH Dept. of Environmental Services Subsurface Systems Bureau, in accordance with NH RSA 485-A:38, for any increased load on an existing sewage disposal system as a result of the addition of an **ADU** to the **lot**.
- G. Size of ADU.
1. ~~O~~C~~onversion of one-family dwellings:~~ If the **gross living area** of the principal **dwelling unit** is 1,500 square feet or less, the **gross living area** of the **ADU** may be no greater than ~~65~~50% of the **gross living area** of the principal **dwelling unit**. If the **gross living area** of the principal **dwelling unit** is greater than 1,500 square feet, but less than 3,000 square feet, the **gross living area** of the **ADU** shall not exceed ~~960~~750 square feet. If the principal **dwelling unit** is greater than 3,000 square feet, the **gross living area** of the **ADU** can exceed ~~960~~750 square feet provided the **ADU** is no greater than ~~33~~25% of the **gross living area** of the principal **dwelling unit**. If the ADU is located on a parcel of land greater than 4 acres a detached ADU can exceed 960 square feet provided that the detached ADU is no greater than 50% of the gross living area of the principal dwelling unit.
 2. ~~T~~C~~onversion of two-family dwellings:~~ If the **gross living area** of the smaller of the two principal **dwelling units** is 1,500 square feet or less, the **gross living area** of the **ADU** may be no greater than ~~65~~50% of the **gross living area** of the smaller of the two principal **dwelling units**. If the **gross living area** of the smaller of the two principal **dwelling units** is greater than 1,500 square feet, but less than 3,000 square feet, the **gross living area** of the **ADU** shall not exceed ~~960~~750 square feet. If the smaller of the two principal **dwelling units** is greater than 3,000 square feet, the **gross living area** of the **ADU** can exceed ~~960~~750 square feet provided the **ADU** is no greater

than ~~33~~25% of the **gross living area** of the smaller of the two principal **dwelling units**.

~~H. A detached **ADU**, if permitted under paragraph B above, shall maintain a proportional mass, size, and height to ensure it is not taller than the **principal building** on the lot. An **ADU** may be permitted to be taller than the principal building by **special exception**.~~

~~H.~~ Any necessary additional entrances or exits to the **principal building**, to serve the **ADU**, shall be located to the side or rear of the **building**. All new or altered **structures**, intended to be used as an **ADU**, must be located behind the **front building line** of the existing **principal building** except by **special exception** if the Zoning Board finds that the placement of the **ADU** on the **lot** will not adversely affect the character of the neighborhood; traffic on roads and highways; safety of pedestrians, and will not create a hazard or nuisance to abutting property owners.

~~J.~~ In addition to the two (2) parking spaces required for each principal **dwelling unit**, one (1) additional parking space for the **ADU** must be provided.

~~K.J.~~ An **ADU** located within the **principal building** shall have interconnected smoke and carbon monoxide alarms.

~~K.~~ An ADU Permit application submission shall include a minimum of the following materials and exhibits demonstrating compliance with the applicable Zoning Ordinance requirements:

~~1. Existing and proposed site conditions and parking plan.~~

~~2. Existing and proposed floor plans for all dwelling units and structures.~~

~~A. If applicable this floor plan shall show compliance with ADU entrance, interconnection and smoke and carbon monoxide alarm plan requirements.~~

~~3. A gross living area square footage calculation which includes existing and proposed floor plans, and a square footage calculation for both the primary dwelling and ADU demonstrating adherence with 610.G ADU Size pursuant to the definition of gross living area within Appendix A Definitions.~~

~~4. A signed, recordable "Accessory Dwelling Unit Owner Occupancy Restriction"~~

~~5. A bank or business check or money order for all recording fees made payable to the Grafton County Registry of Deeds.~~

~~6. If applicable a copy of the State of NH Dept. of Environmental Services Subsurface Systems Bureau Approval and plans.~~

~~7. If applicable a Water Connection Permit Application.~~

~~8. If applicable a Sewer Connection Permit Application.~~

~~9. Impact Fee Invoice Acknowledgment.~~

[...]

ARTICLE VIII BOARD OF ADJUSTMENT

[...]

SECTION 801 POWERS AND DUTIES.

The powers and duties of the Board shall be as prescribed by NH RSA 674:33, as amended. The powers and duties are:

801.1 Administrative Appeals.

~~To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by any administrative official in the enforcement of this Ordinance, as~~ As set forth in RSA 676:5, I, appeals to the Board concerning any matter within the Board's powers as set forth in RSA 674:33 may be made by any person aggrieved or by any officer, department, board, or bureau of the municipality affected by any decision of the administrative officer. In exercising this power, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order or decision as ought to be made, and to that end shall have all powers of the officer from whom the appeal is taken.

For the purposes of this section:

(a) The "administrative officer" shall mean the Zoning Administrator.

(b) As set forth in RSA 676:5, II, a "decision of the administrative officer" includes any decision involving construction, interpretation or application of the terms of the Zoning Ordinance. It does not include a discretionary decision to commence formal or informal enforcement proceedings, but does include any construction, interpretation or application of the terms of the Zoning Ordinance which is implicated in such enforcement proceedings.

An appeal under this section shall be ~~taken-made~~ within 30 days of the date of the administrative decision being appealed, or within 30 days of the time that the person filing the appeal ~~know-knew~~ or had reason to know that the administrative decision had been made. The effect of an appeal shall be as set forth in RSA 676:6.

[...]

SECTION 802 BOARD PROCEDURES.

802.1 Applications.

Applications to the Board for an administrative appeal, **variance**, **special exception** or equitable waiver shall be made on forms provided by the Board in compliance with procedures established by the Board.

A. Fees: The application shall be accompanied by whatever fees are required by ~~the Board to defray the costs.~~ Chapter 68 of the City Code.

- B. Plans and Information: The application shall be accompanied by whatever plans and other information are required by the Board including but not limited a scaled plan of the subject property identifying existing and proposed conditions and improvements, and a business operations plan, if applicable.

[...]

802.3 Hearing Procedure.

[...]

- D. Conflicts of Interest: Conflicts of interest are governed by RSA 673:14, the City of Lebanon Ethics policy (ADM-108, as amended), and the Board's Rules of Procedure. No member of the Board shall sit upon the hearing of any question which the Board is to decide in a judicial capacity if that member would be disqualified for any cause to act as a juror upon the trial of the same matter in any action at law. Reasons for disqualifications do not include exemption from service as a juror or knowledge of the facts involved gained in the performance of the member's official duties. If a member is disqualified or unable to act in any particular case pending before the Board, the chairman shall designate an alternate to act in his place.

[...]

802.4 Decisions of the Board.

~~In exercising its powers the Board may reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination appealed from and may make such order, or decision as ought to be made and, to that end, shall have all the powers of the administrative official from whom the appeal is taken.~~

[...]

APPENDIX A DEFINITIONS

[...]

DWELLING: A building, or space within a building, designed for and used primarily by one or more families for living quarters including permanent provisions for sleeping, eating, cooking and sanitation, but not including recreational vehicles (RVs), **manufactured housing**, trailers of any kind, **hotels, motels, group residences, lodging houses**, institutional homes, residential clubs, or other commercial accommodations offered for occupancy.

[...]

EDUCATIONAL FACILITY, PRIMARY/SECONDARY: A public or private school offering instruction at the primary and/or secondary school levels in the branches of learning and study required to be taught in the public schools of the state of New Hampshire. This term shall include preparatory schools and progressive schools and shall not include group day care facilities.

[...]

GROSS LIVING AREA: The total area of above-grade residential space ~~of a~~ within a dwelling unit as measured using exterior building dimensions, with a ceiling height of 7 ft. or greater, excluding unheated areas such as garages, as enclosed or open porches, covered or open decks, outside stairs, and balconies, garages, or and other unenclosed areas. ~~Gross living area does not include the area within a garage, deck or other unenclosed area.~~ The floor area of a walk-out basement with a ceiling height of 7 feet or greater shall be included.

[...]

- A. **CHILD DAY CARE FACILITY:** A day care center, a day nursery, a private nursery school or kindergarten, a child development center, a play group, a head start center, ~~progressive school~~ or any other facility which cares for seven (7) or more children under the age of 16 for a part but not all of a 24 hour day. This term shall not include primary/secondary educational facilities.

Such facilities may be privately operated or sponsored by a house of worship, social agency, cooperative group or a community or by a public agency other than public schools.

[...]

HEALTH CLUB: An establishment that provides indoor and/or outdoor exercise facilities, programs, instruction and/or training related to fitness, wellness, aerobics, weight lifting, court sports, and/or swimming, ~~as well as and which may also include~~ locker rooms, showers, massage rooms, saunas, and/or related **accessory uses**. This term shall not include any **local government use**.

[...]

STRUCTURE: Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. The term includes, but is not limited to, buildings, swimming pools, tennis courts, manufactured homes, wind and solar energy facilities, satellite dishes and antenna. The term does not include bus stops and minor installations such as fences less than three and a half feet high, agricultural and safety fences, mail boxes, flagpoles and children's play equipment, nor does it include subsurface waste disposal systems.

[...]



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

MEMORANDUM

TO: Lebanon City Council

CC: Shaun Mulholland, City Manager
David Brooks, Deputy City Manager

FROM: Planning and Development Department Staff

RE: Public Hearing on Proposed Zoning Amendments by Cicotte Properties, LLC for Consideration and Adoption by the City Council

DATE: January 4, 2024

On September 28, 2023, the City received a request from Dan Nash, of Advanced Geomatics and Design, on behalf of Cicotte Properties, LLC, pursuant to Section 1000.2.C of the Zoning Ordinance, for three Zoning Map amendments and an amendment to Section 311A.2 of the Zoning Ordinance to add several additional uses as permitted uses in the R-O-1 District. Cicotte Properties, LLC's proposed amendments are outlined in the attached September 28, 2023 rezoning request letter from Dan Nash, PE, and the attached staff memo dated October 10, 2023.

Since the City Council kicked-off the zoning amendment process on October 18th, the Planning and Development Department has obtained an opinion from the City's legal counsel as required by Section 1000.3.B.2 and the applicant met with the Land Use Boards for review and comment on the proposed changes as required by Sections 1000.3.B.1 and 1000.3.C. Attached is a copy of the legal opinion dated October 20, 2023, as well as copies of the relevant portions of the November 6, 2023 Zoning Board of Adjustment, December 11, 2023 Planning Board, and December 14, 2023 Conservation Commission meeting minutes at which the amendments were discussed.

Note that additional background information on the proposed amendments was gathered by the Planning and Development Department staff following the Council's October 18th meeting. The additional background information is set forth in the attached memo to the Planning Board dated December 7, 2023.

As set forth in the attached memo from Dan Nash, PE, dated January 2, 2024, the applicant has narrowed the scope of its zoning amendment request, which is now limited to the following:

1. Amend Section 311A.2 of the Zoning Ordinance to add "vehicular sales" as a use allowed by Conditional Use Permit in the Residential-Office-One (R-O-1) District. ("Cicotte Amendment #1")
2. Amend Section 303.2 of the Zoning Ordinance to add "vehicular sales" as a use allowed by Conditional Use Permit in the Light Industrial (IND-L) District. ("Cicotte Amendment #2")

Note that Mr. Nash's January 2nd letter and materials refer to adding "auto sales and service" in the R-O-1 and IND-L, which is not a use category identified in the Zoning Ordinance. Rather, staff

recommends that the Council consider the amendments as requests relating to the existing “vehicular sales” category which is defined in Appendix A of the Zoning Ordinance as follows: “The display and sales of new or used motor vehicles, motorcycles, recreational vehicles, manufactured homes, and boats. No retail sale of gasoline or oil is permitted. Vehicular sales shall include facilities for the short term leasing of automobiles and trucks to the end consumer.” Note that the “vehicular sales” use category includes all uses that are accessory to the primary “vehicular sales” use, including but not limited to auto repair.

Regarding the Cicotte Amendment #1, a public hearing has been scheduled for January 17, 2024.

As discussed with the Council at its January 3, 2024 meeting, the City’s legal counsel considers the Cicotte Amendment #2 to be substantially different from the amendments as first presented on October 18th, and concluded that it would need its own review in accordance with the procedures outlined in Section 1000 of the Zoning Ordinance. Based on legal counsel’s recommendation, the Council agreed that the Cicotte Amendment #2 should be reviewed separately from the Cicotte Amendment #1 which was fully reviewed under the Section 1000 process.

RECOMMENDATIONS:

1. With respect to the Cicotte Amendment #1, staff recommends the City Council consider postponing the applicant’s request in light of a pending land use study of the Route 120 corridor. Pursuant to the recommendations of the Master Plan (as described in the attached October 10, 2023 staff memo), the City has contracted with VHB to prepare a neighborhood plan for the Route 120 corridor extending from Exit 18 to the Hanover line. A project “kick off” meeting was held with staff on January 3, 2024. The study will identify existing land uses and projected development demands along the corridor and will likely result in proposed amendments to the Zoning Ordinance to accommodate desired growth and uses. To add “vehicular sales” at this time on an ad-hoc basis is premature given the pending neighborhood master planning effort, the results of which are expected in the late spring/summer with zoning amendments to be presented to the City Council for “kick off” in October.
2. With respect to the Cicotte Amendment #2, staff also recommends that the City Council consider postponing the applicant’s request in light of the pending land use study of the Route 120 corridor described above. Alternatively, if the Council chooses to move forward at this time, staff recommends that it establish a tentative schedule for review pursuant to Section 1000.3.A of the Zoning Ordinance. As noted in Mr. Nash’s January 2nd memo, the amendment was already reviewed by the Planning Board and Conservation Commission. Consequently, additional review by the Planning Board and Conservation Commission is not required in order to comply with the Section 1000 procedural requirements and does not need to be included in the tentative schedule established by the Council.

=====

Supporting Materials:

- January 2, 2024 letter from Dan Nash, of Advanced Geomatics and Design, on behalf of Cicotte Properties, LLC, including attachments

STAFF MEMORANDUM

Cicotte Properties, LLC Proposed Zoning Amendment

January 17, 2024 City Council Mtg

Page 3 of 3

- Planning & Development Department staff memo to the City Council, dated October 10, 2023 with attachments:
 - September 28, 2023 rezoning request letter from Dan Nash, of Advanced Geomatics and Design, on behalf of Cicotte Properties, LLC, including attachments
- Planning & Development Department staff memo to the Planning Board, dated December 7, 2023 with the following attachments:
 - Excerpt of 10/3/01 City Council Meeting Minutes (8 pages)
 - Excerpt of 12/5/01 City Council Meeting Minutes (9 pages)
- Legal opinion from Christine Fillmore, Esq., dated October 20, 2023
- Excerpt of Zoning Board of Adjustment meeting minutes from November 6, 2023
- Excerpt of Planning Board meeting minutes from December 11, 2023
- Excerpt of Conservation Commission meeting minutes from December 14, 2023



TO: NATHAN REICHERT, PLANNING & DEVELOPMENT DIRECTOR

FROM: DANIEL A. NASH, PE

RE: PROPOSED ZONING CHANGES

CC: SHAUN MULHOLLAND, CITY MANAGER

DATE: 2 JANUARY 2024

In reviewing the City Council agenda for 3Jan24, I observed what appears to have been an oversight. On item 10.G., the item includes no mention of the petitioned changes brought before the city council on 18Oct23. At that meeting, the council directed that the petitioned changes track with those prepared by planning staff, being routed to the Zoning and Planning Boards and the Conservation commission.

At the Planning Board meeting on 11Dec23, the petitioned requests were narrowed to include automobile sales and service as a Conditional Use in the RO-1 and IND-L zones. This refinement is acceptable to the petitioner. Attached is a transcription of the motion made by the Planning Board. I have attached recommended changes to the zoning tables for each zone. As I understand, the Zoning Board and Conservation Commission comments do not conflict with the Planning Board recommendation.

Can you please ensure that this information is sent to the City Council as supplemental information for Item 10.G. on their 3Jan24 meeting? Please let me know if you have any questions regarding this request.

M:\2023_projects\23-006\zoning\col_nr_zoningchanges_2jan24.docx

SECTION 303 LIGHT INDUSTRIAL DISTRICT (IND-L).

303.1 Purpose.

The purpose of the IND-L District is to provide land in appropriate locations for the establishment of manufacturing plants and other businesses of a similar nature, which improve employment opportunities and strengthen the economic base of the city. Such activities should not adversely affect the natural environment, adjacent residential areas or community facilities. A variety of manufacturing, distribution and service industries, and certain limited support activities are allowed in the district. However, in order to preserve appropriate land for such uses, residential uses and many types of commercial uses, such as retailing and **personal services**, are not allowed.

303.2 Table of Uses.

<u>Permitted Uses</u>	<u>Special Exception Uses</u> (see Section 801.3)
<u>Commercial/Non-Residential</u> 1. Airport 2. Bus terminal 3. Essential service 4. Equipment and machinery sales, rental and service 5. Group day care facility per Section 604 6. Health club 7. Light industry 8. Local government use 9. Outdoor storage per Section 303.4 (less than 20%) 10. Plumbing, electrical or carpentry shop 11. Publishing/printing 12. Research laboratory 13. Renewable energy system per Section 612 14. Retail product pickup 15. Retail showroom per Section 303.5 (less than 10%) 16. Trucking terminal 17. Warehouse	<u>Commercial/Non-Residential</u> 1. Care and treatment of animals 2. Contractor's yard 3. Educational facility, college/university 4. Educational facility, vocational school
	<u>Uses by Conditional Use Permit</u> (see Section 302.4)
<u>Planned Developments</u> 18. Industrial PUD per Section 501 19. Planned business park per Section 508	<u>Commercial/Non-Residential</u> 1. Car wash 2. Inpatient rehabilitation facility 3. Office 4. Outdoor storage per Section 303.4 (more than 20%) 5. Retail showroom per Section 303.5 (between 10-20%) 6. Auto sales and Service

SECTION 311A RESIDENTIAL-OFFICE-ONE DISTRICT (R-O-1).

311A.1 Purpose.

The purpose of the R-O-1 district is to provide for well-planned neighborhoods of **offices** and higher density housing by carefully guiding the integration of multi-residential housing and **office** uses. The district balances the goals of: (1) preserving the economic viability of older, large **dwelling**s modified to accommodate multiple residential units or **office** space or both; (2) providing for attractive locations for small **offices**; and (3) providing for new **office** buildings compatible with surroundings.

311A.2 Table of Uses.

<u>Permitted Uses</u>	<u>Special Exception Uses</u> (see Section 801.3)
<u>Residential</u> One-family dwelling Two-family dwelling Multi-family dwelling (4 dwelling units or less) per Section 601 Accessory dwelling unit (ADU) per Section 610 <u>Commercial/Non-Residential</u> - Construction of new office building (3,000 sq. ft. or less) per Section 601 - Conversion of a dwelling to office use per Section 601 Financial institution Group day care facility per Section 604 Home business per Section 600 - House of worship Personal service Renewable energy system per Section 612 <u>Planned Developments</u> - PURD per Section 501	<u>Residential</u> Multi-family dwelling (5 dwelling units or more) per Section 601 Senior housing complex <u>Commercial/Non-Residential</u> - Construction of new office building (3,001 sq. ft. – 6,000 sq. ft.) per Section 601 Educational facility, college/university Educational facility, primary/secondary Essential service - Funeral home Group residence Health club Hospice Lodging house Public safety facility Recreational facility, indoor Recreational facility, outdoor Tourist home (or bed and breakfast facility)

	<u>Uses by Conditional Use Permit</u> (see Section 302.4)
	<u>Residential</u> 1. Cottage development per Section 509 2. <u>Auto sales and Service</u>

311A.3 Table of Area, Dimensions and Coverage.

Minimum Lot Size

Class	Area	Width	Additional Area per D.U. After Two	Maximum Height
1	10,000 sq.ft.	75'	3,000 sq.ft.	45'
2	15,000 sq.ft.	75'	5,000 sq.ft.	45'
3	40,000 sq.ft.	100'	15,000 sq.ft.	45'

Minimum Yard

Class	Front	Side	Rear	Maximum Building Coverage
1	20'	15'	20'	25%
2	20'	15'	20'	20%
3	25'	25'	30'	15%

Planning Board Motion

Extracted from meeting media for 11Dec2023 meeting

Motion is on media from time stamp 2:22:28 to 2:25:13.

Richard Ford Burley moved: the Planning Board would like to recommend that

a) it would seem to us to be acceptable that allowing auto sales and service in the IND-L and RO-1 zones only as a Conditional Use could be acceptable as a stop gap measure given the pending Route 120 neighborhood planning effort

b) we would like to strongly encourage matters like the present to be considered in the pending neighborhood planning effort and potential rezoning

c) we believe that Lot 63-4 should be left zoned as RL-3 pending further zoning and environmental review.

Seconded by Jeremy Rutter.

Vote 6-0 in favor.



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

MEMORANDUM

TO: Lebanon City Council

CC: Shaun Mulholland, City Manager

FROM: Planning & Development Department Staff

RE: Request for Zoning Map Amendments from Cicotte Properties, LLC;
Tax Map/Lot Numbers 64-30, 78-61, 78-40-200, 78-40-100, and 63-4

DATE: October 10, 2023

AMENDMENT REQUESTS

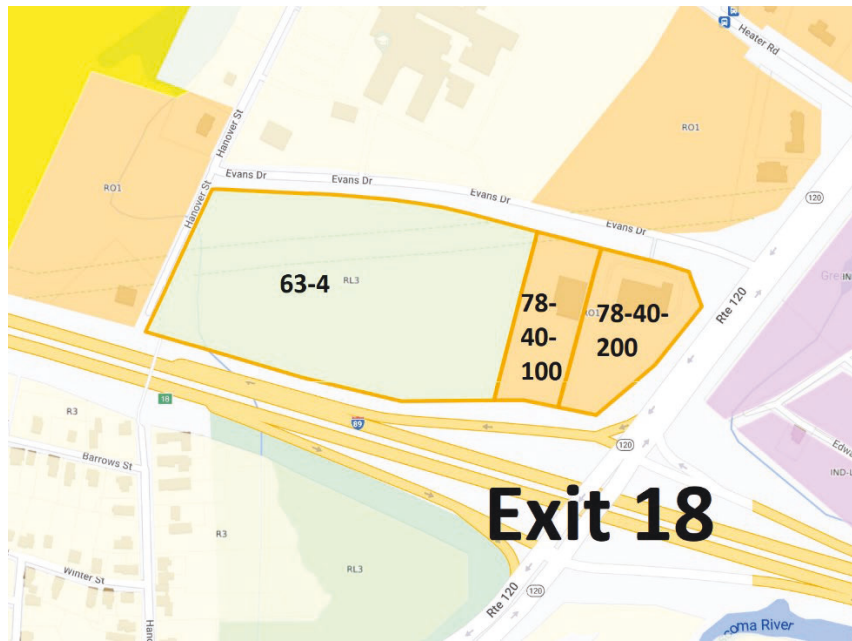
On September 28, 2023, the City received a request from Dan Nash, of Advanced Geomatics, on behalf of Cicotte Properties, LLC, pursuant to Section 1000.2.C of the Zoning Ordinance, for the following four (4) Zoning Map and Zoning Ordinance amendments:

1. Zoning Map amendment. Request to rezone the following properties from Light Industrial (IND-L) to General Commercial (GC):
 - a. 175 Heater Road (Tax Map 64, Lot 30), a +/-4.71 acre lot owned by Cicotte Properties, LLC, improved with a vehicular sales use (Volvo dealership).
 - b. 30 Little Heater Road (Tax Map 78, Lot 61), a vacant +/-2.15 acre¹ lot owned by Johanna Cicotte.

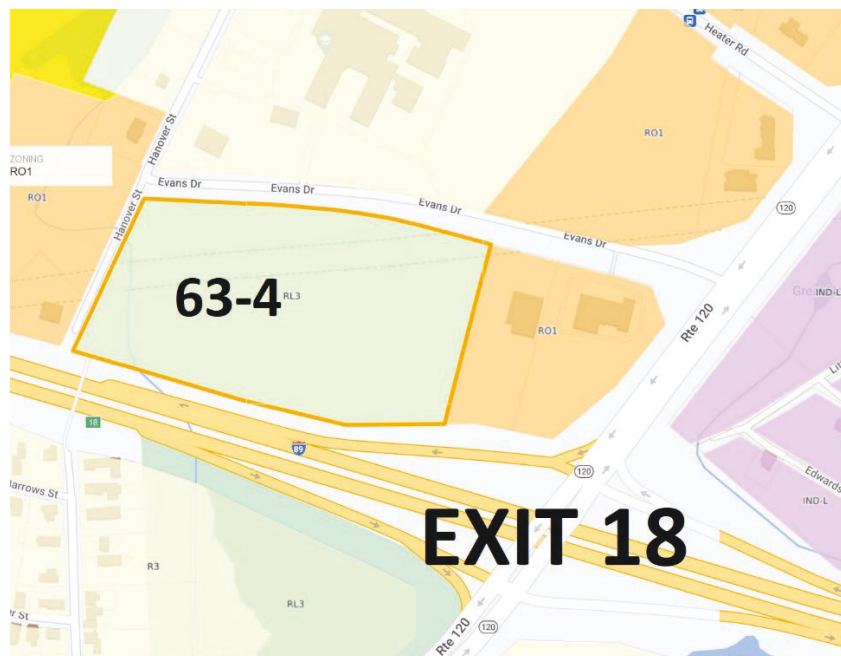


¹ Pursuant to a boundary line adjustment plat approved by the Planning Board on October 9, 2023 (PB2022-42-BLA)

2. Zoning Map amendment. Request to rezone the following properties to General Commercial (GC):
- a. 51 Evans Drive (Tax Map 78, Lot 40-200), a +/-3.32 acre lot owned by Cicotte Holdings, LLC, currently zoned Residential-Office-One (R-O-1) and improved with a vehicular sales use (Nissan dealership).
 - b. 63 Evans Drive (Tax Map 78, Lot 40-100), a +/-2.74acre lot owned by Evans Dr SPE, LLC, currently zoned Residential-Office-One (R-O-1) and improved with an animal hospital use.
 - c. 0 Evans Drive (Tax Map 63, Lot 4), a vacant +/-14.31 acre lot owned by Cicotte Properties, LLC, currently zoned Rural Lands Three (RL-3).



3. Zoning Map amendment. In the alternative to number 2, a request to rezone 0 Evans Drive (Tax Map 63, Lot 4), a vacant +/-14.31 acre lot owned by Cicotte Properties, LLC, from Rural Lands Three (RL-3) to Residential-Office-One (R-O-1).



4. Zoning Ordinance amendment. In the alternative to numbers 2 and 3, an amendment to Section 311A.2 of the Zoning Ordinance to allow the following uses in the R-O-1 District either by Special Exception or Conditional Use Permit:
- a. Renewable energy system per Section 612 (*already permissible in the R-O-1*)
 - b. Restaurant, sandwich shop
 - c. Retail product pickup
 - d. Retail store
 - e. Service station
 - f. Vehicular repair
 - g. Vehicular sales

A copy of the request and other materials from Mr. Nash are attached for the Council's review.

AMENDMENT PROCESS

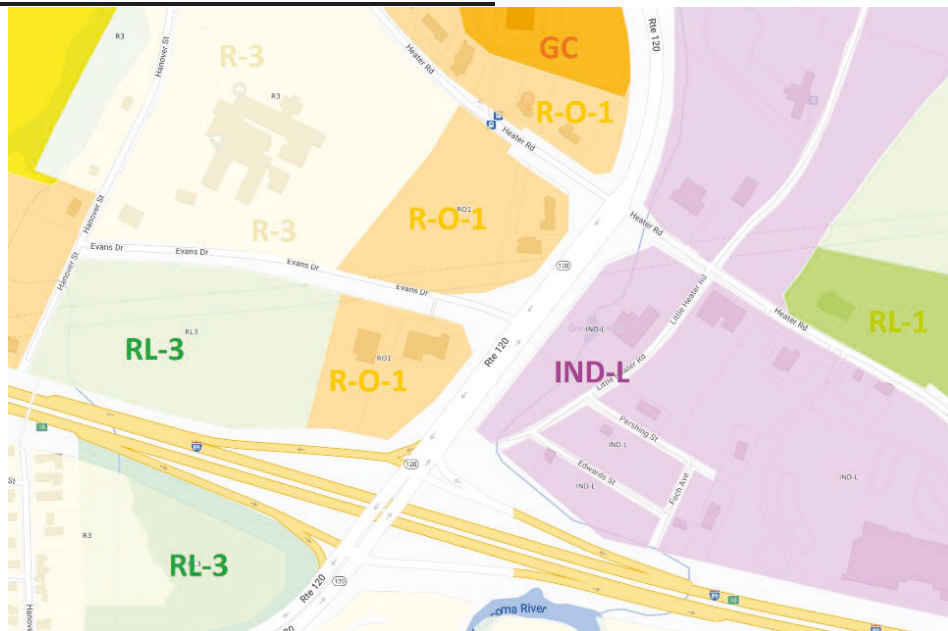
Section 1000.2.C states that zoning amendments may be proposed:

By petition of any number of voters, provided however, that unless the petition is submitted utilizing the "Citizens Binding Initiative" procedure contained in Section 419:23a of the Lebanon City Charter, it will be within the sole discretion of the City Council as to whether or not to proceed in any way with the requested amendment.

The petition received on September 28th was not submitted utilizing the Citizens Binding Initiative procedure. As a result, on October 18th, the City Council will discuss the requested map and text amendments for the purpose of determining whether or not to proceed with consideration of the amendments in accordance with Article X, Section 1000.3.A. If the Council elects to move the requests forward, a legal review is required pursuant to Section 1000.3.B(2) and a schedule for review and comment by the Planning Board and Conservation Commission must be established in accordance with Section 1000.3.C. Finally, a public hearing before the City Council must be tentatively scheduled in accordance with Section 1000.3.D. Review by the Zoning Board of Adjustment will only be required if the Council elects to move forward with request 4 (requests 1, 2, 3, are zoning map amendments which do not require Zoning Board review).

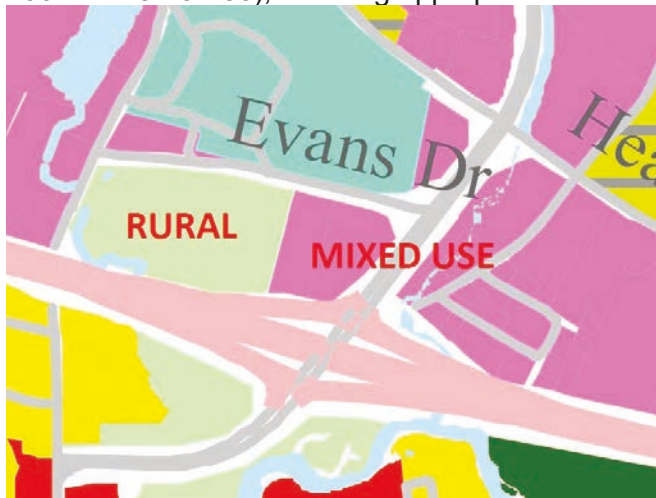
The proposed amendments do not automatically trigger a ballot referendum pursuant to Section 1000.4.A and the City Council may act on the request in accordance with Section 1000.4.B.

CURRENT ZONING OF SURROUNDING AREA



FUTURE LAND USE MAP

The Future Land Use Map identifies M/L 64-3 (requests 2 and 3) as “Rural” and identifies the other properties that are the subject of request 1 (M/L 64-30 and 78-61) and request 2 (78-40-200 and 78-40-100), as being appropriate for “Mixed Use” in the future.



MASTER PLAN

The City’s current Master Plan, adopted in March 2012, describes the current land use of the Exit 18 area as follows [Section 2|C-2b]:

- **Exit 18.** In the vicinity of Exit 18, there are several auto-related business (gas stations, convenience stores, auto dealerships, trucking facilities), as well as additional general commercial uses within close proximity (hotels, retail, etc.) In recent years, new construction and some redevelopment has been occurring in this area.

The Master Plan identifies the desired land uses north of Exit 18 as including “small-scale commercial, light industrial, office and residential uses”, but also recommends a study of the Route 120 corridor to address traffic patterns, land uses, and aesthetic concerns. See Section 2|D-2j:

- 2 | D-2j **Heater Road-Route 120-Evans Drive-Hanover Street.** For the Heater Road area, the general recommendation is to determine the appropriate level and type of future development. The area surrounding the Hanover Street School and Lebanon High School would be appropriate for mixed-use development, including small-scale commercial, light industrial, office, and residential uses. Because of the proximity to schools and residential areas, surrounding wetlands, and difficult access for traffic from Route 120 onto Evans Drive, development must meet well-defined performance standards for traffic, hours of operation, impervious surface, and parking. A study of the entire Route 120 corridor is needed to address traffic patterns, land uses, and aesthetic concerns. The City supports the NHDOT’s position that no further curb cuts should be granted on Route 120 north of Exit 18. The entry corridor from Exit 18 to Hanover Street should be landscaped by the state to reduce the current expanse of impervious pavement.

See also Action# 2.2.A6 (“Conduct a study of the Route 120 corridor to address traffic patterns, land uses & aesthetic concerns”); and Action# 2.3.A10 (“Determine the appropriate level and type of future development in the Heater Road area”).

STAFF NOTES

With respect to M/L 64-3 (requests 2 and 3), the property is almost entirely located within the Floodplain District and Wetlands Conservation District overlays. It was rezoned in 2018 from R-O-1 to RL-3 in order to align it with the desired “Rural” land use as set forth on the Future Land

Use Map (M/L 77-127, across from M/L 64-3 on the south side of I-89, was also rezoned to RL-3 at the same time and for the same reasons).

Finally, with respect to request 4 (to add certain uses to the R-O-1 District), the amendment would impact all areas zoned R-O-1, which are outlined in red below:



Parcel #78-40-200, 51 Evans Drive, is currently in violation of the Zoning Ordinance due to unpermitted development being done on the site and the unpermitted expansion of a non-conforming use. The parcel must receive a Zoning Amendment, map or use table, from the City Council or a Variance granted by the Zoning Board and Planning Board Site Plan approval to cure the exiting violations.

RECOMMENDATION / RATIONALE:

The Planning & Development Department recommends that the City Council keep in mind the statements and recommendations of the City's Master Plan in determining whether to move forward with consideration of the rezoning requests. Staff is bound by the confines of the Master Plan, its requirements and recommendations:

1. The Master Plan was written and approved in 2012.
2. The Master Plan calls for a study of the 120 corridor and action based upon said study.
3. The Master Plan Future Land Use Map calls for the M/L 63-4 parcel to remain Rural to protect against adverse wetlands and conservation area impacts.
4. The Master Plan Future Land Use Map calls for Mixed Use development for the remaining three parcels.
5. The neighborhood is contiguous with the Hanover Street Elementary School and Lebanon High School.

The Planning Board is currently working on updating the Master Plan one chapter at a time, and the Future Land Use chapter is currently set for consideration in 2025. In the meantime, the Exit 18/Route 120 corridor study recommended under the current Master Plan is expected to be undertaken in 2024.

Should City Council elect to proceed with consideration of the requested amendment, the Planning & Development Department offers the following tentative schedule for review and comment in accordance with Section 1000.3:

City Council decision to proceed:	October 18, 2023
Legal review:	by November 1, 2023
Zoning Board (request #4 only):	November 6, 2023
Conservation Commission:	November 12, 2023
Planning Board:	November 27, 2023
City Council public hearing:	January 17, 2024

=====

Supporting Materials:

- September 28, 2023 rezoning request letter from Dan Nash, of Advanced Geomatics, on behalf of Cicotte Properties, LLC, including attachments.



28 September 2023

Honorable Mayor and City Council
City of Lebanon
51 North Park Street
Lebanon, NH 03766

Re: Request for Zoning Changes

Dear Mayor and Councilors:

On behalf of Cicotte Properties, this letter is being written to request zoning changes to be part of the city's annual zoning review.

Request #1. Rezone parcels 64-30 and 78-61 on Little Heater Road to GC (see attached "Little Heater").

Parcel 64-30 is an auto dealership and has been since 1985. The existing operation essentially maxes out the usable property. As can be seen on the sketch, the parcel is divided by a drainage feature. The land on the west side of the drain feature is likely wetlands and difficult to permit for use. The inclusion of the vacant parcel to the south, 78-61, is to preclude a claim of "spot zoning". As discussed, there is little risk of this change promoting a project that has harmful impacts, as it is essentially fully developed. The need is to restore the use of this land as a "Permitted Use". This status was lost when the zoning was changed to IND-L some time ago. This change placed an unnecessary burden on the landowner to obtain either a zoning special exception or a variance to make any changes to the property. The city's recent change to the expansion of non-conforming properties required the applicant to obtain a Variance to expand a legitimate addition to an auto dealership. This property has been a responsible and productive business for the city. The property generates roughly \$90,000 of tax revenue each year.

Restoring the proper zoning to these parcels would be just, appropriate, and not cause the potential for harmful impacts from development.

Request #2. Rezone parcels 78-40-1, 78-40-2, and 63-4 on Evans Drive to GC (see attached "Evans Drive").

These parcels were GC before their conversion to RO-1. It is my opinion that this change was inappropriate for the parcels involved and should be undone. In particular, the zoning of parcel 64-3 to RL-3 was "Spot zoning" and should never have been allowed. Parcel 78-40-2 has been an auto dealership since the 1960's and it is unjust for it to lose its "Permitted Use" status for no legitimate public purpose. There is no need or purpose for residential uses on these properties.

Request #3. Rezone parcel 63-4 on Evans Drive to RO-1 (see attached “Evans Drive”).

If request #2 does not find favor with the city, we request Parcel 63-4 be converted to RO-1, to be zoned as the abutting parcels. The zoning of parcel 64-3 to RL-3 was “Spot zoning” and should never have been allowed.

Request #4. Add several uses allowed in GC to be allowed in RO-1 by Special Exception or Conditional Use (see attached “GC”).

If requests #2 or #3 do not find favor with the city, we request the city allow several uses, namely uses 25-31, be allowed in the RO-1 zone as Special Exceptions or Conditional Uses. These uses were permitted uses before the parcels were inappropriately converted to RO-1 from GC. By placement of the uses under Special Exception or Conditional Use, allows additional city review of proposed uses to prevent adverse impacts to the city from development of these uses.

Please let me know if you have any questions regarding this request.

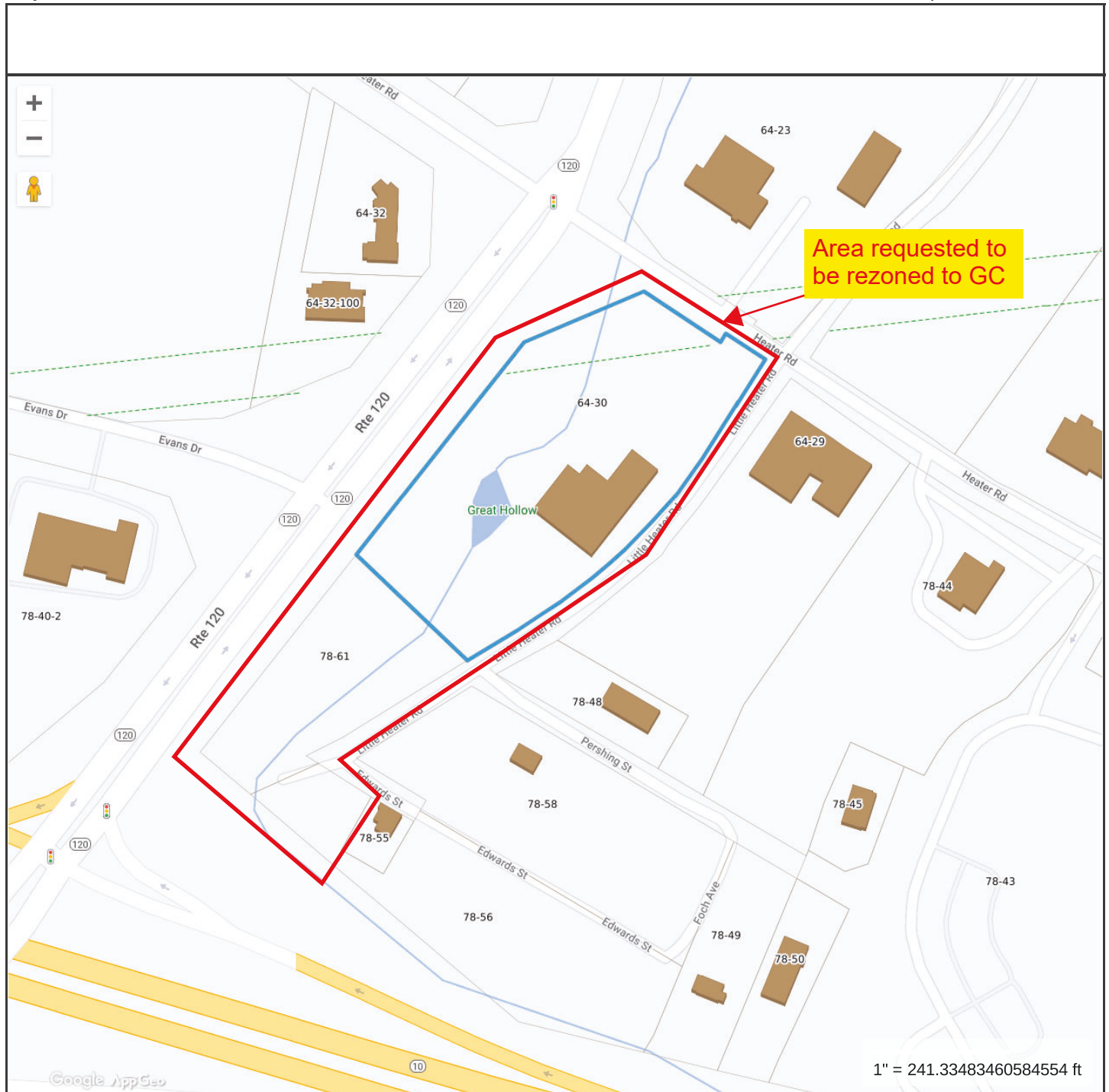
Sincerely,

Daniel A. Nash, PE
Principal

Attachments:
-Little Heater
-Evans Drive
-GC

CC: Johanna Cicotte

M:\2023_projects\23-006\zoning\letter_col_28Sep2023.docx

**Property Information**

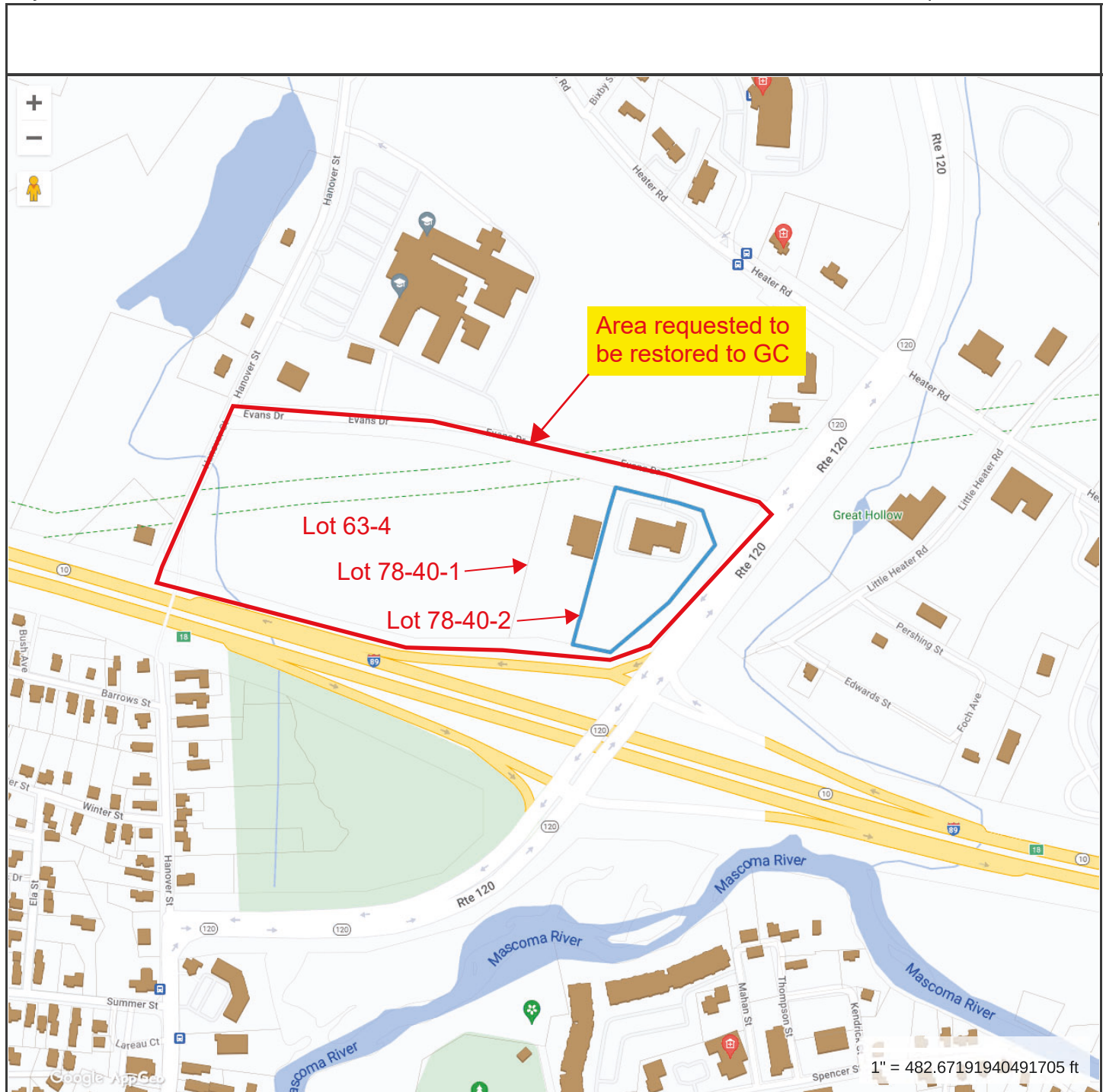
Property ID 64-30
Location 175 HEATER RD
Owner CICOTTE PROPERTIES LLC

**MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT**

City of Lebanon, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 08/11/2023
Data updated 11/18/2018

Print map scale is approximate.
Critical layout or measurement
activities should not be done using
this resource.

**Property Information**

Property ID 78-40-200
Location 51 EVANS DR
Owner CICOTTE HOLDINGS, LLC

**MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT**

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Geometry updated 08/11/2023
 Data updated 11/18/2018

Print map scale is approximate.
 Critical layout or measurement activities should not be done using this resource.

<u>Permitted Uses</u>	<u>Special Exception Uses</u> (see Section 801.3)
25. Renewable energy system per Section 612 26. Restaurant , sandwich shop 27. Retail product pickup 28. Retail store 29. Service station 30. Vehicular repair 31. Vehicular sales	
<u>Planned Developments</u> 32. Commercial PUD per Section 501	

305.3 Table of Area, Dimension and Coverage.

Minimum Lot Requirements					Maximum Limitations	
Area	Frontage	Front Yard	Side Yard	Rear Yard	Building Coverage	Height
50,000 square feet	150'	40'	20'	20'	30%	45' See Section 305.4

305.4 Special Height Restriction.

On **parcels** adjacent to residential districts the height limitation of the adjacent residential district shall apply; but, on such **parcels**, **building height** may be increased above the residential limitation by one (1) foot for each two (2) feet that the **building** is set back from the required set back line(s) on sides of the **lot** adjacent to the residential district. However, in no case shall the height exceed 45 feet.

305.5 Dwelling Unit Density.

Density determinations for **multi-family dwellings** and **mixed use buildings** shall be made by the Planning Board during the course of site review based on site specific conditions and factors such as the availability of parking and/or the ability to provide required parking, the availability of adequate water and sewer, and the ability to provide required site improvements and to meet all other requirements of the Site Plan Review Regulations and all other applicable City regulations.

Petition for Zoning Changes vicinity Exit 18

(Little Heater Road and Evans Drive)

29 September 2023

Members of the Lebanon City Council,

As voters of the City of Lebanon, we petition you to make changes to the zoning ordinance.

-Our request is under the provisions of the Zoning Ordinance, Section 1002.2.C..

-Our requests are outlined in AGD letter to the City Council dated 28Sep23

We, the voters, call on the City of Lebanon to make these changes to restore a fair and just zoning for these properties.

[illegible]

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(Little Heater Road and Evans Drive)

29 September 2023

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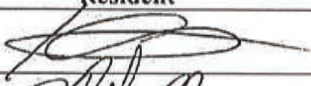
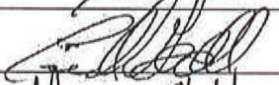
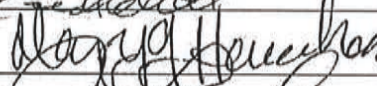
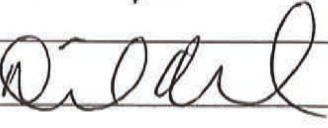
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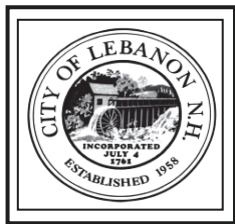
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We, the voters, call on the City of Lebanon to make these changes to restore a fair and just zoning for these properties.

4.
5.
6.
7.
8.

Name of Resident	Signature of Resident	Address and Phone	Date Signed
KATH HIGGS		377 MOUNTSUPPORT RD LEBANON NH 03766	9-29
Garrett Goodell		8 BARROWS ST Lebanon NH	9-29
Mary G. Henehan		8 Winter St Lebanon	9-29
Jaime Lanfrancini		337 Mt Support Rd #601	9/29/23
M. M. Gifford	David M. Gifford	75 Bank St #213	9/29/23
Justin Lanfrancini		205 Bank St. Ext	9/29/23
Dan Nash		387 Poverty Lane 603-448-6023	29 Sep 23



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

MEMORANDUM

TO: Planning Board

FROM: Planning and Development Department Staff

RE: Request by Cicotte Properties, LLC to Amend Section 311A.2 of the Zoning Ordinance – R-O-1 District Table of Uses

DATE: December 7, 2023

On September 28, 2023, the City received a request from Dan Nash, of Advanced Geomatics, on behalf of Cicotte Properties, LLC, pursuant to Section 1000.2.C of the Zoning Ordinance, for three Zoning Map amendments and an amendment to Section 311A.2 of the Zoning Ordinance to add several additional uses as permitted uses in the R-O-1 District. The proposed amendments are outlined in the attached staff memo dated October 10, 2023.

On October 18, 2023, the City Council voted to submit the petitioner's proposed amendments to the Zoning Board of Adjustment, Planning Board and Conservation Commission for review and comment, in accordance with Section 1000 of the Zoning Ordinance. Section 1000.3 ("Amendment Procedures"), subsection C requires review and comment by the Planning Board regarding any proposed zoning amendment:

All proposed [zoning] amendments shall be forwarded to the Planning Board and Conservation Commission. Planning Board and Conservation Commission shall place the proposed amendment on their agenda for discussion and comment at least thirty (30) days prior to the City Council public hearing. The Planning Board and Conservation Commission shall forward their comments and recommendations to the City Council at least seven (7) days prior to City Council public hearing.

For the Board's reference and review, please find attached the following:

- A legal opinion from Christine Fillmore, Esq., dated October 20, 2023.
- A staff memo to the City Council, dated September 10, 2023, providing a description of the proposed amendments.
- September 28, 2023 rezoning request letter from Dan Nash, of Advanced Geomatics, on behalf of Cicotte Properties, LLC, including attachments.
- Regarding Petitioner's Zoning Map Amendment Request #2:
 - Excerpt of 10/3/01 City Council Meeting Minutes (8 pages)
 - Excerpt of 12/5/01 City Council Meeting Minutes (9 pages)

Once review has been completed by the City's land use boards, the City Council will hold a public hearing in January followed by a vote on whether to adopt the proposed amendments.

Note that since preparation of the October 10th memo, staff conducted additional research regarding proposed zoning map amendments 1 and 2:

- Zoning Map Amendment Request #1: it appears that M/L 64-30 was rezoned in 1990 from "Industrial" (which allowed vehicular sales by SE) to the current Light Industrial (which does not allow vehicular sales).
- Zoning Map Amendment Request #2: M/Ls 78-40-1, 79-40-2, and 63-4 were rezoned from GC to R-O-1 on 12/5/01. For reference, the rezoning was extensively discussed at the 10/3/01 City Council meeting (see attached minutes) and again at the City Council public hearing on 12/5/01 (see attached minutes). Since the 12/5/01 rezoning, the zoning in the subject area has not changed, except that M/L 63-4 (which is also the subject of Zoning Map Amendment Request #3) was rezoned from R-O-1 to RL-3 in 2018.

- B. To Consider Rezoning Certain Properties Located on Heater Road and Route 120, Lebanon, NH, from a General Commercial Zoning District to a Residential Office-One Zoning District. The following properties, identified by tax map and lot number, are included: A portion of Tax Map 64, Lot 32; Tax Map 64, Lot 17; Tax Map 64, Lot 16; Tax Map 64, Lot 15; Tax Map 64, Lot 14; Tax Map 64, Lot 9; and Tax Map 64, Lot 18.**

Councilor Balestra moved that the Lebanon City Council reject the motion on the table to change the zone of specified properties from General Commercial to Residential Office-One. Seconded by Councilor Wood.

Councilor Balestra said after public input and detailed deliberation, the Zoning Advisory Committee has unanimously endorsed an alternate proposal which they feel is more rational than the current motion. If the Council passes this motion, an alternative motion will be offered for consideration.

Councilor Hayes asked if a motion is required to take this proposal off the table. Mayor Akins said the previous motion was not tabled, but rather postponed to this date.

Councilor Grigsby said she does not feel comfortable voting on this motion until the Council hears the alternate proposal. Councilor Wood said the proposal is in the packet. Councilor Balestra said the previous proposal is relatively narrow in concept, relating to a somewhat confined geographic area without considering other issues.

Councilor Balestra withdrew the motion. Councilor Wood withdrew his second.

Councilor Wood moved to suspend the rules and consider Item 6B after Item 7A. Seconded by Assistant Mayor Solari.

Councilor Jescavage raised a point of order. He noted a Public Hearing was held on the previous proposal, but no motion was made. The Council does not have to take action on the previous proposal, as there was no motion on the floor. Councilor Wood said the Council can revisit the previous proposal if they want to.

There being no further discussion, a vote was held, and the motion to suspend the rules passed unanimously (9-0).

VII. NEW BUSINESS

A. Rezoning Proposal for the Heater Road/Route 120/Evans Drive/Hanover Street Extension and Lebanon High/Elementary School Area. (This proposal may or may not include Lebanon School District property.)

Councilor Wood referred to a map in the packet and said the Committee's recommendation was for the land shown on the map, including the R-3 land under and adjacent to the school, and the General Commercial land fronting on Old Heater Road, south of Old Heater Road fronting on Route 120, and west fronting on Evans Drive and Hanover Street, to be rezoned RO-1. After their final meeting, the Committee discovered that the Council cannot zone a residential area of this size without a referendum. If there is a referendum, it should be considered with any recommendations made for the residential land further north. They are now recommending that the R-3 land not be addressed until later. The Committee recommends setting a Public Hearing to rezone the GC land to RO-1. He said this proposal makes better sense than the original proposal, which did not treat the intersection of Evans Drive and Route 120 but recommended changing the GC zone behind the auto dealerships. The "character" of the neighborhood depends on where you stand.

Councilor Wood asked if Lake Sunapee Savings Bank has concerns. Ms. Hennessy said they were initially concerned, but they now know they can use the site indefinitely for their activities and can transfer the property to another bank. Councilor Wood said the only commercial use there will be unaffected by the change. The Committee tried to balance interests and look at the present use of the land. They determined that at the two difficult intersections—Heater Road and Route 120 and Evans Drive and Route 120—further commercial development should not be encouraged. Existing commercial uses, and their similar successors, are grandfathered. This change would prevent more intensive commercial development while preserving the commercial zone where commercial activity is.

Councilor Wood said toward the north, the Committee has discussed some residential use, with the possibility of a commercial use for which no zone currently exists, encouraging neighborhood services. The Committee feels this recommendation will dovetail with whatever they are likely to recommend to the north. They also need to look at the possibility of school expansion. The Committee was adamant that they remain blind to current land ownership. He recommended the same to the Council.

Councilor Desrosiers said he agrees with the zoning proposal. His concern was looking at the effect on existing properties.

Councilor Wood said additional commercial development to the north should go toward Old Etna Road or Route 120. The Committee considered changing the zoning of the McKerley property but decided it was not necessary, and they want to preserve the possibility of land to

access as-yet undeveloped commercial land. He said the Council should look hard at the intersection of Old Etna Road and Route 120. They should not intrude on the neighborhood or hurt the traffic on Route 120.

At Mayor Akins' request, Ms. Hennessy compared current to proposed zoning by area.

Councilor Wood moved that the Lebanon City Council hereby sets a Public Hearing for November 21, 2001 at 7:00 p.m. in the Council Chambers to change the cross-hatched area shown as "Existing GC" on the revised page 29 of the Council packet of October 3, 2001 from General Commercial to Residential Office-One. Seconded by Councilor Balestra.

Councilor Wood said nothing will affect the vested Hannaford Brothers application. Assuming the developer's appeal is not upheld, this proposal would prevent access to that land from Heater Road, as you cannot access GC land from a residential district. Councilor Grigsby asked where the access would be. Ms. Hennessy said the lot has frontage on Bixby Street, and zoning would allow access there.

Mayor Atkins said this proposal would also be reviewed by the Planning Board at a Public Hearing, by the Conservation Commission and by attorneys before coming back to the Council.

Councilor Hayes asked if the Committee considered the option of doing nothing. Councilor Desrosiers said there was discussion that something needed to be done. The Committee was established to look at the area, and doing nothing was not an option. Councilor Hayes asked what the driving force was behind this proposal. He has not heard about issues that need to be resolved. Councilor Balestra said there was a recommendation from the Conservation Commission to protect the Great Hollow wetlands.

Councilor Hayes asked how this proposal benefits the wetlands. Councilor Balestra said the proposal would prevent road construction in certain areas and obviate the need to widen existing roads. They also considered the build-out analysis under current zoning. He said there is also a perception of a lack of affordable housing and therefore a need for more residential land. The proposal would minimize the loss of GC land while creating more opportunity for housing. The vision of Lebanon's growth is along major road corridors and a connection between Lebanon and West Lebanon.

Councilor Hayes said he does not understand how this zoning proposal relates to those issues. This is an isolated piece of land.

Councilor Wood said the Committee looked at what would be the most appropriate use of the area, including doing nothing. The Committee does not believe this is an isolated solution because the Council asked the Committee to start with the Route 120 corridor, and they looked at this area first because that portion is under the most duress. The Committee asked what zone

would be most appropriate to attract the type of development that fits there. The School Board has told the Planning Board they would prefer lower-intensity development around the school. The Committee felt a need to work within the existing zones. In time they may suggest one or more new zones. If the Council waits until the Committee plans the entire city, they will lose an opportunity to deal with a pressured part of town.

Councilor Hayes complimented the Committee on their efforts. The issue is balancing the needs of the city versus private property rights. Even if properties are grandfathered, their marketability is negatively affected. He does not see how this proposal alleviates any overriding concerns.

Councilor Jescavage noted that the time and place of the Public Hearing need to be in the motion. He said he also has trouble finding a compelling public purpose for this change. If traffic is the concern, the Council can change provisions in the GC zoning regulations. He said he will support setting the Public Hearing to gain public input. The commercial businesses in that area chose to spend money to locate in Lebanon, and their rights will be affected. Even properties that are grandfathered will have their ability to expand affected.

Councilor Jescavage said the RO-1 zone was created in response to existing, old residential neighborhoods to upzone properties and improve their profitability. Now the zoning is being used where no residences exist.

Assistant Mayor Solari said he shares the concerns expressed by Councilors Jescavage and Hayes. He said according to Committee meeting minutes, Ms. Hennessy suggested that the Committee could amend the Zoning Ordinance, and the Committee said that should not be done at this time. Councilor Wood said they were talking only about dividing very large lots.

Assistant Mayor Solari said he appreciates the thoughts and experiences the Committee brought to their work. He does not see why they cannot wait longer and look at the northern part of the corridor. They need to see how this will affect the entire city. The Committee should consider bigger areas. He would like to have the necessary facts gathered and let the voters decide.

Councilor Wood raised a point of order. He said the motion on the floor deals only with GC land.

Councilor Grigsby said she does not know why the Committee is being faulted for not coming up with a plan in only two weeks. She would feel more comfortable if the whole area was considered. The property rights of business owners are in jeopardy. Multi-family housing units would bring in a lot of children.

Councilor Desrosiers said in the Hanover Street/Evans Drive/Heater Road area, there is a lot of congestion, and some control is needed. Any rezoning will have a negative impact on someone. The Committee tried to do what is fair for everyone. The Committee made a proposal; the

Council can accept it or not.

Dean Sorenson of Wellington Circle, a member of the Committee, said the original proposal came to the Planning Board, they discussed it, and they sent it back to the Council without comment for the Committee's review. The Committee recommends not enacting the original proposal. They had to decide if they should explain why. The Committee decided to offer a specific response to that proposal. The Council charge was to look at traffic and growth in the whole city, and he will offer a logical way to do this. The recommendation will fit in with that plan. The Committee did not want to offer something counterproductive. They had to distill what they wanted the community to look like.

Mr. Sorenson distributed a synopsis of relevant sections from the Master Plan. He said the RO-1 zone is for well-planned neighborhoods of offices and higher-density housing. GC land should be ample lots with good highway access. Off the highway, people should see neighborhoods. Mr. Sorenson said the Master Plan notes Route 120 feels pressure for growth, new housing is needed close to urban centers, and he reviewed the other points. Mr. Sorenson said according to the DHMC traffic study, if they do nothing, by 2005 the wait at Heater Road and Route 120 will be five minutes at peak morning time and nine minutes at peak afternoon time.

Councilor Lavigne said he applauds the Committee's work. This is a start, but they need a vision for the entire city. He is concerned about the rights of property owners. They will find out at the Public Hearing what the public wants.

Councilor Wood said he is less concerned about the effect of rezoning on undeveloped land than he is about existing businesses. They had to work within the existing Zoning Ordinance. He would like the Zoning Ordinance rewritten so as not to prohibit expansion by Smith Auto Sales. They want to prevent a fast food restaurant from opening there. This is the most the Committee could do in three meetings. They can't wait until the Committee looks at the entire city. He said they could not and should not consider the intent of the previous Council. They need to look at the zoning definitions as they are. They could rezone land then change the Zoning Ordinance to soften the blow to existing businesses. He does not think the zoning change would affect the wetlands, although it might discourage someone from applying for something intrusive.

Councilor Wood said the referendum is appropriate for big changes in residential areas, but the Council is responsible for commercial and industrial areas after getting as much public input as possible. Not many people vote, and the result of a referendum depends on how well informed voters are. A well-noticed meeting is as good a gauge. The Council should first look at areas that could change if the Council does nothing. He recommended voting for the Public Hearing. They should move ahead in an orderly way.

Councilor Balestra said they need to start somewhere. Part of the driving force is to prevent Route 120 from looking like Route 12A, especially with the effect on small retail businesses.

The traffic pattern on Route 12A is not conducive to the economy and reduces property rights.

Councilor Hayes said he does not think this is the right proposal to reach a goal. He would prefer to see a zoning change that would prohibit the specific types of businesses the Council would like to avoid. This proposal addresses other things. He urged a realistic vision of the area. He suggested the new proposal does not fit in with the proposed revised Master Plan. He will vote against the Public Hearing until there is a realistic proposal that will not overburden the Planning Board with more work.

Brian Goodwin, a member of the Committee, said there is a substantial ridge in the area. The land to the north is much higher. There is a great ravine that draws drainage toward the Mascoma River. He feels the City made a mistake when they zoned the area Industrial and General Commercial. They should make the entire area RL-3 or conservation land, but that would take away too much land value, so they need to find a way to conserve some of what is left of Great Hollow. They need to protect the wetlands. A lower intensity use will decrease destruction of wetlands. This proposal will not directly affect the wetlands. It doesn't make sense to have GC land wrapped around a school.

Dr. McKibbin said he is an abutter to the Hannaford property. He said holding a Public Hearing on the day before Thanksgiving is not a good idea. He asked Councilor Hayes if he recommended selling the school and moving it. Councilor Hayes said he did not. Dr. McKibbin said they need to protect the school where it is and think about expanding it. He felt the access to the supermarket hurt his rights. The fact that this land is next to the school has been a motivating factor for concerned citizens. The area could be safe and slow, like Bank Street. He said the GC land behind him has always been zoned wrong, as it is land-locked without Route 120 access.

Councilor Jescavage said there is an overlay wetlands zone in the city, so a change in zoning will not affect the Wetlands District regulations. He learned from Ms. Hennessy that a non-conforming use can be expanded by special exception. Ms. Hennessy said the applicant does not have to prove a hardship. It is subject to Zoning Board and Planning Board approval. If a business can justify a special exception, the Zoning Board is obligated to grant it.

David Loney said he owns 190 Hanover Street. He asked that this proposal be sent back to the Committee. He renovated the entire building, and this comes as a shock to him. No one on the Committee approached him for his opinion about traffic. He asked that the Committee get a professional involved. The alternative is going to court. He asked if the change will help the wetlands. Mr. Goodwin said in his opinion, less intensive development is less destructive. Mr. Loney said the biggest traffic problem results from DHMC and the high school, which let out at the same time. Only a few acres are involved in this proposal.

Dale Rowell said he owns Lebanon Motor Toys. When he bought the land, it was on the tax rolls for \$1,400. He paid \$500,000 for the land. The City was getting \$400 per year in taxes, and they

are now getting \$25,000-\$30,000 per year in taxes. His is a good, clean GC business, what the city needs. The wetlands are protected by an overlay and will not improve. Virtually all of the land in the area is developed. There is only one piece of developable land that is not developed.

Doug Smith of Smith Auto Sales said he sold the land to Mr. Rowell about one year ago. If this proposal goes ahead, there will be a cloud over Mr. Rowell's business. With the Hannaford issue pending, the idea is moot. His area is clearly commercial. If a fast food restaurant wanted to locate at the site, they would already be there. Traffic will be affected more by Dartmouth College and DHMC expansion.

Jim Ward said he is the broker for the owner of the Densmore Brickyard property. He said he requested a workshop session to get Planning Board input regarding development of the parcel, and he has written letters to the Master Plan Committee. Now, on one day of notice, there is a proposal to rezone the area without input from them. He does not know why the brickyard was included in this proposal, as it abuts commercial property, I-89 and Dartmouth College land. There are no significant neighborhoods in the area. There are other solutions besides downzoning. A different zone, a "no zone" should be established, giving the Planning Board complete creative control with the landowner. He asked that mixed use be considered. Centerra and DHMC will expand. The Densmore property is more isolated from residential areas. If they build a bridge to Hanover Street, that would be a great way to reduce traffic.

Councilor Balestra moved to limit discussion. Seconded by Councilor Hayes. A vote was held, and the motion to limit debate passed by a vote of 7-2. Voting for the motion to limit debate: Mayor Akins, Councilors Balestra, Desrosiers, Grigsby, Hayes, Lavigne, Wood. Voting against: Assistant Mayor Solari, Councilor Jescavage.

A vote was held on the main motion, which passed by a vote of 5-4. Voting for the main motion: Mayor Akins, Councilors Balestra, Desrosiers, Lavigne, Wood. Voting against: Assistant Mayor Solari, Councilors Grigsby, Hayes, Jescavage.

There was discussion about changing the date of the Public Hearing. Ms. Hennessy said the Public Hearing must be at least 30 days after Oct. 11.

Assistant Mayor Solari moved to reconsider the previous motion. Seconded by Councilor Wood. There being no further discussion, a vote was held, and the motion to reconsider passed unanimously (9-0).

Councilor Wood moved to amend the motion to change the Public Hearing date to December 5. Seconded by Councilor Balestra.

Mr. McSweeney said there is only one business meeting in December, as the second meeting is the budget hearing. He suggested that this Public Hearing be on a separate evening, not a

Wednesday. The Council has a minimum of nine meetings in November.

Councilor Wood said the reason they wanted the Public Hearing sooner is because there are properties that are affected by the first Public Hearing, and they should make a decision in a timely way.

There being no further discussion, a vote was held on the motion to amend, which passed by a vote of 6-3. Voting for the motion to amend: Mayor Akins, Councilors Balestra, Desrosiers, Jescavage, Lavigne, Wood. Voting against: Assistant Mayor Solari, Councilors Grigsby, Hayes.

There being no further discussion, a vote was held on the amended main motion, which passed by a vote of 7-2. Voting for the amended main motion: Mayor Akins, Assistant Mayor Solari, Councilors Balestra, Desrosiers, Jescavage, Lavigne, Wood. Voting against: Councilors Grigsby, Hayes.

VI. OLD BUSINESS

- B. To Consider Rezoning Certain Properties Located on Heater Road and Route 120, Lebanon, NH, from a General Commercial Zoning District to a Residential Office-One Zoning District. The following properties, identified by tax map and lot number, are included: A portion of Tax Map 64, Lot 32; Tax Map 64, Lot 17; Tax Map 64, Lot 16; Tax Map 64, Lot 15; Tax Map 64, Lot 14; Tax Map 64, Lot 9; and Tax Map 64, Lot 18.**

Councilor Balestra moved that the Lebanon City Council not adopt rezoning of the parcels listed under Item 6B. Seconded by Councilor Wood. There being no further discussion, a vote was held, and the motion passed unanimously (9-0).

VII. NEW BUSINESS

- B. Request for Guardrail on Stevens Road**

Mr. McSweeney said this is a scenic road that was rehabbed. They had discussed guardrails in different locations, but the Council motion did not include guardrails. If the Council wants guardrails, they must waive a portion of the Design, Construction and Maintenance Standards for Scenic Roads. Because of the soil, the posts must be aluminum.

Maxine Wallace of Stevens Road said it is dangerous, and guardrails are needed. She does not care if they are metal or wood.

Councilor Wood moved that the Lebanon City Council hereby authorizes the City

conforms with the intent of the draft Land Use chapter of the Master Plan.

Hearing no other public comment, Mayor Akins declared the Public Hearing closed.

3. TO CONSIDER APPROPRIATING THE SUM OF \$20,000 IN CONNECTION WITH REPAIRS TO A POMA LIFT TOWER AT STORRS HILL.

Mayor Akins read the item.

Mr. McSweeney said the Council has heard from the Recreation Department regarding a needed repair of a tower at the ski lift.

Frank Casale of the Lebanon Outing Club said they had moved the process along to get funding from this year's budget, and they did not receive a written estimate for the repair until after the process had begun. The actual estimate for the repair is \$24,000. He said the lift has been there since 1972 and was used at that time. The uppermost tower, which supports the cable and a counterweight, has gradually slid down by as much as 20 degrees. The State inspects the lift each year. The tower has not slipped since last year, but there was a new inspector, and he said the tower was no longer safe.

Mr. Casale said it was the Outing Club's intention to bring this problem to the Council next year as part of the CIP, but they have to comply with the State's request. One problem is that the State inspects the lifts in the fall, so that is why they found out so late that the repair must be done. The Outing Club was concerned about the weather, and they have events planned, so they wanted to get this project started before the ground freezes. The board of the Outing Club unanimously agreed to do the repair, even if the Council did not fund it. The engineering is done, the foundation is in place, and the lift should be operational by the week of December 10.

Hearing no other public comment, Mayor Akins declared the Public Hearing closed.

4. TO CONSIDER REZONING AN AREA OF LAND IN THE ROUTE 120/HEATER ROAD/EVANS DRIVE AREA FROM GENERAL COMMERCIAL (GC) TO RESIDENTIAL-OFFICE 1 (R-O-1)

The proposed zoning to R-O-1 involves 12 parcels of land, identified by Map, Lot and Plot Number on the City of Lebanon Assessor's Tax Maps, as follows: Map 64, Lots 14, 15, 16, 17 and 32; part of Map 63, Lot 33; Map 63, Lot 4; Map 78, Lot 40, Plots 1 and 2; Map 48, Lots 3, 4 and 5.

Ms. Hennessy showed a map of the involved properties. She said it involves properties on Heater Road, down Route 120, all of Evans Drive, to Hanover Street Extension, including Adelphia, the vacant Wilson property, and the Loney property. The Council can make this change. At one

point, the parcel included the R-3 area around the high school, but that was excluded from the Public Hearing because it requires a ballot vote. The change from GC to R-O-1 will eliminate all retail uses, including restaurants and vehicle sales.

David Loney, owner of the old Hanover Street Schoolhouse, said the Planning Board has been looking into this carefully. Their goals are similar, but they are taking a less radical approach. This proposal will lower the value of the high school property by millions of dollars. People have said housing is needed, which increases the school population and increases school costs. This property is near the interstate, which is where general commercial land belongs. He can see a future Council needing to find more commercial land further away from the interstate. He said the Planning Board is discussing a new mixed-use zone for this area.

Ms. Cormen read language from the most recent draft of the Land Use chapter of the Master Plan regarding Route 120: "Determine appropriate level of future light industrial development while minimizing commercial development and limiting impact upon traffic, the school complex, existing residential neighborhoods and wetlands."

Dale Rowell, owner of Lebanon Motor Toys on Evans Drive, said he supports the City's effort to direct their future. The 12 parcels included in this measure are mostly developed. He spent \$500,000 on one acre, and no one would pay that for housing. This will have significant tax impacts. This area is where development should be taking place. The businesses there do not generate traffic. The traffic is generated by the high school and the hospital. The Council should look at the bigger picture.

Doug Smith of Smith Auto Sales said to change the zoning to outlaw things that are already there with so little buildable land left makes no sense. He cannot imagine anyone wanting to live there with the sirens that are heard on that road. He has two parcels on Evans Drive, one where the dealership is located, and one that is less than an acre with an 80-foot diagonal power company right-of-way. These properties have been zoned commercial for the 35 years Smith has been there, and they have planned accordingly. It would be a shame to change the zoning but not change the nature of the area.

Linda Jasinski, Ward 1, said she supports this. She does not think the high school should be surrounded by commercial property, when there is such a wide range of students there. It would be good for the Council to be proactive and protect that site.

Nancy Archibald, Ward 1, urged the Council to make this zoning change. It is a very vulnerable area. The land use committee looked at all sides and made a fair recommendation. If nothing is done about this area now, they may lose the opportunity. She said not every entrance to the City should be commercial, and this area is close to the school. The change will do no harm to the landowners.

Mr. Brown said the Planning Board has heard different points of view regarding these parcels. The Planning Boards minutes of Oct. 10, 2001 reflect the Board's opinion that General Commercial may not be right for that area, but neither is Residential-Office. He urged patience.

Mary Maxfield, Ward 1, said she is a biology teacher at Lebanon High School, and she likes bringing her students outside, especially in the fall. She feels unsafe as students get closer to the periphery of the property. She said people should not assume that the high school will be rebuilt elsewhere. There seems to be a level number of students in Lebanon for some time. People are concerned about Lebanon being anti-business, but she would like to see it become more pro-school and pro-community. Protecting the school area will make the city better for everyone. Offices would be fine, but operations like fast-food restaurants would make that a very different type of place for a school.

Suellen Balestra, Ward 3, said she supports this change, and she encouraged the Council to support it. The proposal came from a committee formed by the Council. For many years, the Council felt they did not want Route 120 to look like Route 12A. The General Commercial property is not yet built out there. There is a proposal for a more intensive use of the Mosenthal lot, and the development on the McKibbin property could be much more intense. There is a large wetland nearby, and there have been proposals before the Conservation Commission to get parts of it filled in. Residential-Office will help decrease the intensity of the development in that area, as well as protecting the wetland and the school area.

Jared Duval said he fully supports this proposal. They need a more comprehensive Master Plan, but that process takes time. In the meantime, they need to be proactive to make sure appropriate development takes place. They need to reflect the values of Lebanon today. He does not think it is a given that the school will be moved. If the property values go down, it will make it cheaper to buy land to expand the school. Businesses in Lebanon are important, but the existing businesses will be grandfathered, so they will not be hurt. The Council needs to balance the business interests of the city with schools and neighborhoods.

Mayor Akins noted he has received letters from Bayne Stevenson, Dale Rowell and Doug Smith against the change, and letters from Clifford Cary, Faith Henricksen and Margaret Gibson favoring the change.

Ms. Hennessy said the bulk of the proposed Hannaford supermarket will remain General Commercial, but access would be via an R-O-1 lot, if this measure is approved. If Hannaford successfully overturns the Planning Board's denial, that project is vested, and this rezoning would not prevent that development. She also said one of the concerns of the committee was not development of vacant lots but rather the redevelopment of existing commercial lots.

Juliette Duval, a Lebanon High School student, said she supports the rezoning. The zoning has not been changed since the 1970s, and times have changed. They should make sure a big retailer

cannot come into the area and disrupt the learning environment.

Mr. Brown said the Planning Board had concerns about landlocking the remaining General Commercial property. Ms. Hennessy said a zoning change that was made a few years ago gave the Hannaford property frontage on Bixby Street, which could be used as access to the GC parcel if a new plan came forward. Mr. Brown said the Bixby Street access is unlikely to be approved, as the project was not granted access off Heater Road.

Ms. Cormen said the main focus of the Planning Board discussion on Oct. 10, 2001 was the issue of timing. Regarding the draft Land Use chapter, there has been a lot of public comment, and they are not moving as quickly as they had hoped.

Mayor Akins noted that he was the one who abstained on the vote on the motion under discussion, on page 19 of the Planning Board minutes of Oct. 10, 2001, not Dean Sorenson. He abstained because he would be voting on it as a member of the City Council.

Brian Goodwin, Ward 2, said he has two young daughters. Lebanon is in no danger of being considered anti-business; in fact, it is the business center. He said GC zoning does not belong around a school. The Council has an opportunity to correct this.

Joan Monroe, Ward 3, said she attended a discussion at which the Superintendent of Schools said that while there are weaknesses at the high school, the school is not at full capacity, and he is not looking into a new location for a school. The community has said they do not want to relocate the school. The focus is on improving the current facility. She agreed that if the land is less valuable, the school could better afford to buy more. Allowing GC zoning would be sending the wrong message to students.

Mr. Loney said the Council does not want to reduce the value of real estate. The landowners are local people running businesses, using their land as an asset to get loans. He rebuilt his building with a bank loan, and now the property will be worth less.

Georgia Loney, co-owner of the old Hanover Street schoolhouse, said the purpose of the R-O-1 zone is well-planned neighborhoods of offices and multi-family housing. That does not describe this neighborhood. She urged the Council to wait for the Planning Board.

Alice Blackmer said she is the mother of two Lebanon high school students. She agrees with Ms. Monroe. She said it is important to encourage students to be more involved with the environment, rather than surrounding them with corporate endeavors.

Andy McKibbin, Ward 1, is a property owner in the area. He said tonight people have been asking for money to preserve some of the gems in Lebanon. He asked if the schools are not worth protecting. In the long run, it will be less expensive to protect the high school where it is.

The proposal makes sense, as the businesses are grandfathered.

Nancy Davis, Ward 2, said she supports this proposal. She disagrees that this is not already a neighborhood, as she lives one block from Mt. Support Road and less than a mile from the school. Children should not go to school in a GC zone. She would hate to see more development in this area.

Ms. Cormen said the Planning Board motion involved developing something in between what now exists and what others would like to see. The motion asked the Zoning Advisory Committee to change the R-O zone to better reflect the discussions they have been having. The Planning Board's recommendation was to wait for the completion of the Land Use chapter and for the Zoning Advisory Committee to come up with a different transitional zone.

Mr. Perry said Hannaford was purchased by a European holding company.

Mr. Duval said if he were a homeowner, he would not want to buy a house in this area. He would like to make it undesirable for a large business to come into the area, adversely affecting property rates.

Bruce Waters, Lebanon businessman, said the Council is suggesting rezoning to R-O, which is residential and office, and no one will want to have a house there. There is not one piece of land being rezoned that would enhance the attraction of a large national chain. He sees it as more of a local neighborhood. The Planning Board has been discussing the concept of a "village center," which is an attractive concept. If there will be higher-density residential use on Mt. Support Road, the area in the proposal would be a perfect place for some commercial activity. It has the infrastructure and the access to the interstate, and it could help support the residential area.

Hearing no more public comment, Mayor Akins declared the Public Hearing closed.

The regular City Council meeting was called to order at 8:09 p.m.

I. PLEDGE OF ALLEGIANCE

Councilor Wood led the Council in the Pledge.

II. PUBLIC FORUM: Announcement by Mayor

Mayor Akins read the Public Forum announcement.

III. OPEN TO PUBLIC

No members of the public spoke at this time.

concrete was five feet deep, and it is unlikely that it would have ever tipped over. They maintain the lift each year.

Councilor Wood asked if they should set another Public Hearing for the additional \$4,000 needed to complete the repair. Mr. McSweeney suggested that be added to the 2002 budget. Councilor Wood said the Council should consider that.

Councilor Jescavage asked if there is any money left in the Recreation Department budget that can be used for this project. The money could be transferred. Mr. McSweeney said that would not be a transfer but rather an outside payment, and the Recreation Department budget rarely has much money left over.

There being no further discussion, a vote was held, and the motion passed unanimously (9-0).

D. To Consider Rezoning an Area of Land in the Route 120/Heater Road/Evans Drive Area from General Commercial (GC) to Residential-Office 1 (R-O-1)

Councilor Hayes said he is not convinced that this idea has any merit. It is bad policy, bad planning, too limited an approach, premature, discriminatory, against the advice of the Planning Board, against the advice of legal counsel, and it does achieve any articulable purpose for the public good. He has not heard overwhelming public support for this. He will not vote for it. He is willing to put this off until later.

Assistant Mayor Solari said the Zoning Advisory Committee is doing a good job. He wondered what is appropriate for this land. They need to think creatively. They do not have to wait for the Land Use chapter. He does not think R-O-1 solves any problems.

Councilor Jescavage said he appreciates the concern of the proponents, but he cannot support the motion. Using the R-O-1 zone to accomplish the stated goals does not fit. The Council and the committee should come up with a new commercial district that is less than what is allowed in the GC district but will allow the existing businesses as permitted uses. If they down zone, the land would be devalued, and the owners will have less collateral. No one has complained about the existing businesses. The Heater Road R-O-1 district was created because homeowners complained that they could not sell their properties, and they wanted to move. Housing in the area covered by this proposal would not work, as people will not like to live next to the interstate. The wetlands overlay protects the wetlands, regardless of the zoning.

Councilor Jescavage asked if there are any projects pending for this area. Ms. Hennessy said the only application is from a diner, and that was contingent on the zoning change.

Councilor Wood said the committee does not feel the proposal was perfect, but they felt they

needed to work within the existing Zoning Ordinance. This is an area the Council has seen as an area at risk. The GC zone would allow applications to the Planning Board for things that are inappropriate for that neighborhood. They should consider rewriting the Zoning Ordinance with a more appropriate zone for this area and others. They should look at areas that are likely to be developed if no action is taken. There is a strong interest in developing the property behind the car dealer, and there has been a restaurant proposed for the corner of Evans Drive and Route 120. There is nothing to prevent properties on Evans Drive and Hanover Street from attracting the kinds of commercial development they should be trying to avoid.

Councilor Wood said this is not anti-business. He has a business in Lebanon. Private property rights, and how they are affected by City actions, are important. Zoning is the place where the interests of private property owners meet the interests of citizens. Any zoning decision affects property values. The committee looked for the fairest zone within the existing Zoning Ordinance. The change will allow the same level of economic activity. No zoning regulations will affect the ability of an existing business to expand, sell the business or operate a related business. The only thing prohibited would be selling to a completely different business.

Ms. Hennessy said the regulations guarantee the current use indefinitely. Subject to Zoning Board review, they can obtain a change-of-use permit or can expand. Councilor Wood said the land being used commercially now is protected, and with it the underlying value. They cannot make everyone happy, but they need to show the same respect to schools and people as they do to business. GC uses are not appropriate around schools or abutting residential areas. R-O-1 is not the best solution, but there is a lot of economic pressure on the area, and if they wait until the Zoning Ordinance is rewritten, things they feared may come to pass.

Councilor Wood asked the effect of delaying a decision on pending applications. Ms. Hennessy said if an application affected by the zoning was filed after Nov. 24, it is in limbo until the Council takes action. She said some action should be taken fairly soon. The fairest thing to do is to vote the proposal up or down at this meeting.

Councilor Wood moved that the Lebanon City Council hereby acts to rezone the parcels described on pages 6 and 7 of the backup materials for the City Council Regular Session of December 5, 2001 from General Commercial to Residential-Office 1. Seconded by Councilor Balestra.

Councilor Balestra said he was a member of the committee that drafted this. They are getting questions regarding why there is a need to rezone in this area. The reason he has given is that he has heard about traffic complaints in the area. Business owners are concerned about the devaluation of their property if this proposal passes. He said devaluation is a possibility, and this concerns him. Very few people have spoken about the public safety issue, while the biggest piece of land in the area is school property, which is not affected by the current zoning or rezoning, according to the City attorney. That suggests the Council has no responsibility to guard

the safety of schoolchildren, which doesn't sound right. The attorney said there must be a "valid public purpose" for rezoning, and Councilor Balestra feels there is no more valid public purpose than protecting public safety. They should consider the possibility that additional traffic could cause an unsafe situation. According to Lebanon's build-out analysis, light industrial uses generate 7 trips per day 1000 square feet, and the highest use is a fast-food restaurant, which generates 632 trips per day per 1,000 square feet. Residential-Office uses would generate 24 trips per day per 1,000 square feet. Automobile sales generate 47 trips per day per 1,000 square feet. He agrees there is not a problem now, but one purpose of zoning is to anticipate the way things will be. They should educate students in a relatively safe environment.

Councilor Grigsby asked, if this measure passes, whether businesses will have a harder time expanding. Ms. Hennessy said expansion would be subject to approval by the Zoning Board. The business would have to justify the need to expand. Councilor Grigsby said she does not see how this would protect the wetlands. Traffic from the existing businesses is not a problem. The traffic comes from the hospital and from high school students. In some areas, only seniors or honor-roll students are allowed to drive cars. She asked how many students have been injured in the area.

Councilor Desrosiers said he was also on the committee. He said the R-O zone is the best they could do in that area. They have to start somewhere. Another zone may be created in the future. He would rather have Planning Board input, but things take a long time there. He does not think there should be GC land around the high school, and it is not too late to change that. The parking lot at the high school should be reconfigured. There has not been a lot of public input regarding this issue. They have only heard from 12-15 people.

Councilor Lavigne said he lauded the efforts of the committee. They should look at a compromise zone that satisfies the business owners and keeps out uses they do not want.

Councilor Hayes said they need to focus on what is before them. If traffic is the main issue, how does this motion ameliorate traffic problems?

Councilor Wood said they should focus on the future. There is no intention to change existing businesses or affect existing traffic, but this prevents proposed development that would now be permitted in the GC zone. This is the best solution for now. They should find new, more appropriate zones. The intent is not to encourage duplex housing but to change from the GC zone. When the rezoning is completed, the business owners will be pleased.

Councilor Hayes moved to suspend the rules and limit debate. Mayor Akins did not recognize the motion, as not all members had a chance to speak.

Mayor Akins said he will support the motion. He does not think the existing businesses will be harmed. The proposed DHMC expansion is huge. Property values will do nothing but increase. The Planning Board has been working on this for three years. The Council has enough

information to make a decision. Offices should be near residential areas. It was a mistake to zone this area GC. The draft of the Master Plan supports this type of zoning.

Councilor Hayes withdrew his motion to suspend the rules.

Councilor Jescavage said he does not agree that R-O-1 is the best solution. The Zoning Ordinance offers General Commercial and Neighborhood Commercial, and neither is satisfactory for this area. The City employs one of the finest land use attorneys in the state; he could draft a regulation for a midrange commercial district that excludes high intensity uses while respecting existing uses. If this motion is defeated, he will make a motion directing the administration to ask Bernie Waugh to draft a new district.

Councilor Hayes said he agrees with Councilor Jescavage. They should look at a different zone for the area. The attorney has said this proposal has legal problems and will be challenged, and the Planning Board has asked the Council to wait. He asked why they are rushing into this.

Councilor Balestra encouraged Councilors Hayes and Jescavage to explicate what the attorney should draft. He is not sure they see a problem with the current zoning.

Councilor Desrosiers said he does not want this to drag on. This will put a deadline on a resolution. The committee has asked for answers but has not been able to get them. He has heard no other solutions proposed.

Assistant Mayor Solari said he has a problem when this is referred to as “interim.” He does not find R-O-1 to be the solution even in the interim. If he thought doing this in the interim would be effective, he would support it.

Assistant Mayor Solari moved to suspend the rules and limit debate. A vote was held, and the motion passed by a vote of 7-2. Voting for the motion to limit debate: Mayor Akins, Assistant Mayor Solari, Councilors Balestra, Desrosiers, Grigsby, Hayes, Lavigne. Voting against: Councilors Jescavage, Wood.

A vote was held on the motion to rezone, and the motion passed by a vote of 5-4. Voting for the motion: Mayor Akins, Councilors Balestra, Desrosiers, Lavigne, Wood. Voting against: Assistant Mayor Solari, Councilors Grigsby, Hayes, Jescavage.

Mayor Akins declared a recess at 9:41 p.m. The meeting reconvened at 9:50 p.m.

VI. OLD BUSINESS

None

October 20, 2023

Nathan Reichert
Director of Planning & Development
City of Lebanon
51 S. Park Street
Lebanon, NH 03766

**RE: Petitioned Zoning Map and Text Amendments
Parcels 64-30, 78-61, 78-40-1, 78-40-2, 63-4, and
Uses in R-O-1 District**

Mr. Reichert:

This is a preliminary legal opinion as required by Section 1000.3(B)(2) of the Lebanon Zoning Ordinance concerning a set of proposed map and text amendments. I have reviewed the following documents in connection with this opinion:

- Request letter dated September 28, 2023 on behalf of Cicotte Properties
- Staff Memo to City Council dated October 10, 2023 regarding the requested amendments
- Legal opinion and staff memo regarding 2017 zoning map amendments
- City Council meeting minutes from 2001 discussing zoning map amendments

The request includes four separate requests, 2-4 of which are requested in the alternative:

1. Rezone Parcels 64-30 and 78-61 from IND-L to GC
2. Rezone Parcels 78-40-1, 78-40-2, and 63-4 (currently R-O-1 and RL-3) to GC
3. As an alternative to #2, just rezone Parcel 63-4 from RL-3 to GC
4. As an alternative to both ##2-3, allow seven additional uses by special exception or conditional use permit in the R-O-1 district

The Ordinance requires this legal review to cover: (a) whether such amendments are within the authority delegated to the City under State law; (b) whether the form is appropriate; and (c) whether, from an administrative point of view, the amendments can be administered and enforced.

With respect to request #4, I have not seen a formal draft of this amendment but my understanding is that it would simply change the table of uses for the R-O-1 District. The appropriateness of particular uses in that district is a policy question and, assuming the amendment itself were drafted properly, I would answer these three questions is “yes” and would discern no legal or administrative issues of concern with that request.

Turning to the three proposed map amendments, all would involve rezoning individual, relatively small parcels of land. In such a case, we must consider whether those changes would constitute impermissible “spot zoning.”

It is, of course, within the City’s legal authority to amend its zoning map. However, zoning map amendments must comply with the “rational basis” level of Due Process analysis. This means map amendments must not be arbitrary and they must be in reasonable furtherance of some valid public land use regulatory purpose. Amendments which do not meet this test are sometimes referred to as spot zoning.

Contrary to some lay opinions, spot zoning isn’t determined automatically by the size of the parcel being rezoned or the number of parcels affected. An area is spot zoned when it is singled out for treatment different from that of similar surrounding land which cannot be justified on the basis of health, safety, morals or general welfare of the community, and which is not in accordance with a comprehensive plan. E.g., Miller v. Town of Tilton, 139 N.H. 429, 432 (1995). The mere fact that an area is small, or that it is rezoned at the request of a single owner, or that it is of greater benefit to that owner than to others would not necessarily make it spot zoning so long as there is a public need for it or a compelling public reason for it. Id.

In considering whether rezoning constitutes spot zoning, courts may consider whether the change is made in response to some public need. See Shadlick v. Concord, 108 N.H. 319 (1967) (zoning change was made in response to growing need for multi-family housing which already existed in proximity to the rezoned area, and thus was part of a comprehensive plan rather than spot zoning). Also relevant is whether there are sufficient opportunities for the targeted use elsewhere in the community, particularly if those other areas aren’t being used. See Bosse v. Portsmouth, 107 N.H. 523 (1967) (rezoning of one parcel for industrial use when it was surrounded by residential uses was spot zoning because many other areas in the city were available for industrial use but weren’t being used that way). The common thread in the case law is that a court will consider whether there is a reason or combination of reasons for the change that is in the public interest and consistent with the community’s development goals.

Request #1: This request involves two lots of relatively small area (total approx. 9 acres) which would be rezoned from IND-L to GC. These lots are on the edge of the IND-L district, but they are next to other similarly-zoned properties. There are no GC lots directly abutting either of these lots currently. I note that if both Requests 1 and 2 were granted, there would then be five GC lots in a roughly contiguous layout.

The request notes that Parcel 78-61 was included in the proposal to “preclude a claim of spot zoning.” However, as noted above, when dealing with a small area and/or a small number of lots, the question is less about how many lots/acres are affected and more about “what is the public good or compelling land use reason for the change?” The request does not identify any public good that would result from the change. All of the justifications are related specifically to the business currently operating on Lot 64-30 (auto dealership which maxes out the usable area, has wetlands making it difficult to develop further, existing use is a legally non-conforming use and they’d like to be able to expand the business without having to get a variance). Those benefits which are specific to the owner aren’t relevant to the public good/compelling need

analysis. It is fine if there are also benefits to the owner, but there must be some public good or need that is consistent with the City's land use goals and comprehensive development plan, and as yet I don't see that.

What would be relevant is if there were legitimate planning-focused reasons for the change. Would it be consistent with the City's planning goals to change these lots to GC so that certain uses can be allowed/encouraged there? Does this line up with the City's anticipated future uses of this area? (The Future Land Use Map identifies this area as mixed use.) Are there specific reasons that IND-L uses of these properties don't make sense anymore? These are the kinds of questions that can be answered by looking at the future use map, master plan, topography, street configuration, traffic issues, etc.

Request #2: This request involves three lots and a total of about 20 acres. The smaller two lots are currently R-O-1 and the larger lot is RL-3; the request is to make all three of them GC. There are other R-O-1 lots in the area, and there is a lot across I-89 which is also RL-3. There are no GC lots abutting these three (but if Request 1 were granted, there would be 2 GC lots on the opposite side of Route 120).

The request letter claims that the current zoning designation of these three lots was spot zoning because there was no need or purpose for residential uses on these lots, and it argues the lots should be restored to their prior designations. I note that the request letter also doesn't identify any public good or compelling need underlying the current request (which is relevant to the question of whether a change now would constitute spot zoning).

Looking at the City Council minutes which include discussions about the 2001 change, it appears there were a variety of reasons for the change related to topography and the existence of wetlands. When Lot 63-4 was changed again in 2018 to RL-3, it seems to have been done for consistency with the City's Future Land Use Map (and there were other contiguous lots involved in that change). I'm not sure whether the reasons that existed in 2001 and 2018 are still relevant, or if circumstances in the area have changed so that the current zoning designations make less sense now than they did in the past. Even if the requested changes were consistent with the Future Land Use Map in the Master Plan (which they do not appear to be), that would not, by itself, provide an underlying public need/public good justification for the request. No such justification appears in either the request letter or the Staff Memo.

Request #3: This involves only one lot (the 14-acre lot involved in Request 2) and the request is to, essentially, reverse the change that was made in 2018 (going from R-O-1 to RL-3). This would bring it back into the same zoning designation as the lots on either side of it, but would leave undisturbed the other RL-3 lots from the 2018 change (on the other side of I-89).

The entire justification for this in the request letter is a claim that the 2018 change was spot zoning. The analysis, therefore, would be the same as for Request 2 – was there a legitimate zoning reason for changing this lot's designation to RL-3, and if so, is there a public good or compelling zoning reason to undo that change now? The request letter doesn't develop either of these issues.

October 20, 2023

Page 4

Recommendation: In light of the relatively small area involved and the targeted nature of these three requests (which are justified by the requestor mostly in terms of the benefit and burden of zoning designation on the owner's businesses), I recommend putting together a written public policy explanation for each of the proposed map amendments which explains the public need for these changes **and** how they would be consistent with or in furtherance of the City's comprehensive land use goals. This written explanation should be created prior to any final vote on the proposed amendments and not leave to guesswork the rationale for such changes. Please note that until I can evaluate the City's actual policy reasons for each of these proposed amendments, my opinion on the map amendments must remain somewhat incomplete.

Finally, it is my understanding that the Planning Department intends to study this area of the City in 2024 as part of either a neighborhood planning effort or as part of a wider Master Plan update, including a comprehensive look at current conditions and desired development goals. From that standpoint, then, rezoning these properties right now may be a bit premature.

Please do not hesitate to contact me about any aspect of this.

Sincerely,

A handwritten signature in cursive script that reads "C. Christine Johnston". The signature is written in dark ink and is positioned above the printed name.

C. Christine (Fillmore) Johnston

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 ***The motion was seconded by Jeremy Rutter.***

2 ***Roll Call Vote:***

3 ***Voting in Favor – Mr. Faunce, Mr. Kennelly, Mr. Hall, Mr. Rutter, Mr. Ford Burley, Ms. Romano***

4 ***Voting Against - None***

5 ****The MOTION was approved (6-0).***

6
7
8 B. Edwards Properties, LLC, Proposed Zoning Amendments
9

10 Mr. Corwin reviewed the different ways for amendments to be proposed and approved by the City
11 Council. The amendments are being submitted for review and comment at this meeting. A motion for a
12 recommendation by the Board would be necessary.

13
14 Dan Nash of Advanced Geomatics & Design and Attorney Barry Schuster appeared in support of the
15 proposed amendments.

16
17 Mr. Nash explained that some zoning changes have caused a problem for Edwards Properties, which has
18 been operating for many years. Their uses are no longer allowed under RL-3, which currently requires the
19 application for a variance to continue to operate. They are asking for vehicular sales to be a permitted use.

20
21 Atty. Schuster stated that allowing vehicular sales and service as permitted uses or by Conditional Use
22 Permit would be good solutions.

23
24 Mr. Corwin noted that a Route 120 neighborhood plan will be addressed in 2024. Addressing the
25 Edwards Properties request could be included in the discussions around that plan.

26
27 Atty. Schuster stated that adding the one use at this time would be preferable as there is no place for a car
28 dealership beyond the Edwards Properties location.

29
30 Ms. Romano inquired about the location of any other IND-L districts in the City. Mr. Corwin stated that
31 granting the change would apply to all IND-L districts.

32
33 Mr. Nash stated that the uses have been in place for over twenty years. No allowance was made for this
34 parcel to be there when the zoning was changed. A Conditional Use Permit would be a conservative
35 allowance by adding one use to the zone. Ms. Romano inquired about other locations of IND-L. The
36 airport property would be unsuitable for an automobile dealership.

37
38 Chair Hall requested the wording of the IND-L. Mr. Corwin read the description. Chair Hall observed that
39 Route 120 corridor is a commercial district. Atty. Schuster noted that the auto dealerships do not have
40 access off Route 120. Both are accessed from side roads and do not interfere with the fast-moving traffic
41 on Route 120. Atty Schuster added that the goal is to avoid the need for a variance and the requirement of
42 a hardship. Ms. Romano stated that approving something for one IND-L that would apply to all IND-L
43 districts. Mr. Corwin noted that the area was rezoned in 2001, and the dealerships became legal non-
44 conforming uses. Staff is proposing to review the entire corridor in 2024. Mr. Ford Burley asked about
45 the other dealership areas and noted that there is no spot zoning. Chair Hall commented on the number of
46 zones in the City and asked that the description of IND-L be read. Mr. Corwin read the description of
47 IND-L in Section 303.1 and noted that there was a plan to revisit the zones using the results of the
48 corridor study. Atty. Schuster noted that the dealerships are on side roads and do not interfere with the
49 traffic on Route 120. Chair Hall commented on the zoning in the area and suggested allowing the auto
50 dealership as a conditional use in IND-L. Ms. Romano stated that the changes have long-term effects and
51 require further consideration. Mr. Faunce noted that the Planning Board is only providing its

1 recommendation that it could be an acceptable use. Chair Hall added that the Planning Board approves
2 the consideration of zoning along the Route 120 corridor. Mr. Rutter noted that the location of the school
3 and the wetlands area are the central issues along with the future of American transportation. He added
4 that the zoning issue for this area was established by very close voting by the City Council. Mr. Faunce
5 stated that the car dealership and Dartmouth Coach are very similar uses. Atty. Schuster stated that the
6 requested change would only allow a CUP by Planning Board approval.
7
8

9 ***A Motion by Richard Ford Burley that the Planning Board would like to recommend that:***

- 10 a. It would seem to us to be acceptable that allowing auto sales in IND-L and RO-1 zones only as a
11 conditional use could be acceptable as a stopgap measure given the pending Route 120
12 neighborhood planning effort.
13 b. We would like to strongly encourage matters like the present to be considered in the pending
14 neighborhood planning effort and potential rezoning.
15 c. We believe Lot 63-4 should left zoned as RL-3 pending further zoning and environmental review.
16

17 ***The motion was seconded by Jeremy Rutter.***

18
19 Ms. Romano inquired about the lot that is zoned RL-3. Atty. Schuster stated that they are not asking for a
20 CUP on that lot.
21

22 ***Roll Call Vote:***

23 ***Voting in Favor – Mr. Faunce, Mr. Kennelly, Mr. Hall, Mr. Rutter, Mr. Ford Burley, Ms. Romano***

24 ***Voting Against - None***

25 ****The MOTION was approved (6-0).***
26
27

28 **6. Approval of Minutes**

29
30 A. October 23, 2023

31
32 Mr. Ford Burley requested that all spellings of his name be changed to “Ford Burley”.
33

34 B. November 13, 2023
35

36 ***A MOTION by Andrew Faunce to approve the Planning Board Minutes of October 23, 2023, and***
37 ***November 13, 2023, as edited.***

38 ***The motion was seconded by Jeremy Rutter.***

39 ***Roll Call Vote:***

40 ***Voting in Favor – Mr. Faunce, Mr. Kennelly, Mr. Hall, Mr. Rutter, Mr. Ford Burley, Ms. Romano***

41 ***Voting Against - None***

42 ****The MOTION was approved (6-0).***
43

44 Chair Hall thanked the Board members for their excellent service throughout the year. Mr. Corwin and
45 Mr. Vincent were also acknowledged for their support.
46

47 Mr. Corwin noted that the citizen Board members give generously of their time and do an excellent job.
48

49 Ms. Howes informed the Board members that it would be her last meeting as the Planning Board’s
50 recording secretary, and she expressed her appreciation for the opportunity to serve the Board for so many
51 years.

C. Edwards Properties, LLC Rezoning Request

At 8:50pm, Chair Riley approved the appointment of Ms. Hirai to sit in for Dr. Oidtmann, who recused himself from the discussion about this agenda item.

Attorney Barry Schuster said this rezoning request is being made by the Volvo car dealership. He said it involves adding a conditional use permit for automobiles in the RO-1 Zone. He said the property has been used as a car dealership since the 1960s. He said the zone was changed and the IND-L zone removed auto dealerships as a permitted use. He said any time the dealership needs to repave the parking area it, must get a variance from the Zoning Board of Adjustments. He said there is a current debate going on whether a variance will be required for just an additional 15 feet of paved area on the property. He said to get a variance, the dealership must show a hardship. He said, for the dealership, it is a financial and practical hardship to have too many cars and not enough paved space to park them.

Chair Riley said she is concerned about this proposed change because there are other RO-1 zones all over the City, and the change would affect all RO-1 zones. She said what would stop someone from tearing down an existing building and create a car dealership. Mr. Schuster said making the auto dealership a conditional use means an owner would have to get Planning Board and site plan approval to create another type of property.

Mr. James said he is very concerned with the amount of impervious materials installed in the area. He said he has driven by that area for two or three years and has been worried that it will be paved over.

After further discussion, members determined that there may not be an issue that involves the Conservation Commission for this zoning change.

A MOTION was made by Barbara Hirai that the Lebanon Conservation Commission has not identified any conservation issues and therefore does not recommend approval or disapproval for the proposed addition of a Conditional Use Permit in the R0-1 Zone as presented in the December 14, 2023 Meeting Agenda Packet. The Motion was seconded by Don Lacey.

**** The Vote on the MOTION was approved (5-0).***

Ms. Almy announced that, when her term as a Conservation Commission member ends in January 2024, she is planning to become an alternate member and suggested that Ms. Hirai should be made a full member of the Conservation Commission. Mr. Richert said they would both have to complete committee membership applications and submit them to the City Clerk before those changes can be accepted.

Mr. Lacey proposed that the Conservation Commission send a letter to the Lebanon Rotary Club, thanking them for the picnic tables that they donated to replace the existing old tables at Baker's Crossing.

22 January 2024

Dear Councilors,

I would like to take a few lines to explain my concerns regarding the proposed zoning amendment to the Riverbank Protection District. The City of Lebanon is proposing to exempt the downtown Lebanon properties highlighted in orange on the following map from the City's Riverbank Protection District, and to apply for an urban exemption from the Shoreland Protection Act (SWQPA) for the same properties.

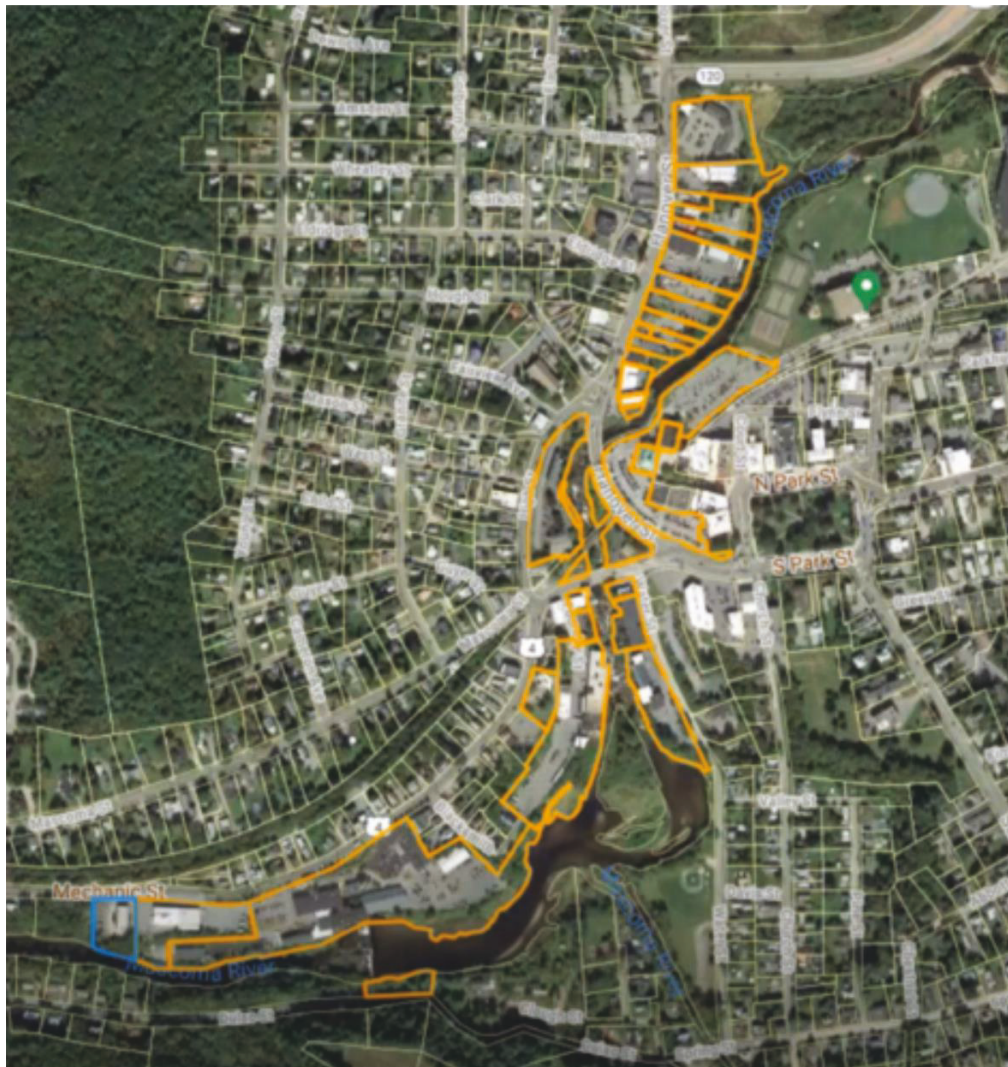


Figure 1. A screenshot from the Jan 17th 2024 City Council meeting showing the Downtown Lebanon parcels to be exempted from local Riverbank Protections and State Shoreland protections.

To be clear, I am in favor of economic redevelopment of our downtown, and also understand the importance of facing and embracing the river, not turning our backs to the Mascoma River. But there is

more than one way to create a welcoming river in downtown Lebanon. I am not convinced that exemptions from these water quality protections is a good step for Lebanon.

Many of the sites affected by this double-whammy (urban exemption from state regulation and local exemption from our Riverbank Protection District) provide valuable flood storage and or riparian ecological functions for the City. Some of these parcels flood regularly and this zoning change would be counter to Master Plan goals 5.3b.2 ***Develop an ordinance more stringent than that developed by Federal Emergency Management Agency to restrict development or filling in of floodplains to provide flood storage, water quality protection, and wildlife habitat adjacent to waterways*** and 5.3b.1 ***Protect Lebanon's remaining floodplains and work to restore the valuable floodplain forest communities.***

The staff memo to the Conservation Commission stated that what the SWQPA is intended to protect or prevent is no longer attainable at these sites...but I disagree. Any riparian vegetation or small floodplain is important to keep or enhance, or at the very least, to try to accommodate, in our downtown.

Even in the lower lots behind City Hall, where most of the area is currently impervious asphalt, the committee in charge of recommending what to do with the parking lot (the joint EDC/Downtown TIF group) recommended incorporating a green/park/vegetated space along the river into the project. There is a vegetated bank along the river there already, and residents and resident volunteers have spoken: they want trees and a respite from the built world right there, along the river, in downtown Lebanon.

The Tree Advisory Board has also spoken in favor of trees and other vegetation along the river in downtown Lebanon. Rivers and trees provide shade and cooling, a respite that will be increasingly sought in a warming climate. Currently the area is a giant heat island. See Master Plan goal 5.5c.2 ***Support the efforts of the Tree Advisory Board and Tree Warden to promote the health and diversity of the urban tree canopy, reduce air pollution, and reduce heat islands.***

The Mascoma River and its shores downstream of the Mascoma St bridge (just east of Dysfunction Junction) is a Significant Ecological Area (SEA). As explained in the City's Natural Resource Inventory, SEAs are "...those sites that, because of their sensitive nature and unique resource characteristics, require special treatment in terms of long-term conservation and/or protection from human impacts..."The SEA in question, shown, in part, below, is important habitat for riparian species and wintering waterfowl.



Figure 2 A screenshot from our City GIS displaying the natural resources layer. The SEA is marked by red diagonal lines.

I have spoken to both an expert at UNH on the Nature Economy and a specialist at DES Shoreland Division about the exemption in an attempt to understand if an urban exemption is appropriate in any of the locations proposed by the City. Perhaps I don't have all the information, and perhaps the City can achieve its downtown redevelopment goals and protect the remaining natural components of this urban stretch of river; perhaps the City has plans to implement best practices to protect water quality and to build up riparian buffers where appropriate in this corridor. I would love for our staff to be able to demonstrate such a commitment, but I have not seen those plans for their alternative to the SWQPA and the RPD. I was informed by DES that an urban exemption is something to be discussed with our regional planners. I reached out to UVLSRPC, but they were not aware of the City's plans.

DES also suggested that the City's application for an urban exemption would be weakened by including properties that are not currently built-up or that provide valuable water quality functions. Intact riparian vegetation, and floodplains that give rivers room to stretch, are important in protecting water quality - the mission of the SWQPA. I suspect that an application would not be looked on favorably if it were to involve removing trees and shrubs from the river's edge.

This zoning amendment and the anticipated application for an urban exemption also seem oddly timed given that the City has just put out an RFP for a Mascoma watershed management plan. Perhaps this management plan should be completed before the City considers taking either of these steps.

During review and comment, the Conservation Commission recommended that staff narrow the focus of the urban exemption application, consult with land use boards when preparing that application, and leave the Riverbank Protection District untouched. I would like to reiterate that request here, and

further request that the City consult with regional planners when preparing the urban exemption application; consider the results of the Mascoma watershed management plan; and present a reasonable alternative to protect Lebanon's water quality and riparian ecosystem health before removing the only safeguards that staff and residents have worked so hard to put in place.

Thank you for your time,

Sarah Riley

Chair, Lebanon Conservation Commission



**LEBANON CITY COUNCIL
NOTICE OF PUBLIC HEARINGS
Wednesday, February 7, 2024 - 7:00pm
Council Chambers, City Hall or
REMOTE VIA VIRTUAL PLATFORM
LebanonNH.gov/LIVE**

The Lebanon City Council will hold public hearings on February 7, 2024, beginning at 7:00pm for the following:

A. Ordinance #2024-01 – A public hearing for the purpose of receiving public input and taking action to amend City Code Chapter 168, Vehicles and Traffic, to designate no parking areas along Eldridge Street, Laplante Road, and Prospect Street Extension, Lebanon.

B. Ordinance #2024-02 – A public hearing for the purpose of receiving public input and taking action to amend City Code Chapter 68, Fees, to include a fee schedule for applications to the Zoning Board of Adjustment and Building Code Board of Appeals, and administrative preparation of Zoning Verification Letters.

C. Proposed Amendments to the Zoning Ordinance for Council Adoption – Public hearing for the purpose of receiving public input and taking action on proposed zoning amendments for adoption by the City Council as follows:

Amendment #1 – To amend Section 213 (Impact Fees) to collect fees from residential additions larger than 500 sq. ft., to expand and clarify the type of development that is excluded from paying fees, and to amend the waiver and appeals provisions (Zoning Ordinance Sections 213.3(E) and 213.8)

Amendment #2 – To amend Section 305A.1 (GC-1 District Purpose), Section 305A.2 (GC-1 District Table of Uses) and Section 500 (Planned Developments Table) to allow Manufactured Housing Planned Unit Residential Development (PURDs) in the GC-1 District by Conditional Use Permit from the Planning Board. (Zoning Ordinance Sections 305A.1, 305A.2, and 500)

Amendment #3 – To amend Section 410.3 (Description of Riverbank Protection District) to remove properties from the Riverbank Protection District if the properties are granted an Urbanized Shoreland Exemption by the NH Department of Environmental Services pursuant to NH RSA 483-B:12. (Zoning Ordinance Section 410.3)

Amendment #4 – To amend Section 610 (Accessory Dwelling Unit (ADU)) to update the size ratios for ADU calculations, to add a parcel size threshold for larger ADUs, to clarify the property owner temporary leave of absence requirement, and to create a clear checklist of items needed for the ADU application. (Zoning Ordinance Sections 610.B, 610.G, and 610.K)

Amendment #5 – To amend the definition of "Gross Living Area" in Appendix A (Definitions) to clarify the calculation of impact fees and the size of Accessory Dwelling Units.

Amendment #6 – To adopt miscellaneous minor amendments, including clarifying existing language and making minor editorial changes, clarifying the enabling authority for the Riverbank Protection District, commercial and industrial PUD open space requirements, off-lot parking conditional use application requirements, ZBA administrative appeal procedures and definitions, ZBA application and hearing procedures, and changes to the definitions of "dwelling", "primary/secondary educational facility", "child day care facility", "health club," and "structure" (Zoning Ordinance Sections 213, 410.2, 501.1.F.2.a, 607.5, 610, 801, 802, and Appendix A)

Amendment #7 (Requested by Choice Storage, LLC) – Proposed Zoning Map change at 0 Etna Road (Tax Map 26, Lot 17), which is currently split-zoned between Light Industrial (IND-1) and Rural Lands Three (RL-3). The property owner has requested to rezone approximately 50 acres of RL-3 land to IND-L and, in exchange, to rezone approximately 50 acres of IND-L land to RL-3 to provide more protection for wetland areas, steep slopes, and a wildlife corridor existing in areas to be rezoned to RL-3, while allowing for development of the areas to be rezoned to IND-L.

Amendment #8 (Requested by Cicotte Properties, LLC) – To amend Section 311A.2 (R-O-1 District Table of Uses) to allow one of the following uses in the R-O-1 District by Conditional Use Permit from the Planning Board: either "auto sales and service" or "vehicular sales". (Zoning Ordinance Sections 311A.2)

D. Ordinance #2024-03 – A public hearing for the purpose of receiving public input and taking action to amend City Code Chapter 46, Cemeteries, to remove provisions for holiday burials.

The February 7, 2024 City Council agenda packet and documents pertaining to the above-described public hearings will be available on the City's website beginning February 2, 2024: LebanonNH.gov/Agendas

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.

The foregoing notice was published in the *Valley News*, a newspaper of general circulation in the City of Lebanon, in accordance with the Code of the City of Lebanon on Saturday, January 27, 2024.

Jaseya Ewing

Jaseya Ewing, City Clerk

Agenda

Lebanon City Council

February 7, 2024

8. Public Hearings:

8.D – Ordinance #2024-03 to Amend City Code Chapter 46, Cemeteries, to Remove Provisions for Holiday Burials

A public hearing for the purpose of receiving public input and taking action on proposed Ordinance #2024-03 to amend City Code Chapter 46, Cemeteries, to remove provisions for holiday burials.

The City Council scheduled this public hearing at its January 17, 2024 regular meeting. The public hearing was properly noticed in the *Valley News* on January 27, 2024 in accordance with City Code and State Law.

BACKGROUND

In an effort to streamline operations and create equity amongst staff within the Department of Public Works, Public Works Administration is proposing that burials no longer be permitted on any holiday officially observed by the City. As proposed, weekends immediately preceding or immediately following a holiday would be included as part of the holiday and burials would not be permitted on these days.

By current regulation, burials are not permitted on New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, or Christmas Day unless otherwise approved by the Director of Public Works. Burials have not been previously approved on any of these holidays for as long as staff can recall.

The other observed annual holidays are Martin Luther King, Jr./Civil Rights Day (Third Monday in January); Presidents' Day (Third Monday in February), Veterans' Day (November 11), and the Day after Thanksgiving.

A calendar would be created annually to show available burial dates and would be available to the public via the City's website or in-person at the DPW Admin Building. The calendar would also be furnished to our local churches and funeral home(s). Should this Ordinance be adopted as proposed on February 7, 2024, there would be 17 days for the remainder of the year where burials would not be permitted.

ACTION

If the Council decides to move forward, the following motion is offered for consideration:

MOVED, that the Lebanon City Council hereby adopts Ordinance #2024-03 to amend City Code Chapter 46, Cemeteries, as presented in the February 7, 2024 City Council agenda packet, effective upon passage.

Included in this Section:

1. Proposed Ordinance #2024-03
2. Notice of Public Hearing as published in the January 27, 2024 Edition of the *Valley News*

ORDINANCE #2024-03

AN ORDINANCE TO AMEND the Code of the City of Lebanon, Chapter 46, Cemeteries, to amend regulations for holiday burials.

Be it ordained by the Council of the City of Lebanon as follows:

Section 1.

The Code of the City of Lebanon, Section 46-7 is hereby amended as follows:

§ 46-7. Burials.

A. GENERAL CONDITIONS:

(2) Holiday burials. Holidays formally recognized by the City of Lebanon include the following:

New Year's Day
Martin Luther King, Jr./Civil Rights Day
Presidents' Day
Memorial Day
Independence Day
Labor Day
Veterans' Day
Thanksgiving Day
Day after Thanksgiving
Christmas Eve
Christmas Day

~~*Burials are not permitted on New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, or Christmas Day unless otherwise approved by the Director of Public Works.~~

~~Burials are permitted on Martin Luther King, Jr./Civil Rights Day, Presidents' Day, Veterans' Day, and the Day after Thanksgiving, subject to the rates listed below.~~

Burials are not permitted on any holiday officially observed by the City. Burials are also not permitted over the weekend immediately preceding or immediately following an observed holiday. For example, if an observed holiday falls on a Friday, burials will not be permitted on Saturday or Sunday following; or if a holiday falls on a Monday, burials will not be permitted on the Saturday or Sunday before. A calendar will be available annually in January showing which dates will not be available for burials during the given year.

Section 2. Severability.

The provisions of this ordinance are declared to be severable, and if any section, subsection, sentence, clause, or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdictions, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses, or part of this ordinance.

Section 3. Effective Date.

This ordinance shall become effective upon passage.



**LEBANON CITY COUNCIL
NOTICE OF PUBLIC HEARINGS
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Council Chambers, City Hall or
REMOTE VIA VIRTUAL PLATFORM
LebanonNH.gov/LIVE**

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- D. Ordinance #2024-03** – A public hearing for the purpose of receiving public input and taking action to amend City Code Chapter 46, Cemeteries, to remove provisions for holiday burials.

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Jaseya Ewing

Jaseya Ewing, City Clerk

**Agenda
Lebanon City Council
February 7, 2024**

9. Old Business:

**9.A – Request for Determination that City-owned Properties have
Redevelopment Potential and Designation of Redevelopment Areas
pursuant to City Council Policy, CC-102, Real Property Transactions**

Background

On January 17, 2024, the City Council reviewed and discussed a proposal from the City Manager's Office regarding the redevelopment of city-owned parcels in furtherance of the Council's April 2022 Resolution on Housing. Specifically, the City Manager is proposing to utilize grant funding from the InvestNH program along with the adopted cottage cluster zoning regulations and the Pattern Zoning study's housing plans to execute one or more demonstration projects on city-owned parcels around the community. The overall aim of the program would be to develop new, affordable homes for owner-occupancy that could be marketed toward specific populations. The program would also demonstrate the viability of these types of projects and programs to builders, lenders, and others in the housing development field.

The procedures for the City Council's consideration of disposition or redevelopment of city-owned parcels are outlined in City Council Policy, CC-102, Real Property Transactions. In accordance with Section 4.1.1 (Deeming Properties As Surplus To City Needs Or Suitable For Redevelopment) of the policy, in November 2022, the City Manager's Office solicited review and comment from City departments (Airport, Fire, Planning & Development, Police, Public Works, and Recreation, Arts & Parks), the Planning Board, Conservation Commission, and the Lebanon School District on a list of city-owned parcels that appeared to be suitable for disposition or redevelopment. The November 2022 request included a total of eighteen (18) city-owned properties, including the five (5) parcels that have become the primary focus of the current redevelopment proposal.

Attached is a report and supporting information summarizing the comments received from Public Works, the Planning Board and Conservation Commission. It should be noted that no comments were received regarding the five subject parcels from the remaining City departments, or from the Lebanon School District. In addition, attached is the assessment information and property record card for each of the five properties.

In order for the City Manager to continue to move forward with the proposed redevelopment effort, the City Council must determine that the city-owned parcels have redevelopment potential and must act to designate the properties as Redevelopment Areas in accordance with City Council Policy, CC-102, Real Property Transactions.

Action

If the Council decides to move forward, the following Resolution is offered for consideration:

BE IT HEREBY RESOLVED that the Lebanon City Council, in accordance City Council Policy, CC-102, Real Property Transactions, hereby determines that the following City-

owned properties have redevelopment potential and are suitable for redevelopment as part of designated Redevelopment Areas:

- ***0 Barrows Street; Tax Map 77, Lot 106***
- ***0 Barrows Street; Tax Map 77, Lot 107***
- ***0 Hanover Street Extension; Tax Map 64, Lot 1***
- ***3 Seminary Hill; Tax Map 86, Lot 56***
- ***5 South Main Street; Tax Map 86, Lot 55***

BE IT FURTHER RESOLVED that the Lebanon City Council hereby authorizes the City Manager to pursue redevelopment of the above-listed parcels in accordance with the proposal outlined in the January 17, 2024 City Council Agenda Packet, for the purpose of achieving the goals and objectives of the City, including those expressed in the City Council's April 2022 Resolution on Housing, as well as the 2012 Master Plan, and the 2024-2027 Strategic Plan.

Included in this Section:

1. January 22, 2024 Memo from Deputy City Manager Brooks, Summary of Review and Comments on City-owned Properties for Determination as Surplus to City Needs or Suitable for Redevelopment, with attachments
2. City Council's Resolution on Housing, dated April 21, 2022
3. City Council Policy, CC-102, Real Property Transactions

Available, but not included in this Section:

1. [January 17, 2024 City Council Agenda Packet](#)



CITY of LEBANON, NH

City Manager's Office

51 North Park Street

Lebanon, NH 03766

(603) 448-4220

www.LebanonNH.gov

TO: Honorable Mayor and City Councilors
CC: Shaun Mulholland, City Manager
FROM: David Brooks, Deputy City Manager
DATE: January 22, 2024
RE: Summary of Review and Comments on City-owned Properties for Determination as Surplus to City Needs or Suitable for Redevelopment

In accordance with the Real Property Transactions policy, CC-102, in November 2022, the City Manager's Office solicited review and comment from City departments (Airport, Fire, Planning & Development, Police, Public Works, and Recreation, Arts & Parks), the Planning Board, Conservation Commission, and the Lebanon School District on a list of city-owned parcels that appeared to be suitable for disposition or redevelopment. The November 2022 request included a total of eighteen (18) city-owned properties, including the five (5) parcels, which have become the primary focus of the proposed redevelopment effort discussed with the Council on January 17, 2024.

Of the comments received from the various City departments and boards and committees, only the following comments relate to the five parcels currently under consideration for redevelopment:

0 Barrows Street; Tax Map 77, Lot 106

- Planning Board – Recommend it be deemed surplus and sold.
- Conservation Commission – Recommend it be deemed surplus and sold.
- DPW – Developable
- No comments on this parcel received from Airport, Fire, Police, Recreation, or Lebanon School District

0 Barrows Street; Tax Map 77, Lot 107

- Planning Board – Recommend it be deemed surplus and sold.
- Conservation Commission – Lot may mitigate light and noise from I-89.
- DPW – Developable
- No comments on this parcel received from Airport, Fire, Police, Recreation, or Lebanon School District

0 Hanover Street Extension; Tax Map 64, Lot 1

- Planning Board – Recommend it be deemed surplus and sold.
- Conservation Commission – Recommend it be deemed surplus and sold.
- DPW – 50% wet back half of lot. Appears developable along Hanover Street Ext.
- No comments on this parcel received from Airport, Fire, Police, Recreation, or Lebanon School District

3 Seminary Hill; Tax Map 86, Lot 56

- Planning Board – Delay possible sale until all area reconstruction is completed and lot configuration can be determined.
- Conservation Commission – Recommend it be deemed surplus and sold.

- DPW – Building removed. Developable with access off Elm Street
- No comments on this parcel received from Airport, Fire, Police, Recreation, or Lebanon School District

5 South Main Street; Tax Map 86, Lot 55

- Planning Board – Delay possible sale until all area reconstruction is completed and lot configuration can be determined.
- Conservation Commission – Recommend it be deemed surplus and sold.
- DPW – Had house on it. House moved to Dulac Street to make room for Dry Bridge reconstruction project.
- No comments on this parcel received from Airport, Fire, Police, Recreation, or Lebanon School District

Attached is the original November 2022 request for review and comments from the City Manager's Office, which includes assessment information, property record cards, and GIS maps for the five parcels. Also attached are excerpts of the minutes from the Planning Board's and Conservation Commission's consideration of the properties from December 2022 and January 2023.

Attachments:

1. November 14, 2022 memo from Deputy City Manager Brooks requesting review of city-owned properties for determination as Surplus to City Needs or Suitable for Redevelopment, including Property Assessment Cards & GIS Maps
2. November 17, 2022 email from City Engineer Rod Finley summarizing DPW comments
3. March 17, 2023 table from the Planning & Development Department summarizing Planning Board and Conservation Commission comments
4. Excerpts of Minutes from Conservation Commission meetings of December 8, 2022 and January 12, 2023
5. Excerpts of Minutes from Planning Board meetings of January 9 and January 23, 2023



CITY MANAGER'S OFFICE
City of Lebanon, NH
51 North Park Street
Lebanon, NH 03766
(603) 448-4220 fax (603) 966-3122

TO: Relevant Boards/Committees/Commissions, City Staff, and the Lebanon School District
FROM: Deputy City Manager David Brooks
DATE: November 14, 2022
RE: **Reviewing Properties for Determination as Surplus to the City's Needs or Suitable for Redevelopment**

On April 21, 2022, the City Council unanimously adopted a Resolution directing the City Manager to take various steps to enable, incentivize, and partner in the development of housing needs that are not currently being addressed by the market. Among the specific actions to be taken was to "[p]artner with the Lebanon Housing Authority and other residential developers to utilize city-owned properties for the development of new housing units, including the possibility of a 'demonstration project' on a city-owned parcel with high visibility and an opportunity for a reasonable number of units to help overcome barriers to affordability."

As a result of the directive, the Planning & Development Department has reviewed a list of city-owned properties to identify parcels that might be usable for housing or other new development. Based on a cursory review of aerial imagery and natural resource information, including topography and wetlands information from the City's GIS database, the following is an initial list of parcels owned by the City that appear to be potentially-developable:

<u>ID</u>	<u>Site Address</u>	<u>Current Use of Property</u>	<u>Lot Area (Ac)</u>	<u>Lot Area (Sqft)</u>	<u>Zoning District</u>
4-79	0 N Main St	Vacant	0.22	9,583	R-3
14-23	0 N Main St	Vacant - slopes?	1.30	56,628	R-3
26-27	0 NH Route 120	Vacant - OS for Wolf Run?	8.20	357,192	R-1
64-1	0 Hanover St Ext	Vacant	1.92	83,635	R-1/R-3
77-106	0 Barrows St	Vacant	0.51	22,216	R-3
77-107	0 Barrows St	Vacant	1.01	43,996	R-3
79-39	0 Townsend Ter	Vacant - slopes?	0.79	34,412	RL-1
82-11	526 Dart. College Hwy	Vacant - wetlands? power line easement?	1.99	86,684	RL-1
86-55	5 S Main St	Vacant	0.22	9,583	CBD
86-56	3 Seminary Hill	Vacant	0.50	21,780	CBD
90-7	0 Ora Ave	Vacant - slopes?, wetlands?	0.23	10,019	R-3
106-49	0 Mechanic St	Vacant	0.83	36,155	GC
107-76	0 Pine St	Vacant - slopes?	0.22	9,583	R-2

109-39	Dartmouth College Hwy	Vacant	2.60	113,256	R-3
117-4	0 Poverty Ln	Vacant-power line easement? Airport restrictions?	2.08	90,605	IND-L
124-11	0 Stoney Brook Rd	Vacant	0.20	8,712	GC
125-14	0 Eastman Hill Rd	Vacant	3.50	152,460	RL-2
131-7	0 Poverty Ln	Vacant – airport restrictions?	40.59	1,768,100	IND-L

Additional review of this list of parcels is necessary to verify whether any of these parcels are realistically developable or whether slopes, wetlands, easements, or other encumbrances make development unlikely or impossible.

Determinations must be made as to whether any of the parcels listed above are suitable for redevelopment and whether those parcels can be deemed surplus to the needs of the City in accordance with City Council Policy CC-102, *Real Property Transactions*. Your input is sought for the review of these parcels, which will aid in the determination as to whether the City should retain these parcels or whether any of them can be deemed surplus and considered by the City Council for potential disposition.

Please submit any comments and input to me no later than December 31, 2022.

Enc. Property Record Card and GIS map for each parcel

Cc: Planning Board
Conservation Commission
Lebanon Fire Chief
Lebanon Police Chief
DCM Public Works
Recreation, Arts & Parks
Airport Manager
Planning & Development Department
Lebanon School District

0 BARROWS ST

Location	0 BARROWS ST	Mblu	77/ 106/ //
Acct#	1602	Owner	CITY OF LEBANON
PBN		Assessment	\$109,853
Appraisal	\$109,853	PID	955
Building Count	1		

Current Value

Appraisal			
Valuation Year	Improvements	Land	Total
2022	\$0	\$109,853	\$109,853
Assessment			
Valuation Year	Improvements	Land	Total
2022	\$0	\$109,853	\$109,853

Owner of Record

Owner	CITY OF LEBANON	Sale Price	\$0
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Co-Owner

Address 51 NORTH PARK ST
LEBANON, NH 03766

Certificate

Book & Page 0/0
Sale Date 01/01/1900
Instrument 99

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
CITY OF LEBANON	\$0		0/0	99	01/01/1900
BLAKE, ROGER E TTEE	\$0		0/0	99	01/01/1900

Building Information**Building 1 : Section 1****Year Built:**

Living Area: 0

Replacement Cost: \$0

Building Percent Good:

Replacement Cost

Less Depreciation: \$0

Building Attributes	
Field	Description
Style	Vacant
Model	
Grade	
Stories	

Building Photo

 [Building Photo](#)

(<https://images.vgsi.com/photos/lebanonnhPhotos//default.jpg>)

Building Layout

([ParcelSketch.ashx?pid=955&bid=955](#))

Building Sub-Areas (sq ft)	Legend
No Data for Building Sub-Areas	

Foundation	
Exterior Wall 1	
Exterior Wall 2	
Roof Structure	
Roof Cover	
Interior Wall 1	
Interior Wall 2	
Interior Floor 1	
Interior Floor 2	
Heat Fuel	
Heat Type	
AC Percent	
Bedrooms	
Full Bath(s)	
Half Bath(s)	
Extra Fixture(s)	
Total Rooms	
Bath Rating	
Kitchen Rating	
Kitchen(s)	
Interior/Exterior	
Nbhd Modifier	
Fireplace Rating	
WS Flue Rating	
Electric	

Insulation	
Parking	
Fireplace(s)	
CNS_USRFLD_108	
Plumbing	
Bsmt Garage	
WS Flues	
2nd Heat Type	
# Heat Systems	
% Heated	
View	
Frame	
Basement Floor	
Comm Units	
MH Make	
Solar Hot Water	
Central Vac	
Partition	

Extra Features

Extra Features	Legend
No Data for Extra Features	

Land

Land Use

Use Code 9030
Description MUNICIPAL
Zone R3
Neighborhood R4
Alt Land Appr No
Category

Land Line Valuation

Size (Acres) 0.51
Frontage
Depth
Assessed Value \$109,853
Appraised Value \$109,853
lblindfront

Outbuildings

Outbuildings	Legend
No Data for Outbuildings	

Valuation History

Appraisal			
Valuation Year	Improvements	Land	Total
2021	\$0	\$35,300	\$35,300
2020	\$0	\$35,300	\$35,300
2019	\$0	\$35,300	\$35,300

Assessment			
Valuation Year	Improvements	Land	Total
2021	\$0	\$35,300	\$35,300
2020	\$0	\$35,300	\$35,300
2019	\$0	\$35,300	\$35,300

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077-106_LebanonGIS

**Property Information**

Property ID 77-106
 Location 0 BARROWS ST
 Owner CITY OF LEBANON



**MAP FOR REFERENCE ONLY
 NOT A LEGAL DOCUMENT**

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Geometry updated 12/29/2021
 Data updated 11/18/2018

Print map scale is approximate.
 Critical layout or measurement activities should not be done using this resource.

0 BARROWS ST

Location

0 BARROWS ST

Mblu

77/ 107/ / /

Acct#

1603

Owner

CITY OF LEBANON

PBN

Assessment

\$135,048

Appraisal

\$135,048

PID

956

Building Count

1

Current Value

Appraisal			
Valuation Year	Improvements	Land	Total
2022	\$0	\$135,048	\$135,048
Assessment			
Valuation Year	Improvements	Land	Total
2022	\$0	\$135,048	\$135,048

Owner of Record

Owner

CITY OF LEBANON

Sale Price

\$0

Co-Owner

Address 51 NORTH PARK ST
LEBANON, NH 03766

Certificate

Book & Page 0749/0340

Sale Date 06/25/1947

Instrument 99

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
CITY OF LEBANON	\$0		0749/0340	99	06/25/1947
KNIGHT, MILO L	\$0		0/0	99	01/01/1901

Building Information**Building 1 : Section 1****Year Built:**

Living Area: 0

Replacement Cost: \$0

Building Percent Good:

Replacement Cost

Less Depreciation: \$0

Building Attributes	
Field	Description
Style	Vacant
Model	
Grade	
Stories	

Building Photo

 [Building Photo](#)

(<https://images.vgsi.com/photos/lebanonnhPhotos//default.jpg>)

Building Layout

([ParcelSketch.ashx?pid=956&bid=956](#))

Building Sub-Areas (sq ft)	Legend
No Data for Building Sub-Areas	

Foundation	
Exterior Wall 1	
Exterior Wall 2	
Roof Structure	
Roof Cover	
Interior Wall 1	
Interior Wall 2	
Interior Floor 1	
Interior Floor 2	
Heat Fuel	
Heat Type	
AC Percent	
Bedrooms	
Full Bath(s)	
Half Bath(s)	
Extra Fixture(s)	
Total Rooms	
Bath Rating	
Kitchen Rating	
Kitchen(s)	
Interior/Exterior	
Nbhd Modifier	
Fireplace Rating	
WS Flue Rating	
Electric	

Insulation	
Parking	
Fireplace(s)	
CNS_USRFLD_108	
Plumbing	
Bsmt Garage	
WS Flues	
2nd Heat Type	
# Heat Systems	
% Heated	
View	
Frame	
Basement Floor	
Comm Units	
MH Make	
Solar Hot Water	
Central Vac	
Partition	

Extra Features

Extra Features	Legend
No Data for Extra Features	

Land

Land Use

Use Code	9030
Description	MUNICIPAL
Zone	R3
Neighborhood	R4
Alt Land Appr Category	No

Land Line Valuation

Size (Acres)	1.01
Frontage	
Depth	
Assessed Value	\$135,048
Appraised Value	\$135,048
	lblndfront

Outbuildings

Outbuildings	Legend
No Data for Outbuildings	

Valuation History

Appraisal			
Valuation Year	Improvements	Land	Total
2021	\$0	\$42,300	\$42,300
2020	\$0	\$42,300	\$42,300
2019	\$0	\$42,300	\$42,300

Assessment			
Valuation Year	Improvements	Land	Total
2021	\$0	\$42,300	\$42,300
2020	\$0	\$42,300	\$42,300
2019	\$0	\$42,300	\$42,300

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077-107_LebanonGIS

**Property Information**

Property ID 77-107
 Location 0 BARROWS ST
 Owner CITY OF LEBANON



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Geometry updated 12/29/2021
 Data updated 11/18/2018

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 this resource.

0 HANOVER ST EXT

Location	0 HANOVER ST EXT	Mblu	64/ 1/ / /
Acct#	5521	Owner	CITY OF LEBANON
PBN		Assessment	\$175,265
Appraisal	\$175,265	PID	4242
Building Count	1		

Current Value

Appraisal			
Valuation Year	Improvements	Land	Total
2022	\$0	\$175,265	\$175,265
Assessment			
Valuation Year	Improvements	Land	Total
2022	\$0	\$175,265	\$175,265

Owner of Record

Owner	CITY OF LEBANON	Sale Price	\$0
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Co-Owner

Address 51 NORTH PARK ST
LEBANON, NH 03766

Certificate

Book & Page 2341/0369

Sale Date 09/14/1998

Instrument 99

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
CITY OF LEBANON	\$0		2341/0369	99	09/14/1998
CRAIGHEAD JR, LINCOLN	\$71,500		01760/0941	99	09/12/1988
ROY, EVELYN T	\$71,500		1760/0941	99	09/08/1988

Building Information**Building 1 : Section 1****Year Built:**

Living Area: 0

Replacement Cost: \$0

Building Percent Good:

Replacement Cost

Less Depreciation: \$0

Building Attributes	
Field	Description
Style	Vacant
Model	
Grade	

Building Photo

 Building Photo

(<https://images.vgsi.com/photos/lebanonnhPhotos//default.jpg>)

Building Layout

([ParcelSketch.ashx?pid=4242&bid=4242](#))

Building Sub-Areas (sq ft)	Legend
No Data for Building Sub-Areas	

Stories	
Foundation	
Exterior Wall 1	
Exterior Wall 2	
Roof Structure	
Roof Cover	
Interior Wall 1	
Interior Wall 2	
Interior Floor 1	
Interior Floor 2	
Heat Fuel	
Heat Type	
AC Percent	
Bedrooms	
Full Bath(s)	
Half Bath(s)	
Extra Fixture(s)	
Total Rooms	
Bath Rating	
Kitchen Rating	
Kitchen(s)	
Interior/Exterior	
Nbhd Modifier	
Fireplace Rating	
WS Flue Rating	

Electric	
Insulation	
Parking	
Fireplace(s)	
CNS_USRFLD_108	
Plumbing	
Bsmt Garage	
WS Flues	
2nd Heat Type	
# Heat Systems	
% Heated	
View	
Frame	
Basement Floor	
Comm Units	
MH Make	
Solar Hot Water	
Central Vac	
Partition	

Extra Features

Extra Features	Legend
No Data for Extra Features	

Land

Land Use		Land Line Valuation	
Use Code	9030	Size (Acres)	1.92
Description	MUNICIPAL	Frontage	
Zone	R1	Depth	
Neighborhood	R6	Assessed Value	\$175,265
Alt Land Appr Category	No	Appraised Value	\$175,265
		lbldndfront	

Outbuildings

Outbuildings	Legend
No Data for Outbuildings	

Valuation History

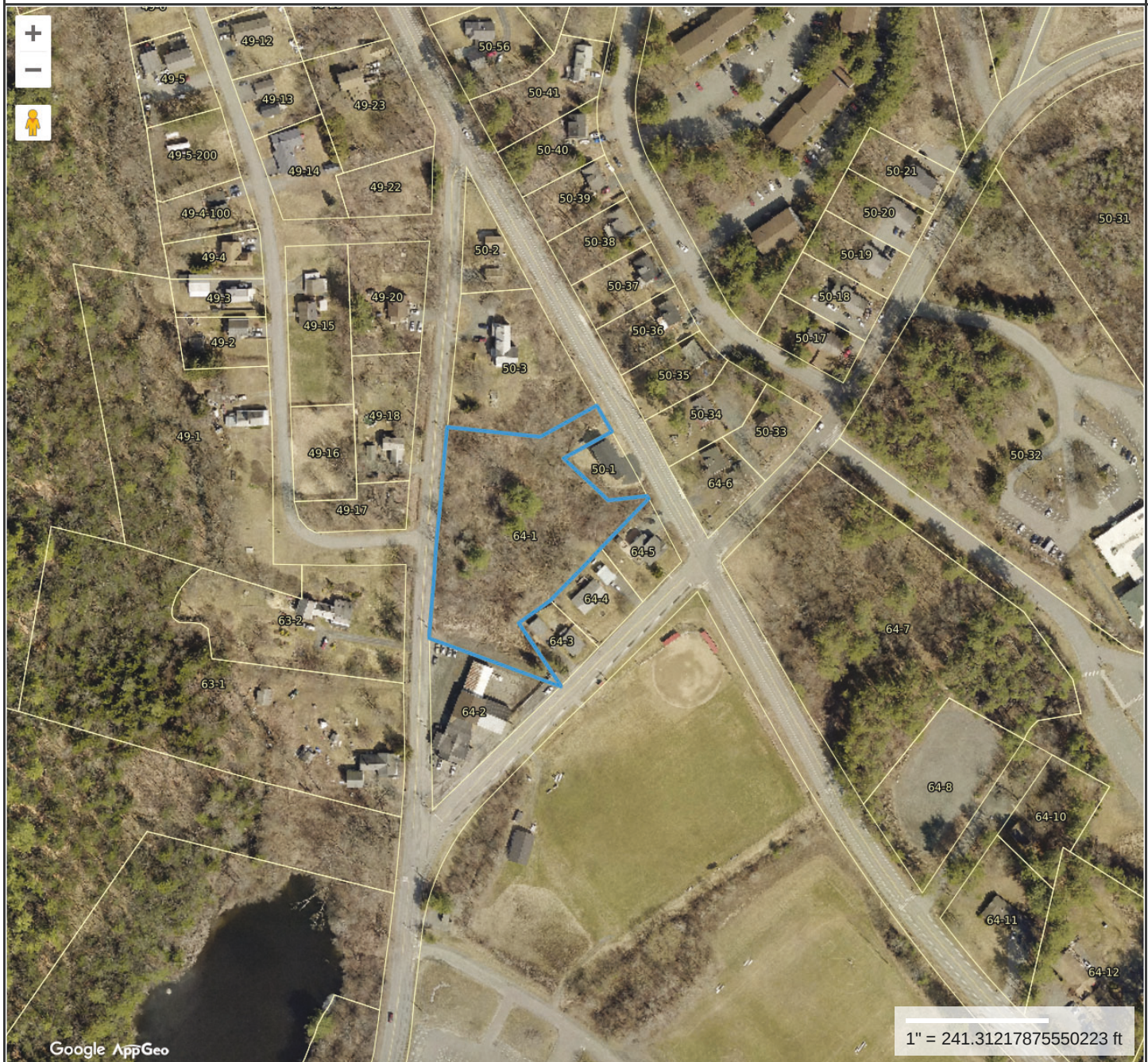
Appraisal			
Valuation Year	Improvements	Land	Total
2021	\$0	\$52,400	\$52,400
2020	\$0	\$52,400	\$52,400
2019	\$0	\$49,900	\$49,900

Assessment			
Valuation Year	Improvements	Land	Total
2021	\$0	\$52,400	\$52,400
2020	\$0	\$52,400	\$52,400

2019	\$0	\$49,900	\$49,900
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064-001_LebanonGIS

**Property Information**

Property ID 64-1
 Location 0 HANOVER ST EXT
 Owner CITY OF LEBANON



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Geometry updated 12/29/2021
 Data updated 11/18/2018

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3 SEMINARY HILL

Location

3 SEMINARY HILL

Mblu

86/ 56/ / /

Acct#

2006

Owner

CITY OF LEBANON

PBN

Assessment

\$193,313

Appraisal

\$193,313

PID

1193

Building Count

1

Current Value

Appraisal			
Valuation Year	Improvements	Land	Total
2022	\$0	\$193,313	\$193,313
Assessment			
Valuation Year	Improvements	Land	Total
2022	\$0	\$193,313	\$193,313

Owner of Record

Owner

CITY OF LEBANON

Sale Price

\$0

Co-Owner

Address 51 NORTH PARK ST
LEBANON, NH 03766

Certificate

Book & Page 3684/0660

Sale Date 03/04/2010

Instrument 35

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
CITY OF LEBANON	\$0		3684/0660	35	03/04/2010
BURDETTE JR, CLINTON M	\$0		01511/0030	99	11/08/1985
BURDETTE, KAREN ANN	\$0		1571/0030	99	11/01/1985

Building Information**Building 1 : Section 1****Year Built:**

Living Area: 0

Replacement Cost: \$0

Building Percent Good:

Replacement Cost

Less Depreciation: \$0

Building Attributes	
Field	Description
Style	Vacant
Model	
Grade	

Building Photo

 [Building Photo](#)

(<https://images.vgsi.com/photos/lebanonnhPhotos//default.jpg>)

Building Layout

([ParcelSketch.ashx?pid=1193&bid=1193](#))

Building Sub-Areas (sq ft)	Legend
No Data for Building Sub-Areas	

Stories	
Foundation	
Exterior Wall 1	
Exterior Wall 2	
Roof Structure	
Roof Cover	
Interior Wall 1	
Interior Wall 2	
Interior Floor 1	
Interior Floor 2	
Heat Fuel	
Heat Type	
AC Percent	
Bedrooms	
Full Bath(s)	
Half Bath(s)	
Extra Fixture(s)	
Total Rooms	
Bath Rating	
Kitchen Rating	
Kitchen(s)	
Interior/Exterior	
Nbhd Modifier	
Fireplace Rating	
WS Flue Rating	

Electric	
Insulation	
Parking	
Fireplace(s)	
CNS_USRFLD_108	
Plumbing	
Bsmt Garage	
WS Flues	
2nd Heat Type	
# Heat Systems	
% Heated	
View	
Frame	
Basement Floor	
Comm Units	
MH Make	
Solar Hot Water	
Central Vac	
Partition	

Extra Features

Extra Features	Legend
No Data for Extra Features	

Land

Land Use		Land Line Valuation	
Use Code	9030	Size (Acres)	0.5
Description	MUNICIPAL	Frontage	
Zone	CBD	Depth	
Neighborhood	R5	Assessed Value	\$193,313
Alt Land Appr	No	Appraised Value	\$193,313
Category		lbldnfront	

Outbuildings

Outbuildings	Legend
No Data for Outbuildings	

Valuation History

Appraisal			
Valuation Year	Improvements	Land	Total
2021	\$0	\$57,000	\$57,000
2020	\$0	\$57,000	\$57,000
2019	\$59,100	\$59,200	\$118,300

Assessment			
Valuation Year	Improvements	Land	Total
2021	\$0	\$57,000	\$57,000
2020	\$0	\$57,000	\$57,000

2019	\$59,100	\$59,200	\$118,300
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086-056_LebanonGIS

**Property Information**

Property ID 86-56
Location 3 SEMINARY HILL
Owner CITY OF LEBANON

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Geometry updated 12/29/2021
Data updated 11/18/2018

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5 S MAIN ST

Location	5 S MAIN ST	Mblu	86/ 55/ / /
Acct#	2005	Owner	CITY OF LEBANON
PBN		Assessment	\$156,064
Appraisal	\$156,064	PID	1192
Building Count	1		

Current Value

Appraisal			
Valuation Year	Improvements	Land	Total
2022	\$0	\$156,064	\$156,064
Assessment			
Valuation Year	Improvements	Land	Total
2022	\$0	\$156,064	\$156,064

Owner of Record

Owner	CITY OF LEBANON	Sale Price	\$0
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Co-Owner

Address 51 NORTH PARK ST
LEBANON, NH 03766

Certificate

Book & Page 3711/0452
Sale Date 06/28/2010
Instrument 35

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
CITY OF LEBANON	\$0		3711/0452	35	06/28/2010
ROUSSEAU, TERRY ANN TRST	\$0		3710/0161	44	06/24/2010
ROUSSEAU, TERRY ANN, TTEE	\$0		3710/0159	44	06/24/2010
ROUSSEAU, TERRY ANN	\$0		02427/0553	99	10/27/1999
HOSMER, TERRY ANN, TTEE	\$0		2427/0553	99	10/25/1999

Building Information**Building 1 : Section 1****Year Built:**

Living Area: 0

Replacement Cost: \$0

Building Percent Good:

Replacement Cost

Less Depreciation: \$0

Building Attributes	
Field	Description
Style	Vacant

Building Photo

 [Building Photo](#)

(<https://images.vgsi.com/photos/lebanonnhPhotos//default.jpg>)

Building Layout

([ParcelSketch.ashx?pid=1192&bid=1192](#))

Building Sub-Areas (sq ft)	<u>Legend</u>
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Model	
Grade	
Stories	
Foundation	
Exterior Wall 1	
Exterior Wall 2	
Roof Structure	
Roof Cover	
Interior Wall 1	
Interior Wall 2	
Interior Floor 1	
Interior Floor 2	
Heat Fuel	
Heat Type	
AC Percent	
Bedrooms	
Full Bath(s)	
Half Bath(s)	
Extra Fixture(s)	
Total Rooms	
Bath Rating	
Kitchen Rating	
Kitchen(s)	
Interior/Exterior	
Nbhd Modifier	

No Data for Building Sub-Areas

Fireplace Rating	
WS Flue Rating	
Electric	
Insulation	
Parking	
Fireplace(s)	
CNS_USRFLD_108	
Plumbing	
Bsmt Garage	
WS Flues	
2nd Heat Type	
# Heat Systems	
% Heated	
View	
Frame	
Basement Floor	
Comm Units	
MH Make	
Solar Hot Water	
Central Vac	
Partition	

Extra Features

Extra Features	Legend
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No Data for Extra Features

Land

Land Use

Use Code 9030
Description MUNICIPAL
Zone CBD
Neighborhood R5
Alt Land Appr No
Category

Land Line Valuation

Size (Acres) 0.22
Frontage
Depth
Assessed Value \$156,064
Appraised Value \$156,064
lbllndfront

Outbuildings

Outbuildings

[Legend](#)

No Data for Outbuildings

Valuation History

Appraisal

Valuation Year	Improvements	Land	Total
2021	\$0	\$50,600	\$50,600
2020	\$0	\$50,600	\$50,600
2019	\$0	\$52,500	\$52,500

Assessment

Valuation Year	Improvements	Land	Total
2021	\$0	\$50,600	\$50,600
2020	\$0	\$50,600	\$50,600
2019	\$0	\$52,500	\$52,500

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086-055_LebanonGIS

**Property Information**

Property ID 86-55
Location 5 S MAIN ST
Owner CITY OF LEBANON

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Geometry updated 12/29/2021
Data updated 11/18/2018

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David Brooks

From: David Brooks
Sent: Monday, January 22, 2024 4:46 PM
To: David Brooks
Subject: FW: Determination of Property

From: Rod Finley
Sent: Thursday, November 17, 2022 11:41 AM
To: Ann Cormier <Ann.Cormier@lebanonnh.gov>
Cc: Nik Coates <nik.coates@lebanonnh.gov>; Brian Vincent <brian.vincent@lebanonnh.gov>
Subject: RE: Determination of Property

Hi Ann:

Map 4-Lot 79	50% steep slopes, potential house site in small developable area adjacent to North Main Street.
Map 14-Lot 23	Moderate slopes. Appears developable.
Map 26-Lot 27	I believe this lot was the next phase of Wolf Run, but never developed. Developable if it's not
designated open space.	
Map 64-Lot 1	50% wet back half of lot. Appears developable along Hanover Street Ext.
Map 77-Lot 106	Developable.
Map 77-Lot 1067	Developable.
Map 79-Lot 39	Steep slopes. Difficult to develop.
Map 82-Lot 11	50% wetlands. Power line easement. Depending on easement language, property may be
undevelopable.	
Map 86-Lot 55	Had house on it. House moved to Dulac Street to make room for Dry Bridge reconstruction project.
Map 86-Lot 56	Building removed. Developable with access off Elm Street.
Map 90-Lot 7	Back half of lot wet and steep slopes. Small developable are along Ora Ave.
Map 106-Lot 49	Developable area in Woodland Buffer (50' – 150') of Mascoma River.
Map 107-Lot 76	50% steep slopes back half of lot. Potential house site in small developable area adjacent to Pine
Street.	
Map 109-Lot 39	Developable.
Map 117-Lot 4	Depending on vacant power line easement language, and Airport restrictions, property may be
undevelopable.	
Map 124-Lot 11	Developable.
Map 125-Lot 14	Developable.
Map 131-Lot 7	50% wet back half of lot. Appears developable along Poverty Lane. Municipal water main crosses lot.

Thank you,

Rod

Rodrick J. Finley, P.E.
City Engineer
City Of Lebanon
Department of Public Works
193 Dartmouth College Highway
Lebanon, New Hampshire 03766

rod.finley@lebanonnh.gov
603.558.7123 mobile
603.448.3112 Ext 6146

Property #	Map	Lot	Address	Lot size Acres	Lot Size Squ Feet	Zoning District	Est Lot Frontage	Variance Required?	Substandard per Zoning	Sewer / Water	Staff Notes	Conservation Commission Notes	Planning Board Notes
4	64	1	Hanover St Ext	1.92	83635.2	R1 / R3	340 and 45	No	None	Water and Sewer	Flat topography Wetlands indicated	Deem surplus and sell.	Deem surplus and sell. Motion Passes 7-0-1
5	77	106	Barrows St	0.51	22215.6	R3	181	No	None	Sewer	Water is not indicated adjacent. Heavy neighbor encroachment onto lot from 41 Winter St.	Deem surplus and sell.	Deem surplus and sell. Motion Passes 7-0-1
6	77	107	Barrows St	1.01	43995.6	R3	200	No	None	Sewer	Water is not indicated adjacent. Abuts Interstate Heavy neighbor encroachment onto lot from 19 Borrows and 4 Bush. 4 Bush may have a shed they have placed on this property. GIS accuracy must be verified.	Lot may mitigate light and noise from I89.	Deem surplus and sell. Motion Passes 7-0-1
9	86	55	5 S Main Street	0.22	9583.2	CBD	100	No	None	Sewer and Water	Likely best to combine with lot 10 as they adjoin. Street access could be limited due to bridge and rail road bed.	Deem surplus and sell.	Delay possible sale until all area reconstruction is completed and lot configuration can be determined. Motion approved 6-1-1
10	86	56	3 Seminary Hill	0.5	21780	CBD	107, 150,100	No	None	Sewer and Water	Likely best to combine with lot 9 as they adjoin.	Deem surplus and sell.	Delay possible sale until all area reconstruction is completed and lot configuration can be determined. Motion approved 6-1-1

~~Regarding the Natural Resources chapter, the Commission discussed where to include discussion of the problem of excessive night lighting. There could be an action item regarding lighting and single-family homes.~~

Mr. Heistad MOVED to extend the meeting for 15 minutes.

Seconded by Mr. Lacey.

**** The Vote on the MOTION was approved by roll call: Sarah Riley – aye; Bruce James – aye; Erling Heistad - aye, Ernst Oidtmann - aye, Susan Almy - aye, Donald Lacey - aye, and Chris Johnson - aye, (7-0-0).***

C. Discussion re: Potential disposition of City-owned parcels for housing

The Commission discussed a list of 18 potential properties. Chair Riley stated that she believes there are six properties that should be considered for conservation implications including, Lots 131-17, 109-39, 14-23, 26-27, and 77-107.

Ms. Hirai MOVED to extend the meeting for 15 minutes.

Seconded by Mr. Lacey.

**** The Vote on the MOTION was approved by roll call: Sarah Riley – aye; Bruce James – aye; Erling Heistad - aye, Ernst Oidtmann - aye, Susan Almy - aye, Donald Lacey - aye, and Chris Johnson - aye, (7-0-0).***

Mr. Goodwin recommended that the Commissioners come back to the next meeting with a list of potential properties to consider for implications.

~~5. COMMITTEE REPORTS – These items were not addressed at this time.~~

~~A. Reports from other committees:~~

~~--Conservation Lands Monitors (Various Members)~~

~~--Lebanon Biodiversity Group (D. Lacey)~~

~~--Workshops & Educational Opportunities (Various Members)~~

6. OTHER BUSINESS – None at this time

7. FUTURE AGENDA ITEMS – None at this time

8. OPEN TO THE PUBLIC– None at this time

9. ADJOURNMENT:

The meeting was adjourned at 9:40 PM.

Respectfully submitted,

Kristan Patenaude

C. Discussion re: Potential disposition of City-owned parcels for housing (continued)

The Commission discussed criteria for disposition of City-owned parcels. The Commission reviewed Lot 82-11 as a potential open space lot. This property contains soils of State importance. The Commission discussed Lot 106-49. Chair Riley suggested that this lot be considered for a pocket park, as it is located along the Mascoma River. The Commission reviewed Lot 109-39. This lot creates scenic value for the rail trail.

Mr. Lacey MOVED to extend the meeting for 30 minutes.

Seconded by Ms. Hirai.

**** The Vote on the MOTION was approved (6-0-0).***

The Commission discussed Lots 131-7 and 14-23, as lots to remain as open space. The Commission discussed Lot 26-27. The overall decision of the Commission was to keep this lot at this time. The Commission discussed Lot 77-107. This lot may help mitigate light and noise from nearby Route 89. The Commission discussed Lot 64-1. The Commission agreed to recommend the City not retain 11 of the properties on the list.

~~6. COMMITTEE REPORTS~~**~~A. Conservation Committee Reports:~~**

~~Mr. Lacey reported from the Biodiversity Committee regarding Baker's Crossing.~~

~~Chair Riley stated that, regarding a Conservation Land Stewardship report, she would like to hear from the Ranger and/or Trail Steward Coordinator. Mr. James stated that a lot of trail work is needed, likely in the spring. He has visited Boston Lot/Landmark Land, Ticknor, Signal Hill, and some other areas.~~

~~Chair Riley stated that she would like to hear a trail monitor/steward report. Ms. Hirai reviewed some of the trail work recently completed by stewards. She stated that the Two Rivers area needs quite a bit of work.~~

~~Chair Riley stated that there was a Wild About Lebanon program on December 10th on the Landmark Land, led by Ron Bailey.~~

~~7. OTHER BUSINESS~~

~~Chair Riley stated that she would like for the Commission to review its annual goals. She would also like to review the Ticknor property on a future agenda. There will be a wetland training webinar series, starting on January 27th. She suggested that Commissioners attend these trainings.~~

~~8. FUTURE AGENDA ITEMS:~~**~~9. OPEN TO THE PUBLIC:~~****~~10. ADJOURNMENT:~~**

~~The meeting was adjourned at 9:27 PM.~~

Vice Chair Hall stated that the Board needs to know about traffic for the site, and the landscaping would likely require a waiver request. Mr. Jasinski suggested landscaping for 6, 7, or 8 feet rather than 5.

Ms. Hirai noted that the patio would be really close to the road with very low landscaping and suggested moving it to the other side. Ms. Daigle said they would look at screening or other options.

Mr. Whittlesey inquired about other options inside rather than just grab-and-go items. Ms. Daigle stated that no other retailers would be inside as presently envisaged, just a convenience store. They don't have an operator but maybe Circle K would be interested. Mr. Whittlesey noted that it is a very busy, loud traffic area, and the traffic pattern is very important. Ms. Duquette noted that they are already doing traffic counts.

Ms. Romano noted that traffic is a major factor, and she was glad to see stormwater management in process.

Ms. Hirai inquired about site remediation. Ms. Daigle stated that the tanks were removed when the site was decommissioned, and they have continued environmental monitoring.

Mr. Rutter inquired about additional signage. Ms. Dolder stated that there would be two signs, the high-rise already permitted and a second sign coming later that would comply with zoning. Mr. Rutter asked how close the location would be to I89. Ms. Duquette said it is about 100 feet from the highway ramp.

Ms. Hirai stated that she was excited about EV charging and attracting business to the mall.

Mr. Whittlesey asked for the zoning amendment wording related to signage. Mr. Corwin stated that the current proposal is that the high-rise signs near Exit 20 be permitted to remain, but a second sign currently is not allowed. The amendment would allow a second free-standing sign that meets the current requirements.

B. Surplus Property Determination: At the request of the City Manager, the Board will review whether certain City-owned properties are surplus to City needs pursuant to the City's Real Property Transaction Policy.

Mr. Reichert introduced the list of city-owned properties under consideration. The properties could be developed for housing, and the Board needs to consider whether the lots are needed by the City or if they can be sold. Mr. Reichert provided the background of the surplus properties.

Ms. Hirai noted that the airport sites are not suitable for housing and shouldn't be on the list.

Ms. Romano inquired if they would offer the properties to abutters first. Mr. Reichert stated that there is a procedure attached to the memo that requires offering them to abutters as part of the process. Mr. Rutter inquired why the City would offer them to abutters if new housing is needed. Mr. Reichert stated that they must follow the City policy. Mr. Rutter said that properties far away from current housing would not be desirable. Mr. Reichert noted that there are comments on some of the properties indicating issues.

Ms. Romano brought up two properties on Seminary Hill that were rezoned to CBD when the Recreation Department needed a location. She said she would be reluctant to make those properties available and recommended returning them to residential use to discourage a business going into an inaccessible corner property close to a busy intersection.

Mr. Jasinski questioned if this was the best way to incentivize housing development. He suggested it would be better to have the trees and open spaces.

Mr. Whittlesey provided background to the City Council's consideration of these properties. They have been talking about a variety of needs for different types of housing and the need for something between studio or one-bedroom units and large homes. The surplus properties may offer other options.

Ms. Romano noted that the same reasoning used for the earlier subdivision should be used when considering the future of these lots. It would be allowed for some lots, but others may not be appropriate for homes.

Mr. Reichert provided the background rationale for offering the lots that are buildable or suitable for some other use. He directed the Board members to the links to individual properties to see them and decide on whether the City should retain or sell them.

The Board members discussed several lots on the list. The discussion would be continued at a future meeting.

A MOTION by Jeremy Rutter to extend the meeting to 9:45 PM.

The motion was seconded by Tom Jasinski.

Roll Call Vote:

Voting in Favor – Councilor Whittlesey, Mr. Jasinski, Ms. Chewning, Mr. Rutter, Mr. Hall, Ms. Hirai, Ms. Romano

Voting Against – None

The MOTION was approved (7-0).

5. Approval of Minutes

A. December 12, 2022

A MOTION by Jeremy Rutter to approve the Planning Board Minutes of December 12, 2022, as presented.

The motion was seconded by Cori Hirai.

Roll Call Vote:

Voting in Favor – Mr. Jasinski, Ms. Chewning, Mr. Rutter, Mr. Hall, Ms. Hirai, Ms. Romano

Voting Against – None

Abstaining – Councilor Whittlesey

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

B. December 19, 2022 – Postponed

Following a discussion of several changes to the minutes, the approval of these minutes was postponed.

6. Election of Officers

Mr. Corwin entertained nominations for Chair.

Tom Jasinski nominated Vice Chair Matthew Hall.

The nomination was seconded by Jeremy Rutter.

4. Other Business

A. Potential disposition of city-owned parcels for housing - Continued from January 9, 2023

Chair Hall noted that only the City Council knows the status of every lot, but if certain ones are of concern to Board members, they should discuss them now.

Ms. Romano commented on the two lots at foot of Seminary Hill Road, suggesting it would be premature to dispose of them now with all the ongoing reconstruction activity in the immediate area. She added that the City should be setting aside areas for important things that the city needs, such as the new Fire Department location.

Mr. Reichert stated that disposition of property by the City Council is based on the City's needs by determining if it is surplus and if it is needed to implement the Master Plan. The Council must supply comment as to why or why not. Until the City knows what the Seminary Hill properties will look like after some is used for road improvements, they should not be sold.

Ms. Hirai suggested that if it means expanding conserved land, they should do it, like the property on North Main St. Mr. Reichert noted that when the Conservation Commission looks at them, they will note if any should be determined as useful for conservation protection. Mr. Goodwin on behalf of the Conservation Commission noted that one property had been recommended for conservation and five others to remain undeveloped.

A MOTION by Tom Jasinski that the Planning Board passes on to the City Council, except for the 0 North Main Street, Lot 14-23, and the 3 Seminary Hill, Lot 86/56, and 5 South Main Street, Lot 86/55, the remaining lots are surplus property and offering them for sale is consistent with the Master Plan. The motion was seconded by Bruce Garland.

Roll Call Vote:

Voting in Favor – Mr. Jasinski, Ms. Chewning, Mr. Rutter, Mr. Hall, Mr. Garland, Ms. Hirai, Ms. Romano

Voting Against – None

Abstaining – Councilor Whittlesey

****The MOTION was approved (7-0-1).***

A MOTION by Cori Hirai that the Planning Board recommends that 0 North Main Street, Lot 14-23, be conserved.

The motion was seconded by Kim Chewning.

Roll Call Vote:

Voting in Favor – Mr. Jasinski, Ms. Chewning, Mr. Rutter, Mr. Garland, Ms. Hirai

Voting Against – Mr. Hall, Ms. Romano

Abstaining – Councilor Whittlesey

****The MOTION was approved (5-2-1).***

A MOTION by Kim Chewning that the Planning Board recommends that the disposition of the lots at 5 South Main Street and 3 Seminary Hill in West Lebanon be delayed until all area reconstruction is completed.

The motion was seconded by Cori Hirai.

Voting in Favor – Mr. Jasinski, Ms. Chewning, Mr. Rutter, Mr. Garland, Ms. Hirai, Ms. Romano

Voting Against – Matthew Hall

Abstaining – Councilor Whittlesey

****The MOTION was approved (6-1-1).***

Councilor Whittlesey MOVED the following:

RESOLVED, the Lebanon City Council hereby directs the City Manager to take steps to Enable, Incentivize, and Partner in the development of housing needs not currently being addressed by the market through the following actions:

- 1. Prepare amendments to the Zoning Ordinance to enable the creation of “cottage cluster” housing developments on appropriate parcels in the City.**
- 2. Prepare amendments to the Zoning Ordinance to revise the regulations for Manufactured Home Parks, Manufactured Home Subdivisions, and Manufactured Home Planned Unit Residential Developments (PURDs) to better reflect the existing Manufactured Home developments within the City and manufactured homes that are in production today.**
- 3. Prepare amendments to the Zoning Ordinance to complete the Increased Density Bonuses table set forth in Section 507.1 and to develop Criteria for the Award of Bonus set forth in Section 507.2.**
- 4. Develop regulations and guidance for the creation of Housing Opportunity Zones (pursuant to RSA 79-E:4-c) and/or Residential Housing Revitalization Zones (pursuant to RSA 79-E:4-b) to incentivize desirable forms of development.**
- 5. Partner with the Lebanon Housing Authority and other residential developers to utilize city-owned properties for the development of new housing units, including the possibility of a “demonstration project” on a city-owned parcel with high visibility and an opportunity for a reasonable number of units to help overcome barriers to affordability.**
- 6. Study and evaluate the benefits and impacts of Accessory Dwelling Units (ADUs) and potential barriers to ADU development and prepare guides, fact sheets, and educational materials to help reduce potential impacts and reduce regulatory and non-regulatory barriers.**
- 7. In each of the above actions, consider enabling, incentivizing, or demonstrating affordable net zero energy or zero energy-ready homes.**

Seconded by Councilor Wilkie. The vote on the motion was unanimously approved (9-0).



City of Lebanon
New Hampshire

COUNCIL POLICY			
Real Property Transactions			
<i>Policy Number</i>	<i>Effective Date</i>	<i>Last Revision</i>	<i>Page No.</i>
CC-102 <i>Prior #00-01-C</i>	August 1, 2018	October 3, 2018	Page 1 of 12
<i>Approved by:</i>	City Council		

SECTION 1.0: PURPOSE

To provide guidance by clarifying the circumstances, procedures and processes for disposing of or transferring interests in CITY owned real estate.

SECTION 2.0: SCOPE

Authority to implement changes to this Policy is delegated to the CITY MANAGER without prior notice if it is deemed to be in the best interest of the City of Lebanon. This Policy is available for public review and inspection.

SECTION 3.0: DEFINITIONS

NOTICE OR NOTICE OF SALE: means a brief description of the property, the hour, date and place of sale or disposition, and the location of the property, as well as other such information considered relevant by the CITY MANAGER.

PUBLIC AGENCY: includes the federal government or any federal department or agency, the state and all departments, agencies, boards and commissions of the state, counties, school districts, cities, towns, municipal corporations and any other political subdivisions of the State of New Hampshire.

PUBLIC PROPERTY OR PROPERTY: means real property which is owned by the CITY.

REAL PROPERTY: means real estate, and appurtenances thereto, over which the CITY has oversight responsibilities as provided by City Charter and State law.

REDEVELOPMENT AREA: an area of the City that has been designated by the City Council as having redevelopment potential where City properties, regardless of whether they are deemed surplus or have current uses by the City, may be redeveloped in a manner that meets certain goals and objectives of the City as expressed in its Master Plan and other public policies. Public uses and parcels, including public ways, may be reconfigured in such areas, including, but not necessarily, in conjunction with private property.



City of Lebanon
New Hampshire

COUNCIL POLICY			
Real Property Transactions			
<i>Policy Number</i>	<i>Effective Date</i>	<i>Last Revision</i>	<i>Page No.</i>
CC-102 <i>Prior #00-01-C</i>	August 1, 2018	October 3, 2018	Page 2 of 12
<i>Approved by:</i>	City Council		

SURPLUS PROPERTY: any real property no longer having practical use to the City of Lebanon.

TAX DEEDED PROPERTY: property taken due to non-payment of property taxes in accordance with RSA 80:38.

SECTION 4.0: PROCEDURES

4.1 DISPOSITION OF PROPERTY:

1. DEEMING PROPERTIES AS SURPLUS TO CITY NEEDS OR SUITABLE FOR REDEVELOPMENT

When a property is being considered for disposition, it must first be deemed surplus to CITY needs or suitable for redevelopment as part of a redevelopment area. To determine whether a property is surplus to CITY needs or suitable for redevelopment, the following shall take place:

- A. If City property is being considered for redevelopment, the Council shall, by resolution, designate one or more specific redevelopment areas where the City may consider redevelopment proposals that may involve the reconfiguration of public and private property parcels and boundary lines and disposition of public property. The resolution may:
 1. Broadly indicate the parameters the Council may consider in deciding if redevelopment and disposition of public property is appropriate and in the public interest, including how any public uses of such property may be alternatively accommodated, and may be by reference to a draft REQUEST FOR PROPOSALS (RFP);
 2. Direct the City Manager to consider a public benefit determination pursuant to §4.1.2.A.4, "CONVEYANCE TO ADJOINING PROPERTY OWNER(S);" or
 3. Direct the City Manager to consider and propose a conveyance to a Development Authority pursuant to §4.1.2.A.9 "CONVEY TO A DEVELOPMENT AUTHORITY."



City of Lebanon
New Hampshire

COUNCIL POLICY			
Real Property Transactions			
<i>Policy Number</i>	<i>Effective Date</i>	<i>Last Revision</i>	<i>Page No.</i>
CC-102 <i>Prior #00-01-C</i>	August 1, 2018	October 3, 2018	Page 3 of 12
<i>Approved by:</i>	City Council		

- B. Review and comment shall be solicited by the City Manager or his/her designee from all CITY departments; relevant boards, committees and commissions; and the Lebanon School District.
- C. A report shall be prepared for review by the City Council which contains the full assessment information and property card for each property along with all comments received from departments, boards, committees, commissions, and the School District.
- D. Upon review of all information, the City Council shall consider, and act upon by resolution, authorization for the City Manager to:
1. retain such property or properties for future use by the CITY; or
 2. convey such property or properties by deed through public auction, by advertised sealed bids, by other means specified herein, or in a manner as justice may require.

Authority to convey property or properties shall continue in effect for one year from the date of the action by the City Council unless otherwise provided.

2. DISPOSING OF PROPERTY

The City Council shall have the power to establish a minimum amount for which a property is to be sold and the terms and conditions of the sale. The disposal of any property or properties shall not be contrary to the public interest. The permanent disposition of property may be by SALE OR EXCHANGE and the partial or temporary disposition of property may be by EASEMENTS, LICENSES, AND LEASES. The sale of public property for redevelopment within a Tax Increment Financing District (TIFD) shall comply with any applicable Tax Increment Financing Plan (TIFP) adopted by the City pursuant to RSA 162-K:9.



City of Lebanon
New Hampshire

COUNCIL POLICY			
Real Property Transactions			
<i>Policy Number</i>	<i>Effective Date</i>	<i>Last Revision</i>	<i>Page No.</i>
CC-102 <i>Prior #00-01-C</i>	August 1, 2018	October 3, 2018	Page 4 of 12
<i>Approved by:</i>	City Council		

A. SALE OR EXCHANGE – Disposition through sale or exchange of property or properties shall be by Competitive Sealed Bids, Public Auctions, Request for Proposal (RFP), Conveyance to Adjoining Property Owner(s), Trade-in or Exchange, Conveyance to Another Public Agency, Conveyance to a Development Authority, or in a manner as justice may require, as follows:

1. COMPETITIVE SEALED BIDS

- a. A Request for Sale Bid Package shall be created that lists the property or properties offered for sale; designate location; and state the terms and conditions of sale and instructions to bidders including the place, date, and time set for bid opening.
- b. Notice of the sale should be given at least 10 days before the date set for opening bids.
- c. Notice shall be given by making the Request for Sale Bids publicly available through posting notice to the City's website and by newspaper advertisement. Notice may also be given by mailing a Request for Sale Bid Package to prospective bidders, including those bidders on lists that may be maintained for this purpose.
- d. Bids shall be opened publicly.
- e. Award shall be made in accordance with the provisions of the Request for Sale Bids to the highest responsive and responsible bidder, if the price offered by such bidder is acceptable to the City Council. Where such price is not acceptable, the City Council may reject the bids in whole or in part and negotiate the sale provided the negotiated sales price is higher than the highest responsive and responsible bidder's price, or bids may be resolicited.
- f. The sale shall be binding upon the CITY only upon award of the bid and delivery of the deed to the successful bidder after adoption of a City Council resolution approving the sale, and no other action of



City of Lebanon
New Hampshire

COUNCIL POLICY			
Real Property Transactions			
<i>Policy Number</i>	<i>Effective Date</i>	<i>Last Revision</i>	<i>Page No.</i>
CC-102 <i>Prior #00-01-C</i>	August 1, 2018	October 3, 2018	Page 5 of 12
<i>Approved by:</i>	City Council		

the CITY or its representatives shall be construed to vest any right, title or interest to or in the property in any person prior to the adoption of the resolution and delivery of the deed.

2. PUBLIC AUCTION

When appropriate, an experienced auctioneer should be used to cry the sale and assist in preparation of the sale. The solicitation to bidders should stipulate, at a minimum, all the terms and conditions of any sale; that a deposit may be required to participate in the bidding; that the purchaser must consummate the purchase within a stated time; and that the CITY retains the right to reject any and all bids.

3. REQUEST FOR PROPOSALS (RFPs)

The City may issue requests for proposals for the development or redevelopment of City property deemed surplus and/or suitable for redevelopment within Redevelopment Areas designated by the City Council. Such RFP process shall include the following:

- a. The RFP shall specify the criteria on which proposals will be evaluated and scored. Such criteria may include, but not be limited to, proposed purchase price or other consideration for the property interests to be conveyed, the proposed extent of redevelopment including the expected assessed property value upon completion, conformity with specified public policy goals consistent with the City's Master Plan and other guidance documents, the time frame for development, the experience and management and financial capability of the proposed development team.
- b. The Council shall designate an RFP review committee that shall score all complete and qualified RFP responses. The Council may designate itself as such review committee or may appoint such City Councilors, staff, other board and committee representatives, and citizens as it deems appropriate to such review committee. The



City of Lebanon
New Hampshire

COUNCIL POLICY			
Real Property Transactions			
<i>Policy Number</i>	<i>Effective Date</i>	<i>Last Revision</i>	<i>Page No.</i>
CC-102 <i>Prior #00-01-C</i>	August 1, 2018	October 3, 2018	Page 6 of 12
<i>Approved by:</i>	City Council		

review committee may recommend that the City Council proceed with a planned sale to the top scoring respondent that is deemed to provide the City with the best overall value to the City.

- c. The Council may accept the recommendation of the review committee or reject it and make no sale or start the process over.
- d. The Council may authorize the City Manager to negotiate certain terms and enter into a Purchase and Sale Agreement with the selected redeveloper that may specify certain milestones to be achieved prior to closing on a sale.

4. CONVEYANCE TO ADJOINING PROPERTY OWNER(S)

Upon recommendation of the City Manager, by resolution of the City Council, the City may sell or exchange any real property or interest therein to any person who owns an interest in the same real property or who owns an interest in adjoining real property. Sale or exchange shall require a determination by the City Manager that the public benefit will be served by uniting ownership of the CITY's real property or real property interest with the adjoining property. Such determination may consider, without limitation:

- a. The range of possible uses for the real property or interests;
- b. The proposed uses for the real property or interests by the proposed grantee;
- c. The size, configuration and other characteristics of the real property or interests;
- d. Existing or proposed restrictions upon the development or use of the real property or interests; and
- e. The value of the real property or interests.



City of Lebanon
New Hampshire

COUNCIL POLICY			
Real Property Transactions			
<i>Policy Number</i>	<i>Effective Date</i>	<i>Last Revision</i>	<i>Page No.</i>
CC-102 <i>Prior #00-01-C</i>	August 1, 2018	October 3, 2018	Page 7 of 12
<i>Approved by:</i>	City Council		

5. TRADE-IN, EXCHANGE, OR GRANT OUTRIGHT

By resolution of the City Council, the City may trade-in, exchange or grant outright real property after a determination is made that the trade-in or grant outright value is expected to exceed the value estimated to be obtained through the sale or other disposition of such property as evidenced by an appraisal.

6. CONVEY TO A PUBLIC AGENCY

By resolution of the City Council, the City may sell to a public agency any real property or interest therein. In the event of a real property interest other than a lease, the CITY shall obtain an appraisal of the property to be sold.

7. CONVEY TO A DEVELOPMENT AUTHORITY

By resolution of the City Council, the City may sell property within a development or redevelopment area to a developer or redeveloper pursuant to a development or redevelopment agreement (pursuant to NH RSA 205). The development or redevelopment agreement shall provide such covenants, conditions, and restrictions upon the property and other terms and requirements as the CITY COUNCIL determines to be in the public interest or necessary to carry out the purposes of the development or redevelopment plan.

8. AS JUSTICE MAY REQUIRE

By resolution of the City Council that the public interest would be served, disposal of property may be achieved by engaging a real estate agent or broker to list and sell the property, including a condition on the sale that the Buyer's obtain development approvals in advance.



City of Lebanon
New Hampshire

COUNCIL POLICY			
Real Property Transactions			
<i>Policy Number</i>	<i>Effective Date</i>	<i>Last Revision</i>	<i>Page No.</i>
CC-102 <i>Prior #00-01-C</i>	August 1, 2018	October 3, 2018	Page 8 of 12
<i>Approved by:</i>	City Council		

B. EASEMENTS, LICENSES, AND LEASES – Disposition through Easements, Licenses, and Leases shall be as follows:

1. UTILITY EASEMENTS

The City may grant to any utility company a nonexclusive easement upon, under or across public property (other than street right-of-way) for such utility company's facilities. Such easement shall be subject to such payments, provisions, and limitations as the CITY may impose.

a. Conditions: Grant shall be made by resolution of the City Council provided that:

- i. The easement will not substantially interfere with CITY use of the property;
- ii. That the benefit to the public of increasing availability of utilities by granting the easement outweighs any detriment to the CITY of imposing the easement upon the public property;
- iii. That granting the easement is otherwise consistent with the interests of the CITY.

b. Along with other appropriate provisions, the instrument granting the easement shall specify the facility to be installed by the easement holder within the easement and shall provide that:

- i. The acceptance of the easement shall impose upon the grantee the obligation to indemnify, defend, pay and hold the CITY harmless against any loss, claims, injury or other liabilities of any description arising out of the easement or use or misuse of the property pursuant to the easement; and
- ii. The CITY shall have the right to require the easement holder to relocate any and all facilities from time to time to avoid conflicts or potential conflicts with existing or proposed improvements to



City of Lebanon
New Hampshire

COUNCIL POLICY			
Real Property Transactions			
<i>Policy Number</i>	<i>Effective Date</i>	<i>Last Revision</i>	<i>Page No.</i>
CC-102 <i>Prior #00-01-C</i>	August 1, 2018	October 3, 2018	Page 9 of 12
<i>Approved by:</i>	City Council		

CITY land. In the case of an easement which is described in this subsection and which is limited in use to providing utilities to CITY property, the easement may be granted administratively by the City Manager without resolution or other action by the City Council if the required findings are made by the City Manager, and if the easement document is approved as to form by an attorney for the CITY.

- iii. The conveyance of interest in abandoned or discontinued rights-of-way shall be governed by New Hampshire RSA Chapter 231 and/or any other appropriate and applicable State statute.

2. TEMPORARY LICENSES

The City Manager shall have the authority to enter into temporary licenses or similar agreements for the use of CITY owned property, including but not limited to, land, buildings, office space, rooms and other interior and exterior space, but not CITY rights-of-way. Such agreements shall be in a form approved by the attorney for the CITY and shall have a term of one (1) year or less. Such agreements shall contain a unilateral termination clause in favor of the CITY that does not require the CITY to give more than thirty (30) days' notice of cancellation.

3. LEASES

Any lease of CITY owned real property shall be reviewed and approved by the City Manager followed by a recommendation to the CITY COUNCIL accompanied by a determination that such action is consistent with adopted CITY plans and policies.

Any lease of CITY owned airport real property shall be reviewed and recommended by the Airport Manager and reviewed and approved by the City Manager followed by a recommendation to the City Council accompanied by a determination that such action is consistent with



City of Lebanon
New Hampshire

COUNCIL POLICY			
Real Property Transactions			
<i>Policy Number</i>	<i>Effective Date</i>	<i>Last Revision</i>	<i>Page No.</i>
CC-102 <i>Prior #00-01-C</i>	August 1, 2018	October 3, 2018	Page 10 of 12
<i>Approved by:</i>	City Council		

adopted CITY plans and policies including the Airport Master Plan and compliance with FAA regulations/requirements.

Any lease of CITY owned real property shall be approved by the City Council. The City Council may take one of three actions:

- a. Reject the lease as proposed and recommended by the City Manager;
- b. Grant preliminary approval and request that it be brought back before the City Council after the necessary land-use permits have been obtained; or
- c. Approve the lease as proposed and recommended by the City Manager with authorization for the City Manager to execute the necessary documents when all required land-use permits have been duly obtained. Land-use permits shall include appropriate review and action by all applicable land use boards (i.e. the Conservation Commission, Zoning Board, Planning Board, or Heritage Commission).
- d. After the execution of the lease documents, zoning/building permits are applied for and issued to the CITY with the lessee as the co-applicant. The lessee is responsible for the construction of the buildings in accordance with the CITY's adopted Site Plan Review and Building Code Regulations. When construction is completed in accordance with the Site Plan Review approval, and the Building Code/Permit, a Certificate of Occupancy is issued.
- e. In accordance with New Hampshire RSA Chapter 72:23, I(b), Real Estate and Personal Property Tax Exemption: *All leases and other agreements, the terms of which provide for the use or occupation by others of real or personal property owned by the state or a city, town, school district, or village district, entered into after July 1, 1979, shall provide for the payment of properly assessed real and*



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Real Property Transactions			
<i>Policy Number</i>	<i>Effective Date</i>	<i>Last Revision</i>	<i>Page No.</i>
CC-102 <i>Prior #00-01-C</i>	August 1, 2018	October 3, 2018	Page 11 of 12
<i>Approved by:</i>	City Council		

personal property taxes by the party using or occupying said property no later than the due date. All such leases and agreements shall include a provision that "failure of the lessee to pay the duly assessed personal and real estate taxes when due shall be cause to terminate said lease or agreement by the lessor." All such leases and agreements entered into on or after January 1, 1994, shall clearly state the lessee's obligations regarding the payment of both current and potential real and personal property taxes, and shall also state whether the lessee has an obligation to pay real and personal property taxes on structures or improvements added by the lessee. If the lessee using or occupying the property fails to pay the duly assessed personal and real estate taxes on the due date, the tax collector of the taxing district involved shall notify the lessor that the same remains unpaid. Upon receipt of said notification from the tax collector, the lessor shall terminate said lease or agreement and pay over to the tax collector from amounts received from said lease such sums as are necessary to satisfy the tax due.

3. Sale or lease proceeds in connection with the disposal of interest of CITY owned real property shall inure without restriction to the benefit of the Fund from which original acquisition was financed or upon which operational control and responsibility resides.
4. Net proceeds from the disposal or conveyance of interest in Airport real property acquired through Federal or State grants shall inure exclusively to the benefit of the Airport Fund for dedication to Airport operations, activities and capital requirements.
5. In the absence of City Council direction to the contrary, proceeds from the sale of Airport land shall be so reserved and accounted for to ensure that the corpus remains intact and that only interest accruing on such proceeds shall be utilized to finance Airport operations.



City of Lebanon
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COUNCIL POLICY			
Real Property Transactions			
<i>Policy Number</i>	<i>Effective Date</i>	<i>Last Revision</i>	<i>Page No.</i>
CC-102 <i>Prior #00-01-C</i>	August 1, 2018	October 3, 2018	Page 12 of 12
<i>Approved by:</i>	City Council		

4.2. TAX DEEDED PROPERTIES

It shall be the intent of the CITY to return all parcels acquired through the tax deeding process to the tax rolls except where the public's interest may be better served through retention of specific parcels.

Unless a former owner gives notice of intent to repurchase a tax deeded property in accordance with RSA 80:89, disposition of those properties acquired through tax deeding will take place when recommended by the City Manager after approval from the Council in accordance with this policy.

SECTION 5.0: REFERENCES (Charter/Code/State Statues)

C419:23 General Powers (Council)
C419:30 Powers and Duties of Manager
RSA 47:5 City Property
RSA 80:80 Transfer of Tax Lien

SECTION 6.0: POLICY & PROCEDURE REVISION HISTORY

	Section	Revisions	Date
Original Adoption			2/2/2000
Amendment	All	Re-Write of Policy	8/1/2018
Amendment	4.1.2.A	Amended Section	10/3/2018
Amendment	4.1.2.A.8	Added Section	10/3/2018
Amendment	5.0	Amended Reference	10/3/2018

Agenda

Lebanon City Council

February 7, 2024

9. Old Business:

9.B – Discuss and issue directives regarding the determination of the feasibility of a TIF District in West Lebanon

Background

Municipalities in New Hampshire are permitted to create Tax Increment Finance Districts pursuant to RSA Chapter 162-K entitled Municipal Economic Development and Revitalization Districts. The City Council has the authority to create TIF districts with limitations identified in the RSAs. The City presently has two TIF districts: the Downtown TIF District and the Airport-Tech Park TIF District. The Council discussed the concept of a TIF district in West Lebanon at its meeting on January 17, 2024. This agenda item is a result of that conceptual discussion.

The provisions of RSA 162-K:6, 9, and 10 outline the procedures to establish a TIF district. The steps necessary to meet the requirements of the statute necessitate that a thorough feasibility study be conducted first. This involves two phases:

Phase I – The following questions should be answered before moving to the **Phase II** analysis.

1. What is the purpose of the TIF district?
2. What are its objectives?
3. How and why is TIF the most effective option to address this objective(s)?
4. What is the geographical area of the TIF district?
5. Will the TIF district share any portion of the captured tax increment with the School District, the General Fund and/or the County, especially if there are additional residential structures created in the TIF district?

Phase II – The following questions will need to be answered before a TIF district can be created.

6. What are the answers to the following requirements from RSA 162-K:6? The development program shall contain a complete statement as to the public facilities to be constructed within the district, the open space to be created, the environmental controls to be applied, the proposed reuse of private property, and the proposed operations of the district after the capital improvements within the district have been completed.
7. What are the answers to the following requirements from RSA 162-K:9? A tax increment financing plan shall contain a statement of objectives of a municipality for improvement of a development district. Such plan shall be incorporated into the development program for the district. It shall contain estimates of the following: cost of the development program; sources of revenues to finance those costs including estimates of tax increments; amount of bonded indebtedness to be incurred; and the duration of the program's existence. The plan shall also contain a statement of the estimated impact of tax increment financing on the assessed values of all taxing jurisdictions in which the district is located.
8. What are the fiscal and economic implications of the proposed TIF district (RSA 162-K:9, III)?

The process to create the Downtown TIF District involved economic analysis developed by the consulting firm Applied Economic Research (AER) in 2017. The cost at that time was \$35,000. The Phase II analysis will require the development of an RFP and a subsequent contract with a

firm to conduct the analysis necessary to finish the feasibility study before a TIF district can be considered by the City Council. The Phase I analysis should be conducted through a joint effort of the City Manager, the West Lebanon Revitalization Advisory Committee, and the Economic Development Commission. The Phase I analysis and recommendations of the City Manager, WLRAC and EDC should be presented to the City Council before directives are issued to conduct Phase II. There are no funds presently appropriated for the Phase II process. This would need to be considered in the 2025 Budget if it is determined that a TIF District is necessary after the Phase I analysis.

Action

The following motion is offered for City Council consideration:

MOVED, that the Lebanon City Council hereby directs the City Manager, the West Lebanon Revitalization Advisory Committee, and the Economic Development Commission to work collaboratively to conduct the Phase I analysis as detailed above, receive stakeholder input, and produce a report back to the City Council no later than October 31st, 2024.

Included In This Section:

1. NH RSA 162-K [Chapter 162-K MUNICIPAL ECONOMIC DEVELOPMENT AND REVITALIZATION DISTRICTS \(state.nh.us\)](https://www.state.nh.us/leg/legist/Chapter_162-K_Municipal_Economic_Development_and_Revitalization_Districts.html)
2. Government Finance Officers Association (GFOA) Best Practices-Creation, Implementation and Evaluation of Tax Increment Financing [Creation, Implementation, and Evaluation of Tax Increment Financing \(gfoa.org\)](https://www.gfoa.org/best-practices-creation-implementation-and-evaluation-of-tax-increment-financing)

TITLE XII

PUBLIC SAFETY AND WELFARE

Chapter 162-K

MUNICIPAL ECONOMIC DEVELOPMENT AND REVITALIZATION DISTRICTS

Section 162-K:1

162-K:1 Local Option. –

Any city or town may adopt this chapter and shall thereafter have all the authority, powers, duties and responsibilities set forth in this chapter.

I. A city may adopt this chapter by majority vote of the legislative body of the city after notice and hearing as set forth in RSA 162-K:4.

II. A town may adopt this chapter by majority vote of the voters present and voting at any legal town meeting under a proper article and after notice and hearing as set forth in RSA 162-K:4.

Source. 1979, 175:2, eff. Aug. 5, 1979.

Section 162-K:2

162-K:2 Definitions. –

In this chapter:

I. "Budget submission date" has the meaning set forth under RSA 273-A:1, III.

II. "Development district" means a specific area within the corporate limits of any municipality which has been so designated and separately numbered by the legislative body of said municipality acting under this chapter.

III. "Development program" means a statement of objectives of the municipality for improvement of a development district established under RSA 162-K:6.

IV. "District administrator" means the head of the department, office agency, municipal housing and redevelopment authority or corporation designated under RSA 162-K:13.

V. "Governing body" means the board of aldermen or city council in the case of a city and the board of selectmen in the case of a town.

VI. "Legislative body" means the board of aldermen or city council in the case of a city and the town meeting in the case of a town.

VII. "Maintenance and operation" means all activities necessary to maintain facilities after they have been developed and all activities necessary to operate the facilities including but not limited to informational and educational programs, and safety and surveillance activities.

VIII. "Municipality" means a city or town.

IX. "Parking structure" means any building the principal use of which is designed for and intended for parking of motor vehicles, and includes open air parking on parking lots.

IX-a. "Public use" means:

- (a)(1) The possession, occupation, and enjoyment of real property by the general public or governmental entities.
- (2) The acquisition of any interest in real property necessary to the function of a public or private utility or common carrier either through deed of sale or lease.
- (3) The acquisition of real property to remove structures beyond repair, public nuisances, structures unfit for human habitation or use, and abandoned property when such structures or property constitute a menace to health and safety.
- (4) Private use that occupies an incidental area within a public use; provided, that no real property shall be condemned solely for the purpose of facilitating such incidental private use.
- (5) If separately adopted by the city or town by the procedure described in RSA 162-K:1, the acquisition of real property to construct housing units which meet the definition of workforce housing contained in RSA 674:58, IV, whether or not such construction results from private development or private commercial enterprise. The municipality shall not acquire property for this purpose through the powers of eminent domain.
- (b) Except as provided in subparagraphs (a)(2), (4), and (5) of this paragraph, public use shall not include the public benefits resulting from private economic development and private commercial enterprise, including increased tax revenues and increased employment opportunities.
- X. "Substantially residential development district" means any development district in which 40 percent or more of the land area, exclusive of streets and open space, is used for residential purposes at the time the district is designated.
- XI. "Tax increment" means the amount of taxes raised in a development district due to increases in assessed value over the assessed value of the district at the time of its establishment.

Source. 1979, 175:2. 2006, 324:1, eff. Jan. 1, 2007. 2022, 272:78, eff. Aug. 23, 2022.

Section 162-K:3

162-K:3 Authorization; Initial Adoption. – A municipality which adopts this chapter shall thereafter be authorized to establish one or more development districts. For each such district, the municipality shall establish a development program and a tax increment financing plan. A municipality that has not previously adopted this chapter may carry out the planning and hearing procedures for establishment of one or more development districts at the same time it is conducting the planning and hearing procedures on initial adoption of this chapter; provided that any vote on establishing a particular development district shall not be taken until after the legislative body shall have voted on the question of adopting this chapter.

Source. 1979, 175:2, eff. Aug. 5, 1979.

Section 162-K:4

162-K:4 Hearing. – Prior to adopting this chapter or designating any development district, a hearing on the subject shall be conducted in the municipality. The hearing shall be conducted by the governing body. The hearing shall be held at least 15 days prior to the date on which action on the proposal is scheduled to take place. Notice of the hearing, including a description of any proposed district, shall be posted in 2 appropriate places in the municipality or published in a newspaper of general circulation in the municipality at least 7 days prior to the hearing.

Source. 1979, 175:2, eff. Aug. 5, 1979.

Section 162-K:5

162-K:5 Establishment of Districts; Limitations. –

Upon a finding that such action will serve public purposes, the legislative body of the municipality may create, within its jurisdiction, development districts. The area of a district may be enlarged following the date of designation of the district. Municipalities establishing development districts shall comply with one of the following limitations:

- I. The total acreage included in any one development district when designated shall not exceed 5 percent of the total acreage of the municipality, and when added to the total current acreage within the development districts for which bonds remain outstanding shall not exceed 10 percent of the total acreage of the municipality.
- II. The total assessed value of taxable real property of any one development district when designated shall not exceed 8 percent of the most recent total assessed value of taxable real property in the municipality, and when added to the current total assessed value of taxable real property within development districts for which bonds remain outstanding, shall not exceed 16 percent of the most recent total assessed value of taxable real property in the municipality.

Source. 1979, 175:2. 1985, 135:1. 1991, 362:10. 1998, 9:1. 2004, 181:1, eff. July 31, 2004.

Section 162-K:6

162-K:6 District Establishment and Development Programs. –

A municipality which has adopted this chapter and which intends to establish a development district shall, in addition to establishing the district, establish a development program under this section and a tax increment financing plan under RSA 162-K:9 and 10.

- I. The development program shall contain a complete statement as to the public facilities to be constructed within the district, the open space to be created, the environmental controls to be applied, the proposed reuse of private property, and the proposed operations of the district after the capital improvements within the district have been completed.
- II. The development program shall also provide for carrying out relocation of persons, families, business concerns, and others displaced by the project, pursuant to a relocation plan, including the method for the relocation of residents in decent, safe and sanitary dwelling accommodations, and reasonable moving costs, determined to be feasible by the municipality.
- III. In conformity with the development program, within the district, the municipality may:
 - (a) Acquire, construct, reconstruct, improve, alter, extend, operate, maintain or promote developments aimed at improving the physical facilities, quality of life and quality of transportation;
 - (b) Acquire real property or easements through negotiation or through powers of eminent domain, except that property acquired through powers of eminent domain shall be put to public use, as defined in RSA 162-K:2, IX-a;
 - (c) Adopt ordinances regulating the use of public parking structures and other facilities constructed within the development district and access to them and the conditions under which such access is allowed. Traffic regulations may include, but shall not be limited to, direction and speed of traffic, kinds of service activities that will be allowed in arcades, parking structures and

- plazas, and rates to be charged in the parking structures;
- (d) Require construction of buildings within the district so as to accommodate and support pedestrian systems which are part of the program for the development district. When the municipality requires for the public benefit the construction of columns, beams or girders with greater strength than required for normal building purposes, the municipality shall reimburse the owner for the added expense from development district funds;
 - (e) Install lighting systems, street signs and street furniture, landscaping of street and public property, and snow removal systems compatible with the character of the district;
 - (f) Acquire property for the district;
 - (g) Lease air rights over public property and spend public funds for constructing the foundations and columns in the public buildings strong enough to support the buildings to be constructed on air rights;
 - (h) Lease all or portions of basements, ground and second floors of the public buildings constructed in the district;
 - (i) Negotiate the sale or lease of property for private development if the development is consistent with the development program for the district; and
 - (j) If separately adopted by the city or town by the procedure described in RSA 162-K:1, acquire, construct, reconstruct, improve, alter, extend, operate, maintain or promote residential developments aimed at increasing the available housing stock within the municipality.

Source. 1979, 175:2. 2006, 324:2, eff. Jan. 1, 2007. 2022, 272:79, eff. Aug. 23, 2022.

Section 162-K:7

162-K:7 Grants. – A municipality may accept grants or other financial assistance from the government of the United States, the state of New Hampshire or any other entity to do studies and to construct and operate the public improvements authorized by this chapter.

Source. 1979, 175:2, eff. Aug. 5, 1979.

Section 162-K:8

162-K:8 Issuance of Bonds. – The municipality may authorize, issue and sell general obligation bonds, which shall mature within 30 years from the date of issue, to finance the acquisition and betterment of real and personal property needed to carry out the development program within the development district together with all relocation costs incidental thereto. Bonds issued under authority of this chapter shall be payable in annual payments which shall be so arranged that the amount of annual payment of principal and interest in any year on account of any bond shall not be less than the amount of principal and interest payable in any subsequent year by more than 5 percent of the principal of the entire bond. The total amount of such payments shall be sufficient to extinguish the entire bond on account of which they are made at maturity. The first payment of principal on any bond shall be made no later than 5 years and the last payment not later than 30 years after the date thereof. Each authorized issue of bonds shall be a separate loan. All dedicated tax increments received by the municipality pursuant to RSA 162-K:10 shall be pledged for the payment of these bonds and used to reduce or cancel the taxes

otherwise required to be extended for that purpose, and the bonds shall not be included when computing the municipality's net debt under RSA 33.

Source. 1979, 175:2. 2000, 280:1, eff. Aug. 20, 2000.

Section 162-K:9

162-K:9 Tax Increment Financing Plan. –

The municipality shall adopt a tax increment financing plan for any development district established under this chapter. The plan shall allocate use of tax increments for retirement of bonds and notes, operation, maintenance and improvements in the district and for general municipal purposes.

I. A tax increment financing plan shall contain a statement of objectives of a municipality for improvement of a development district. Such plan shall be incorporated into the development program for the district. It shall contain estimates of the following: cost of the development program; sources of revenues to finance those costs including estimates of tax increments; amount of bonded indebtedness to be incurred; and the duration of the program's existence. The plan shall also contain a statement of the estimated impact of tax increment financing on the assessed values of all taxing jurisdictions in which the district is located.

II. Before approving any tax increment financing plan, a public hearing shall be held as part of the hearing on the development district under RSA 162-K:4.

III. Before formation of a development district, the municipality shall provide a reasonable opportunity to the county commissioners of any county in which any portion of the development district is located and to the members of the school board of any school district in which any portion of the development district is located to meet with the governing body. The governing body shall fully inform the county commissioners and the school boards of the fiscal and economic implications of the proposed development district. The county commissioners and the school boards may present their recommendations at the public hearing. A municipality's tax increment financing plan may include agreements with the county commissioners and the school boards in which the district is located to share a portion of the captured tax increments of the district.

IV. A tax increment financing plan may be modified provided such modification shall be approved by the legislative body upon such notice and hearing and agreements as are required for approval of the original plan. In a case where the financing plan calls for the appropriation of a specific sum of money, the sum of money appropriated thereunder may be decreased or increased by the vote of the legislative body, provided that in a town under the municipal budget act no increase shall be valid which would violate the provisions of RSA 32:18, except as provided in RSA 32:18-a. Any modification shall maintain use of dedicated tax increments for retirement of bonds and notes as required.

Source. 1979, 175:2, eff. Aug. 5, 1979. 2015, 167:1, eff. Aug. 25, 2015.

Section 162-K:10

162-K:10 Computation of Tax Increments. –

I. Upon formation of a development district, the assessors of the municipality in which it is

situated shall determine the current assessed value of the real property within the boundaries of the development district. The current assessed value so determined shall be known as the "original assessed value." Property exempt from taxation at the time of the determination shall be included at zero, unless it later becomes taxable, in which case its most recently determined assessed valuation shall be included. Each year thereafter, the assessors shall determine the amount by which the assessed value has increased or decreased from the original assessed value. The assessors shall also determine the proportion which any increase or decrease bears to the total assessed value of the real property in that district for that year.

II. Any amount by which the current assessed value of a development district exceeds the original assessed value is referred to as the captured assessed value. The assessors shall determine the amount of the captured assessed value each year.

(a) The tax increment financing plan shall designate the portion of captured assessed value which will be dedicated for retirement of bonds and notes and the portion of captured assessed value which will be dedicated to the operation and further development of the tax increment financing district.

(b) The portion of captured assessed value which is not used either for the purpose of retirement of bonds and notes or for the purpose of the operation and development of the tax increment financing district shall be deemed excess captured assessed value. Excess captured assessed value shall be returned to the tax lists.

III. (a) Each subsequent year the assessors shall determine current assessed valuation, and tax increments and shall report them to the commissioner of the department of revenue administration according to the following method:

(1) If the municipality retains the full captured assessed value for the development district the assessors shall certify to the commissioner of revenue administration, for the purposes of the report required by RSA 41:15, the current assessed value, as the basis to equalize annually the valuation of property throughout the state, and the full captured assessed value, to be deducted from the current assessed valuation for the calculation of the property tax rate. The assessors shall extend all rates as established by the commissioner of revenue administration under the provisions of RSA 41:15 against the current assessed value, including all captured assessed value. In each year for which the current assessed value exceeds the original assessed value, the municipal tax collector shall remit to the municipality that proportion of all taxes paid that year on real property in the district which the captured assessed value bears to the total current assessed value. The amount so remitted each year is referred to in this section as the tax increment for that year.

(2) If the municipality retains only a portion of the captured assessed value for the development district and returns the remaining portion to the tax lists, the assessors shall include the current assessed value, to be used as a basis to equalize annually the valuation of property throughout the state, and that portion of the captured assessed value which the municipality does retain, to be deducted from the current assessed valuation for the calculation of the property tax rate. The assessors shall extend all rates against the total current assessed value. In each year for which the current assessed value exceeds the original assessed value, the municipal tax collector shall remit to the municipality that proportion of all taxes billed on real property in the district that the retained captured assessed value bears to the total current assessed value in the district. The amount so remitted each year is referred to as the tax increment.

(b) The general court finds that municipalities that have adopted a tax increment financing plan and issued tax increment financing plan bonds under this chapter before April 29, 1999, or which

have adopted a tax increment financing plan and entered into contracts and incurred liabilities in reliance upon the tax increment plans under this chapter before April 29, 1999, have incurred obligations which must be honored. The general court recognizes also that in accordance with the intent of this chapter, such obligations were entered into in order to accomplish a public purpose and for the improvement of development in municipalities. Accordingly, the provisions of subparagraph III(a) shall not apply to tax increment financing plan districts which authorized and issued tax increment bonds under this chapter before April 29, 1999 or which adopted a tax increment financing plan under this chapter and entered into contracts and incurred financial liabilities in reliance upon such tax increment plan before April 29, 1999. This subparagraph shall only apply to tax development districts as they existed as of April 29, 1999. To the extent such tax increment financing plan is amended to increase the amount of bonded indebtedness, to increase the cost of the development program, or to extend the duration of the program's existence, this subparagraph shall not apply. The assessors shall determine assessed valuation and tax increments according to the following method:

(1) If the municipality retains the full captured assessed value for the development district, the assessors shall certify to the commissioner of revenue administration for the purposes of the report required by RSA 21-J:34, no more than the original assessed value of the real property in the development district. The assessors shall extend all rates as established by the commissioner of revenue administration under the provisions of RSA 21-J:35 against the current assessed value, including all captured assessed value. In each year for which the current assessed value exceeds the original assessed value, the municipal tax collector shall remit to the municipality that proportion of all taxes billed that year on real property in the district which the captured assessed value bears to the total current assessed value. That amount is referred to in this section as the tax increment for that year.

(2) If the municipality retains only a portion of the captured assessed value for the development district and returns the excess to the tax lists, the assessors shall certify to the commissioner of revenue administration for the purposes of the report required by RSA 21-J:34 the original assessed value and that portion of the captured assessed value which is shared with all the affected taxing districts for the purposes of determining the assessed value for computing property tax rates. The commissioner of revenue administration shall compute the rates of all taxes levied by the state, county, municipality, school district and every other taxing district in which the district is located on this aforementioned assessed value. The assessors shall extend all rates against the total current assessed value, including that portion of the captured assessed value which the municipality is retaining for the development district only. In each year for which the current assessed value exceeds that original assessed value, the municipal tax collector shall remit to the municipality that proportion of all taxes paid on real property in the district that the retained captured value bears to the total current assessed value in the district. That amount is referred to as the tax increment for that year.

(c) In any year in which the current assessed value of the development district is equal to or less than the original assessed value, the assessors shall compute and extend taxes against the current value. Taxes shall be distributed from the affected property to each of the taxing authorities as determined by the current levy and there is no tax increment.

IV. The municipality shall expend the tax increments received for any development program only in accordance with the tax increment financing plan. Tax increments shall be used only to pay off costs and administrative expenses incurred in developing the district.

Source. 1979, 175:2. 1999, 303:13. 2000, 222:1-3, eff. April 1, 2000.

Section 162-K:11

162-K:11 Annual Report. – The municipality's annual report shall contain a financial report for any development district in the municipality. The report shall include at least the following information: the amount and source of revenue of the district, the amount and purpose of expenditures, the amount of principal and interest on any outstanding bonded indebtedness, the original assessed value of the district, the captured assessed value retained by the district, the tax increments received and any additional information necessary to demonstrate compliance with the tax increment financing plan.

Source. 1979, 175:2, eff. Aug. 5, 1979.

Section 162-K:12

162-K:12 Maintenance and Operation. – Maintenance and operation of the systems and improvements constructed under this chapter shall be under the supervision of the district administrator. The cost of maintenance and operation of the non-revenue-producing facilities together with excess of costs of operation and maintenance of revenue-producing facilities, if any, shall be charged against the development district in which it is located. The charges against each property within the district shall be in proportion to the benefit to the properties within the district 60 days before the budget submission date. The district administrator shall submit to the governing body of the municipality the maintenance and operating budget for the following year, and the prorated share of the budget to be charged to each property in the district. The budget for the district as approved by the municipality, and pursuant to RSA 32, shall contain necessary appropriations and provisions for collecting charges against affected properties in the district.

Source. 1979, 175:2. 2012, 186:5, eff. June 11, 2012.

Section 162-K:13

162-K:13 Administration. –

The municipality may create a department or designate an existing department or office or agency or municipal housing and redevelopment authority, or form a corporation under RSA 292, to administer development districts. The district administrator may, subject to such rules and limitations as may be adopted by the governing or legislative body, be granted the power to:

- I. Acquire property or easements through negotiations;
- II. Enter into operating contracts on behalf of the municipality for operation of any of the facilities authorized to be constructed under this chapter;
- III. Lease space to private individuals or corporations within the buildings constructed under this chapter;
- IV. Lease or sell land and lease or sell air rights over structures constructed under this chapter;
- V. Enter into contracts for construction of several facilities or portions thereof authorized under this chapter;
- VI. Contract with the housing and redevelopment authority of the municipality for the

administration of any or all of the provisions of this chapter;

VII. Certify to the governing body of the municipality, for acquisition through eminent domain, property that cannot be acquired by negotiation, but is required for implementation of the development program;

VIII. Certify to the governing body of the municipality the amount of funds, if any, which must be raised through sale of bonds to finance the program for development districts;

IX. Apply for grants from the government of the United States or other source.

Source. 1979, 175:2, eff. Aug. 5, 1979.

Section 162-K:14

162-K:14 Advisory Board. –

I. The legislative body of the municipality shall create an advisory board for each development district that ensures fair representation of business and community interests. The board shall consist of such number of members appointed or elected as determined by the legislative body. A majority of members shall be owners or occupants of real property within the community and at least one member shall be an owner or occupant of real property within the development district. In a substantially residential development district, however, the board shall consist solely of owners or occupants of real property within the community and at least one member shall be an owner or occupant of real property within the development district.

II. The advisory board shall advise the governing body and district administrator on planning, construction and implementation of the development program and on maintenance and operation of the district after the program has been completed.

III. The governing body shall by resolution delineate the respective powers and duties of the advisory board and the planning staff or agency. The resolution shall establish reasonable time limits for consultation by the advisory board on the phases of the development program, and provide a mechanism for appealing to the governing body for a final decision when conflicts arise between the advisory board and the planning staff or agency, regarding the development program in its initial and subsequent stages.

Source. 1979, 175:2, eff. Aug. 5, 1979. 2022, 151:1, eff. Aug. 6, 2022.

Section 162-K:15

162-K:15 Relocation. – Unless they desire otherwise, provision shall be made for relocation of all persons who would be displaced by a proposed development district prior to displacement in accordance with the provisions of RSA 162-K:6. Prior to undertaking any relocation of displaced persons, the municipality shall insure that housing and other facilities of at least comparable quality be made available to the persons to be displaced.

Source. 1979, 175:2, eff. Aug. 5, 1979.

Section 162-K:16

162-K:16 Joint Municipal Development and Revitalization Districts.

- Municipalities may enter into an agreement under RSA 53-A to jointly establish a municipal development district that may include land within the several municipalities using the procedures in this chapter. Tax revenues and expenditures may be allocated as provided in the agreement.

Source. 2019, 318:3, eff. Oct. 2, 2019.

BEST PRACTICES

Creation, Implementation, and Evaluation of Tax Increment Financing

Local governments should carefully evaluate whether TIF and TIF districts are the most appropriate and effective tool to assist the local government in its economic development plans.

Tax incremental financing (TIF) can be an important tool for local governments to attract economic development projects, create jobs, foster infrastructure investment, and/or redevelop blighted areas. TIF is a technique for funding a qualifying capital project, its related infrastructure, or maintenance of the project¹ from a stream of revenue generated within the geographic area defined as a TIF district. Depending on state and provincial regulations, primary governments with taxing powers can often use TIF, but redevelopment agencies may also be party to a TIF project. When a redevelopment agency uses TIF, the agency may share or redirect property or other taxes imposed by other taxing entities. TIF generally relies on incremental property taxes generated in a specific area, but it can also apply to other taxes, including sales taxes. Any organization considering the use of TIF should be aware of the risks involved. As demonstrated in previous economic downturns, TIF can significantly constrain an organization's ability to generate tax revenues, once a TIF is crafted, it can be very difficult to change the terms or cancel the agreement, especially if bonds have already been issued and the various interests in the flow of funds have been established. As a result, there is a need to focus on the long-term nature of TIF, and the long-term forecasts of the tax revenues that support it. The basic principles outlined herein are applicable to any type of TIF.

While TIF laws differ among states or provinces, most states have established laws and eligibility requirements to create or designate an area as a TIF district (e.g., blight, dilapidation or deterioration, age of structures). Once an area is legally designated as a TIF district, the base valuation amount of the property values is "frozen." Improvements to properties within the boundaries of the TIF district will then result in increases to this base of the increment which is captured through additional taxes and expended solely within the TIF district. This increment can serve as a source of revenue to pay debt service, upfront development costs for additional improvements, or for individual projects on a pay-as-you-go basis. The maximum period of time a TIF may exist is determined by state law; legislation generally allows time for development efforts and a traditional 20-30 year financing period.

All TIF and TIF districts should be developed in a manner consistent with a government's TIF or economic development policies. Specific components that organizations should include in a TIF policy include:

1. Objectives or strategic goals that the organization can satisfy by using TIF (e.g.: job creation, removal of blight, meeting infrastructure needs).
2. Eligible projects where TIF can be used.
3. Non-eligible projects or users where TIF may not be used.
4. Standards for creating a TIF district and/or evaluation criteria.

5. Processes for considering, reviewing, and implementing a potential TIF agreement.

The Government Finance Officers Association (GFOA) recommends that local governments carefully evaluate whether TIF and TIF districts are the most appropriate and effective tool to assist the local government in its economic development plans. TIF can be a powerful economic development tool, but when tax revenues from the TIF increment is diverted to a TIF district, local governments will be affected by not receiving these revenues, which can constrain a government over the duration of the TIF. Additionally, the development project itself may contain risk, if the project fails to realize the projected results, it could subject the TIF (and the government) to significant financial pressures, particularly with respect to TIF debt service. When adopting a TIF policy, the governing body needs to identify when TIF districts are appropriate, taking into account risk, financial conditions, and the relationship of a project to the organization's overall plans, including maintenance and sustainability. The policy may be based solely on enabling statutes but should provide flexibility for the local governing body and be consistent with local preferences. The policy also should address the following steps to evaluate whether a TIF district should be created. These steps assume that the government has already compared TIF with other options, including other financing sources, and that the TIF aligns with community development goals and complies with the jurisdiction's development policies and objectives. Recommended evaluation steps include the following:

- Identify the area for the TIF district designation to determine whether a proposed district meets the criteria under applicable state law and the priorities established by the governing body. TIF districts may vary in size, depending on the applicable state laws and local government objectives.
- Conduct feasibility studies, including an evaluation to determine whether development or redevelopment could take place within an acceptable timeframe, without economic assistance from the local government (e.g., but for the TIF assistance, the development would not be possible).
- Include an evaluation of debt limitations.
- Identify any taxpayer concentration, tax appeal history, and overlapping taxing jurisdictions contribution and commitment to pledged revenues.
- Identify any laws that might cap assessed value growth or the effect of tax rates on the taxing entity's credit ratings.
- Evaluate the jurisdiction's ability to meet the proposed TIF plan objectives and its ability to mitigate potential risks to local agencies, including the inability to repay debt in the event of revenue declines.
- For property tax increments assessed value (AV) annual growth limits, for example, look at past and future AV growth trends and collection performance and delinquency rates.
- For sales tax increments, look at historical sales tax collections, change in sales tax rates, pending re-authorizations of the sales tax, tax exemption status and any potential changes to it, and overall economic forecasts.
- Subject assumptions and methods for all feasibility studies to sensitivity analysis and other modeling techniques (see the GFOA best practice, *Evaluating Data and Assumptions in Economic Development Proposals*).

- If the government does not have the technical skills available on staff to conduct a feasibility study, then the use of a qualified consultant is appropriate and recommended. Additionally, an alternative analysis should be prepared to evaluate pay-as-you-go financing and/or debt financing options that the TIF could support.
- Prepare a forecast of the costs and revenues applicable to the project.
- Analyze the long-term economic benefit to the local economy for the term of the TIF, the fiscal impacts to the affected jurisdictions and overlapping tax entities (e.g., school districts), and the economic cost of TIF incentives. Use various forms of analysis, including sensitivity analysis.
- Evaluate the risk to general government operations when the TIF-related revenue is no longer available, including an evaluation of the total impact of all TIF districts on the tax base.
- Prepare a maintenance plan for the TIF district's projects, incorporating ongoing costs and future capital costs, and considering the revenue sources available to help cover those costs. If a third party or private-sector partner such as a developer is to maintain the TIF district, provide a maintenance plan that incorporates those components. Document any risk sharing between local government and the third party or private sector partner in a development agreement that clearly states each party's responsibilities. For example, the agreement should identify who is responsible for the following:
 - Project upkeep.
 - Who backs up project revenue if increments are not sufficient. (There are inherent risks any time the government's credit is used as a backup pledge.)
 - Ongoing maintenance responsibilities.
 - Maintaining designated reserves, if required.
 - Project reporting and monitoring.
 - Adherence with state and local laws.

If a government believes a TIF is warranted, based on a comprehensive evaluation, the following implementation steps are recommended, in addition to verifying compliance with state and local laws:

- Prepare a thorough development or redevelopment plan that includes the projects identified and an estimate of the incremental increase in real estate valuation the proposed projects will create. Governments may also consider hiring outside professionals to assist with this process. The development plan and agreement are critical, and should include the following:
 - Detailed performance measures.
 - Milestones for identified performance measures.
 - Steps for monitoring and evaluating the plan, enforcing the agreement (e.g., are target job creation numbers met?).
 - Steps to be taken if performance goals are not met, including descriptions of the consequences for either better or worse performance. (One option is to outline future benefits and burdens under all possible economic scenarios.)

- Monitor bond covenants.
- Determine which party is responsible for making any post-agreement filings.
- Thoroughly investigate any third-party or private-sector partners, and their ability to meet the obligations outlined in the development agreement. This includes due diligence in examining the developer's financial and other resources, and its track record with similar projects.
- Obtain input from all parties involved in the project. In the case of multi-jurisdictional TIF districts, consider establishing an oversight board. Also obtain public input on the TIF and make adjustments accordingly, including public hearings if required or desired.
- Periodically review of TIF and TIF district to determine if the TIF is functioning as intended. This periodic review should include measures of actual performance, as compared to projected performance. Measurements could include items such as actual versus projected tax base, jobs created, and the potential impact of shifting economic development from non-TIF district to TIF district.
- Ensure that there is adequate understanding of governmental monitoring and reporting requirements. Also, identify who will be accountable for monitoring the TIF and preparing any necessary reports.
- **Board approval date:** Friday, February 28, 2014

Taken from Government Finance Officers Association (GFOA) website, gfoa.org

**Agenda
Lebanon City Council
February 7, 2024**

9. Old Business:

9.C – 2025-2026 NHMA Legislative Policy Process

Background

It is the time of year when the New Hampshire Municipal Association (NHMA) begins planning for the Legislative Policy Conference in the Fall. The policy process begins with solicitation of policy proposals from local officials to create an initial issues list. The deadline for submission of a policy proposal is April 15, 2024.

NHMA's legislative policy committees - Finance and Revenue; General Administration and Governance; and Infrastructure, Development and Land Use – will review all policy proposals in order to make recommendations which will go to the NHMA Legislative Policy Conference in September.

Action

Should the Council decide not to submit proposed Legislative Policies, no action is required.

Should the Council decide to submit policy proposals, an Explanation of Proposed Policy Form (attached) must be completed for each proposal.

Included In This Section:

1. 2025-2026 NHMA Explanation of Proposed Policy form



New Hampshire Municipal Association

Explanation of Proposed Policy

Submitted by (Name): _____ Date: _____

Title of Person Submitting Policy: _____

City or Town: _____ Phone: _____

To see if NHMA will SUPPORT/OPPOSE:

Municipal interest to be accomplished by proposal:

Explanation:

A sheet like this should accompany each proposed legislative policy. It should include a brief (one or two sentence) policy statement, a statement about the municipal interest served by the proposal and an explanation that describes the nature of the problem or concern from a municipal perspective and discusses the proposed action that is being advocated to address the problem. Mail to NHMA, 25 Triangle Park Drive, Concord, NH 03301; or e-mail to <mailto:governmentaffairs@nhmunicipal.org> ***no later than the close of business on April 15, 2024.***

**Agenda
Lebanon City Council
February 7, 2024**

10. New Business:

**10.A – Strategic Plan Changes to the Financial Stability and Efficiency
Functional Area**

Background

The City Council approved its first Strategic Plan in May of 2023. The Strategic Plan is intended to be updated every year and to set objectives for the ensuing year and the two subsequent years after that. Significant changes in the direction of the City's finances have occurred by actions of the City Council. The strategic objectives need to change to chart the path moving forward relative to those decisions.

The previous Strategic Plan section 3.2 *Maintain a long-term strategy to stabilize the tax rate and user fees to avoid spikes in the rates* is not consistent with recent actions taken by the City Council. The strategic objectives should be modified to state that the objective is to mitigate the impacts of tax rate increase and user fee increases to achieve other objectives in the Strategic Plan.

Action

This item is for discussion purposes only at this time. The Strategic Plan will be scheduled for a vote by the Council at the Council meeting on May 8, 2024.

Included In This Section:

1. Strategic Plan PDF of functional area Financial Stability and Efficiency with proposed changes.



Financial Stability and Efficiency

Strategic Objectives

- 3.1 Maintain a responsible debt management plan.
- 3.2 Maintain a long-term strategy to ~~stabilize~~mitigate impacts on the tax rate and user fees to ~~avoid~~mitigate spikes in the rates.
- 3.3 Advocate and seek funding at the State and Federal level to reduce the impact on property taxes and user fees.
- 3.4 Maintain adequate cash reserves to ensure cash flow, the ability to respond to emergencies and the resources to take advantage of opportunities.

Responsible Groups

City Departments

- City Manager
- Finance
- Library

Boards and Committees

- City Council

Partners





Financial Stability and Efficiency

Vision Statement

The City strives to diversify its revenue streams to reduce the reliance upon the property tax as the primary source of revenue for general government operations. User fees have a direct relationship to the services provided and are commensurate with the actual cost of the services provided. The use of Unassigned Fund Balances in the General Fund as well as the enterprise funds is a strategy to minimize tax and fee rate spikes.

The Unassigned Fund Balance in the General Fund is healthy when it:

- is within a range of 19⁵% to 24¹⁹% of the current General Fund expenditure budget;
- provides a cash reserve to address emergencies;
- provides sufficient cash flow between semi-annual tax billings.

Financial planning is based on a long-term strategy to ~~stabilize~~mitigate tax and user fee rates to ~~minimize~~ mitigate the impact of those rate hikes. When possible, planning for capital projects in the six-year Capital Improvements Plan allows a more even spread of debt service payments.

The City's debt load is maintained within the statutory requirements and the City Council's Debt Management policy for all funds.

The City utilizes federal, state, and private grant funding to offset the cost of capital and operating expenses. Additionally, the City advocates in partnership with other municipalities and the New Hampshire Municipal Association for more state funding to offset the impact to local property taxes. The City takes active steps to transition education funding from the statewide and local property tax to a more equitable cost share with other revenue sources.



Agenda

Lebanon City Council

February 7, 2024

10. New Business:

10.B – Discussion and Set Public Hearing for March 6, 2024:

Request for Supplemental Appropriation in the Amount of \$268,000 for Civic Park Playground Improvements and Authorize Disbursement of \$135,000 in Recreation Impact Fees

Background

Civic Park is the largest and most accessible park in the West Lebanon area, and it is the most actively programmed park in the City. The park is strategically located within walking distance of nearly 200 children's homes and is visited by hundreds of families on a regular basis during programmed activities. The popularity of Civic Park makes it a priority location for a playground to serve children 2-5 and 5-12 years old. No such playground currently exists.

Last year, the Recreation, Arts & Parks Department (RAP) created the "Civic Plays" task force to gather community input for a new playground design, research manufacturers, and to raise funds through a capital campaign. The Civic Plays taskforce has been actively pursuing these objectives through 2023 and is now engaged in raising a portion of the needed funds.

RAP proposes to fund approximately 50% of the total project cost from Recreation Impact Fees collected from new development in the community. The remaining costs will be raised through leadership level gifts in the first quarter of 2024, followed by a public capital campaign. Since funds for the appropriation are to be transferred from Recreation Impact Fees to the Capital Improvements fund, and will be supplemented with grants and donations, there will be no impact to the tax rate.

Please see the attached memorandum from Recreation, Arts & Parks Director Paul Coats for a detailed explanation about the project and examples of the proposed playground design.

Action

The following motion is offered for City Council consideration:

MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, March 6, 2024, beginning at 7:00pm in Council Chambers, City Hall, and Remote via the City's Virtual Platform, for the purpose of receiving public input and taking action to appropriate \$268,000 for a new Civic Park Playground Improvements capital project; and to authorize disbursement of \$135,000 in Recreation Impact Fees as the means to partially pay for the work, with the remaining project costs to be raised from grants and donations.

Included In This Section:

1. December 19, 2023 Memo from Recreation, Arts & Parks Director Paul Coats, including examples of the proposed playground design.

To: Honorable Mayor and City Council
Cc: David Brooks
From: Paul Coats
Date: December 19, 2023
Re: Civic Park Playground, Recreation Impact Fees

INTRODUCTION:

Civic Park is the largest most accessible park in the West Lebanon district, and it is the most actively programmed park in the City. The park is strategically located within walking distance of nearly 200 children's homes, and is visited by hundreds of families on a regular basis during programmed activities. The popularity of Civic Park makes it a priority location for a playground to serve children 2-5 and 5-12 years old. No such playground currently exists.

BACKGROUND:

Civic Park was constructed in 1985 as a City project utilizing the Land Water Conservation Fund (LWCF) and locally raised funds. Park amenities include a softball field, multi-purpose field, maintenance building with bathrooms, outdoor basketball court, tennis courts, green space, and a playground. Civic Park saw tremendous usage over the ensuing 38 years as the home location for many youth sports teams, Sem Hill Elementary School classes, Camp K, adult softball, and as a park that West Lebanon residents could access by foot or bike. The heavy use of the playground combined with its advanced age made it necessary to remove the playground in 2022 for safety reasons. It is time to replace it.

The Friends of Lebanon Recreation Arts & Parks and the Recreation Arts & Parks Department initiated the "Civic Plays" taskforce to gather community input for a new playground design, research playground manufacturers, and to raise funds through a capital campaign. The Civic Plays taskforce has been actively pursuing these objectives through 2023 and is now engaged in raising a portion of the needed funds.

One of the taskforce's primary goals is to make this playground as inclusive as possible, welcoming for all children ages 2 – 12 regardless of their abilities. To that end, a poured-in-place (PIP) surfacing is included in the design, the first of its kind for the Lebanon area. The total project cost with surfacing and a "community build" installation will be \$270,000.

RECOMMENDATION/RATIONALE:

The Recreation Impact Fee Account has a current balance of \$370,000 with \$180,000 earmarked for upcoming CIP projects (Westboro and Mascoma River Greenway). **We propose allocating \$135,000 from the Impact Fee Account to the Civic Plays project**, 50% of the total project cost. The remaining 50% will be raised through leadership level gifts in the first quarter of 2024, followed by a public capital campaign. Once successful, the play structures will be purchased with an anticipated installation date of Fall 2024.

BACKUP INFORMATION:

Examples of the playground design are attached.



landscape
structures

CIVIC MEMORIAL PARK

MEO23568 • 6.20.2023

O'BRIEN
& SONS
ELEMENTS FOR A GREAT OUTDOORS

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Agenda

Lebanon City Council

February 7, 2024

10. New Business:

10.C – Discussion and Set Public Hearing for March 20, 2024:

Layout of Additional Right-of-Way Areas for Trues Brook Road; Scheduling of On-Site Public Meeting for Personal Examination of Proposed Roadway

Background

The Trues Brook Road Bridge was built in 1952 and rebuilt in 1986. The bridge is showing signs of deterioration and has been placed on the NHDOT's Red-List.

The Department of Public Works has an ongoing project to replace the existing structurally-deficient bridge with a new bridge that will be structurally sound and that can safely accommodate traffic and design flood events in a cost-effective manner, while minimizing environmental impacts, construction duration, and project costs. The new bridge will be widened to provide two 11' wide lanes and two 5' wide shoulders to allow both bicycles and walkers to safely share the road with vehicular traffic. The project includes approximately 1,000 feet of roadway reconstruction and improvements approaching each side of the bridge. Additionally, the project includes a temporary bridge, to be constructed adjacent to the permanent bridge, to eliminate the need for closing of the road and creating a long detour from Rte. 12A in the City of Lebanon to the town of Plainfield and vise-versa.

At the current time, the Bridge project is in the final design phase. The layout of the right-of-way widening required for the project and the development of easement plans identifying the required permanent and temporary easements from abutting properties have been completed.

To enable construction of the new bridge, roadway approaches, and the associated improvements, the City Council must, in accordance with RSA 231:8, receive and act upon a petition to "lay out" the widened road right-of-way. A petition was filed on January 26, 2024 and is attached hereto for review and consideration. Pursuant to NH RSA 674:40, III, before the City Council can locate and construct the roadway, the proposed layout must first be submitted to the Planning Board for review. Review by the Planning Board is tentatively scheduled for February 26th.

In addition, RSA 231:11 requires the City Council to make a "personal examination" of the proposed new road layout. Staff recommends that the Council hold a public meeting prior to the public hearing (on the same day, if possible) to review the proposed road location.

Action

The following motion is offered for Council consideration:

MOVED, that the Lebanon City Council hereby refers the layout of the widening of Trues Brook Road as shown on the plans entitled "Trues Brook Road Over Bloods Brook, Easement Plan (1 of 2) and Easement Plan (2 of 2)" (Sheets 8 and 9 of 47), prepared by Hoyle Tanner, dated January 2024, Project No. 21.906414.00, for review by the Planning Board in accordance with RSA 674:40.

BE IT FURTHER MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, March 20, 2024, beginning at 7:00pm in Council Chambers, City Hall, and Remote via the City's Virtual Platform, for the purpose of receiving public input and taking action on approval of the layout of the widening of Trues Brook Road to facilitate the replacement of the Trues Brook Road Bridge and the reconstruction of the roadway and other improvements approaching each side of the bridge, as shown on the plans entitled "Trues Brook Road Over Bloods Brook, Easement Plan (1 of 2) and Easement Plan (2 of 2)" (Sheets 8 and 9 of 47), prepared by Hoyle Tanner, dated January 2024, Project No. 21.906414.00.

BE IT FURTHER MOVED, that an on-site public meeting be scheduled for Wednesday, March 20, 2024, beginning at 5:30pm, for the purpose of personal examination of the proposed roadway layout in accordance with NH RSA 231:11.

Included In This Section:

1. Petition for Layout of Class V Highway, dated January 26, 2024
2. Plans entitled "Trues Brook Road Over Bloods Brook, Easement Plan (1 of 2) and Easement Plan (2 of 2)" (Sheets 8 and 9 of 47), prepared by Hoyle Tanner, dated January 2024, Project No. 21.906414.00

PETITION FOR LAYOUT OF CLASS V HIGHWAY

The undersigned citizen(s) of the City of Lebanon hereby petition the City Council of the City of Lebanon, New Hampshire, pursuant to NH RSA 47:1, RSA 49-C:15, and RSA 231:8, for the layout of additional areas of the existing Class V public highway known as "Trues Brook Road" upon such terms and conditions as the City Council deems reasonable, for accommodation of the public as there is occasion for such layout.

The proposed locations of such additional highway areas are as shown as "permanent easement" on Sheets 8 and 9 of a plan entitled "Trues Brook Road over Bloods Brook, Easement Plan, City of Lebanon, Lebanon, New Hampshire" prepared by Hoyle Tanner, dated January 2024, Proj. No. 21.906414.00 (the "Plan"), which Plan is on file in the City's offices, and are more fully described and bounded as follows:

Area I (a portion of Lebanon Tax Map 186 Lot 37):

Beginning at a point on the northern side of Trues Brook Road, said point being Trues Brook Road Sta 203+19.03, more or less, offset a distance of 28.55 feet, more or less, from the center line of the right of way of Trues Brook Road; thence northeasterly to a point at Sta 203+23.04, more or less, offset a distance of 40.65 feet, more or less, from the center line of the aforesaid right of way; thence easterly to a point at Sta 204+75.00, more or less, offset a distance of 43.43 feet, more or less, from the center line of said right of way; thence easterly to a point at Sta 204+75.00, more or less, offset a distance of 65.43 feet, more or less, from the center line of the aforesaid right of way; thence south to a point at Sta 205+45.45, more or less, offset a distance of 27.84 feet from the center line of the aforesaid right of way; thence northwesterly along the northern side of the aforesaid right of way to the place of beginning.

Said Area I consisting of 3,461 square feet, more or less.

Area II (a portion of Lebanon Tax Map 159 Lot 6):

Beginning at a point on the northern side of Trues Brook Road, said point being Trues Brook Road Sta 205+88.60, more or less, offset a distance of 27.77 feet, more or less, from the center line of the right of way of Trues Brook Road; thence northeasterly to a point at Sta 205+88.60, more or less, offset a distance of 41.20 feet, more or less, from the center line of the aforesaid right of way; thence southeasterly to a point at Sta 206+53.13, more or less, offset a distance of 40.35 feet, more or less, from the center line of the aforesaid right of way; thence southwesterly to a point at Sta 206+54.15, more or less, offset a distance of 27.75 feet, more or less, from the center line of the aforesaid said right of way; thence northwesterly along the northern side of the aforesaid right of way to the place of beginning.

Said Area II consisting of 858 square feet, more or less.

Area III (a portion of Lebanon Tax Map 186 Lot 38):

Beginning at a point on the northern side of Trues Brook Road, said point being Trues Brook Road Sta 206+54.15, more or less, offset a distance of 27.75 feet, more or less, from the center line of the right of way of Trues Brook Road; thence northeasterly to a point at Sta 206+53.13, more or less, offset a distance of 40.35 feet, more or less, from the center line of the aforesaid right of way; thence southeasterly to a point at Sta 207+03.77, more or less, offset a distance of 42.78 feet, more or less, from the center line of said right of way; thence southerly to a point at Sta 207+60.94, more or less, offset a distance of 33.20 feet, more or less, from the center line of said right of way; thence westerly to a point at Sta 207+49.82,

more or less, offset a distance of 22.45 feet, more or less, from the center line of said right of way; thence northwesterly along the northern side of said right of way to the place of beginning.

Said Area III consisting of 1,517 square feet, more or less.

Area IV (a portion of Lebanon Tax Map 186 Lot 4):

Beginning at a point on the southern side of Trues Brook Road, said point being Trues Brook Road Sta 204+94.72, more or less, offset a distance of 22.07 feet, more or less, from the center line of the right of way of Trues Brook Road; thence westerly to a point at Sta 204+94.73, more or less, offset a distance of 42.80 feet, more or less, from the center line of the aforesaid right of way; thence southerly to a point at Sta 205+24.34, more or less, offset a distance of 54.10 feet, more or less, from the center line of the aforesaid right of way; thence southeasterly to a point at Sta 206+19.02, more or less, offset a distance of 54.10 feet, more or less, from the center line of the aforesaid right of way; thence northeasterly and northerly to a point on the southern side of Trues Brook Road at Sta 206+09.09, more or less, offset a distance of 22.28 feet, more or less, from the center line of the aforesaid right of way; thence northwesterly along the southern side of said right of way to the place of beginning.

Said Area IV consisting of 3,498 square feet, more or less.

Area V (a portion of Lebanon Tax Map 186 Lot 3):

Beginning at a point on the southern side of Trues Brook Road, said point being Trues Brook Road Sta 206+14.60, more or less, offset a distance of 22.33 feet, more or less, from the center line of the right of way of Trues Brook Road; thence southerly to a point at Sta 206+50.23, more or less, offset a distance of 66.35 feet, more or less, from the center line of the aforesaid right of way; thence southeasterly to a point at Sta 206+99.67, more or less, offset a distance of 58.83 feet, more or less, from the center line of the aforesaid right of way; thence easterly to a point on the southern side of said Trues Brook Road at Sta 207+43.22, more or less, offset a distance of 27.27 feet, more or less, from the center line of the aforesaid right of way; thence northwesterly along the southern side of said right of way to the place of beginning.

Said Area V consisting of 3,367 square feet, more or less.

The existing Trues Brook Road highway is shown on City maps. Additional information about the said road in the area of the additional areas of layout presented in this petition may be found in: (a) a plan entitled "Subdivision of Paul J. Fredyma, West Lebanon, N.H." prepared by T&M Surveys, Inc., Project 43075C, dated July 1975, approved by the Lebanon Planning Board on September 8, 1975 and recorded in the Grafton County Registry of Deeds as Plan #1227-0057; (b) a plan entitled "Subdivision of Paul J. Fredyma, West Lebanon, N.H." prepared by T&M Surveys, Inc., Project 4307, dated July 1975, approved by the Lebanon Planning Board on September 8, 1975 and recorded in the Grafton County Registry of Deeds as Plan #1227-0058; (c) a plan entitled "Property of Marion Hall, Lebanon, N.H." prepared by Thomas C. Dombroski, L.L.S., dated January 21, 1986 and recorded in the Grafton County Registry of Deeds as Plan #3399; and (d) a plan entitled "Annexation for Lebanon Municipal Airport, City of Lebanon, Grafton County, N.H." prepared by T&M Surveys, Inc., Project 201686, dated June 1986, and recorded in the Grafton County Registry of Deeds as Plan #4492.

Date: January 26, 2024

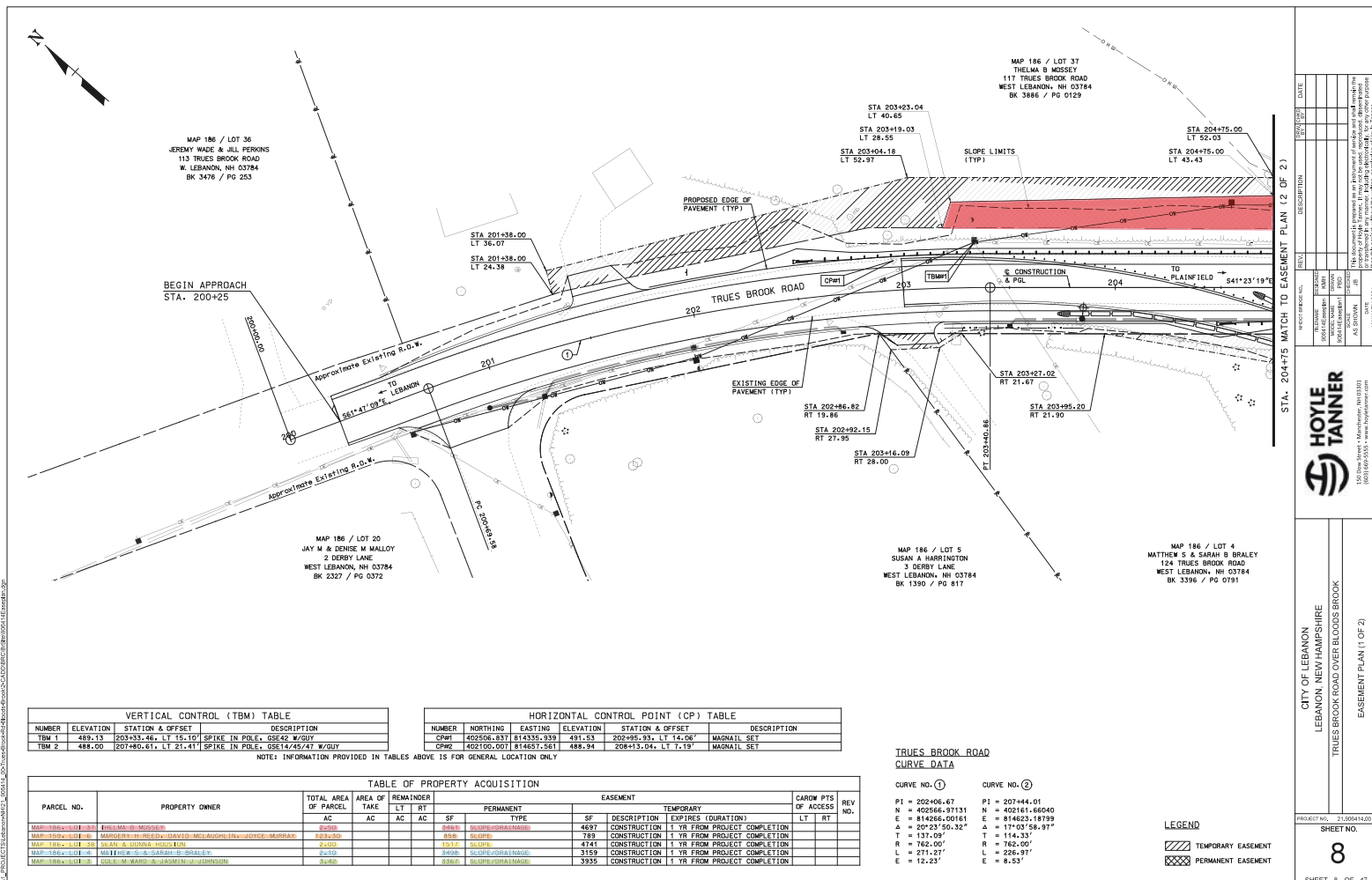
Submitted by:

David R. Brooks

Sign Name:

DAVID R. BROOKS

Print Name:



**Agenda
Lebanon City Council
February 7, 2024**

10. New Business:

**10.D – Request for Exemption of Zoning Requirements per Section 214 of the
Zoning Ordinance for City of Lebanon to Construct Public Infrastructure
Improvements for the Trues Brook Road Bridge Reconstruction Project**

Background

The Trues Brook Road Bridge was built in 1952 and rebuilt in 1986. The bridge is showing signs of deterioration and has been placed on the NHDOT's Red-List.

The Department of Public Works has an ongoing project to replace the existing structurally-deficient bridge with a new bridge that will be structurally sound and that can safely accommodate traffic and design flood events in a cost-effective manner, while minimizing environmental impacts, construction duration, and project costs. The new bridge will be widened to provide two 11' wide lanes and two 5' wide shoulders to allow both bicycles and walkers to safely share the road with vehicular traffic. The project includes approximately 1,000 feet of roadway reconstruction and improvements approaching each side of the bridge. Additionally, the project includes a temporary bridge, to be constructed adjacent to the permanent bridge, to eliminate the closing of the road and creating a long detour from Rte. 12A in the City of Lebanon to the town of Plainfield and vice-versa.

At the current time, the Bridge project is in the final design phase. The layout of the right-of-way widening required for the project and the development of easement plans identifying the required permanent and temporary easements from abutting properties have been completed. A Public Hearing will be scheduled to act on the Statutory Layout Petition.

The Bridge project impacts high-value wetlands outside of the existing right-of-way including work within Bloods Brook, wetlands surrounding Bloods Brook, and the 100-foot high-value wetland buffer. Direct impacts to the high-value wetlands require a Variance from Section 401.4 of the Zoning Ordinance (Ordinance) and the impacts to the wetland buffer require a Special Exception per Section 401.5 of the Ordinance. The conditions for granting a variance or special exception are listed in the ordinance and the Zoning Board of Adjustment (ZBA) is tasked with approving or denying the application. Even if approved, any aggrieved abutter could appeal the ZBA decision. Any appeal could adversely affect the construction schedule and potentially lead to the closing of the bridge. Closing the Bridge would not be in the public's interest. A Wetland Dredge and Fill Permit (Wetlands Permit) is being sought from the New Hampshire Department of Environmental Services (NHDES) for direct wetland impacts.

Section 214 of the Zoning Ordinance regulates Governmental Uses as follows: "Governmental Uses shall be governed by RSA 674:54; provided, however, that governmental uses proposed by the City of Lebanon shall be considered to be subject to this Ordinance, unless expressly exempted from it by vote of the City Council." The Bridge project is a public infrastructure and safety improvements project. The Bridge project is a capital improvement project that does not seek any kind of revenue or profit generation. The project is not a "land use" project such as the development of a building lot. Rather, it constitutes an expansion of an existing use in response

to public need. Therefore, the Department of Public Works requests an exemption from the requirements of Section 214 for this project.

In accordance with RSA 674:54, the Bridge project will be presented to the Lebanon Planning Board at a public meeting.

The project schedule is to go to bid in the Winter of 2024 and begin construction in the Spring of 2025, contingent upon the finalization of the right-of-way process.

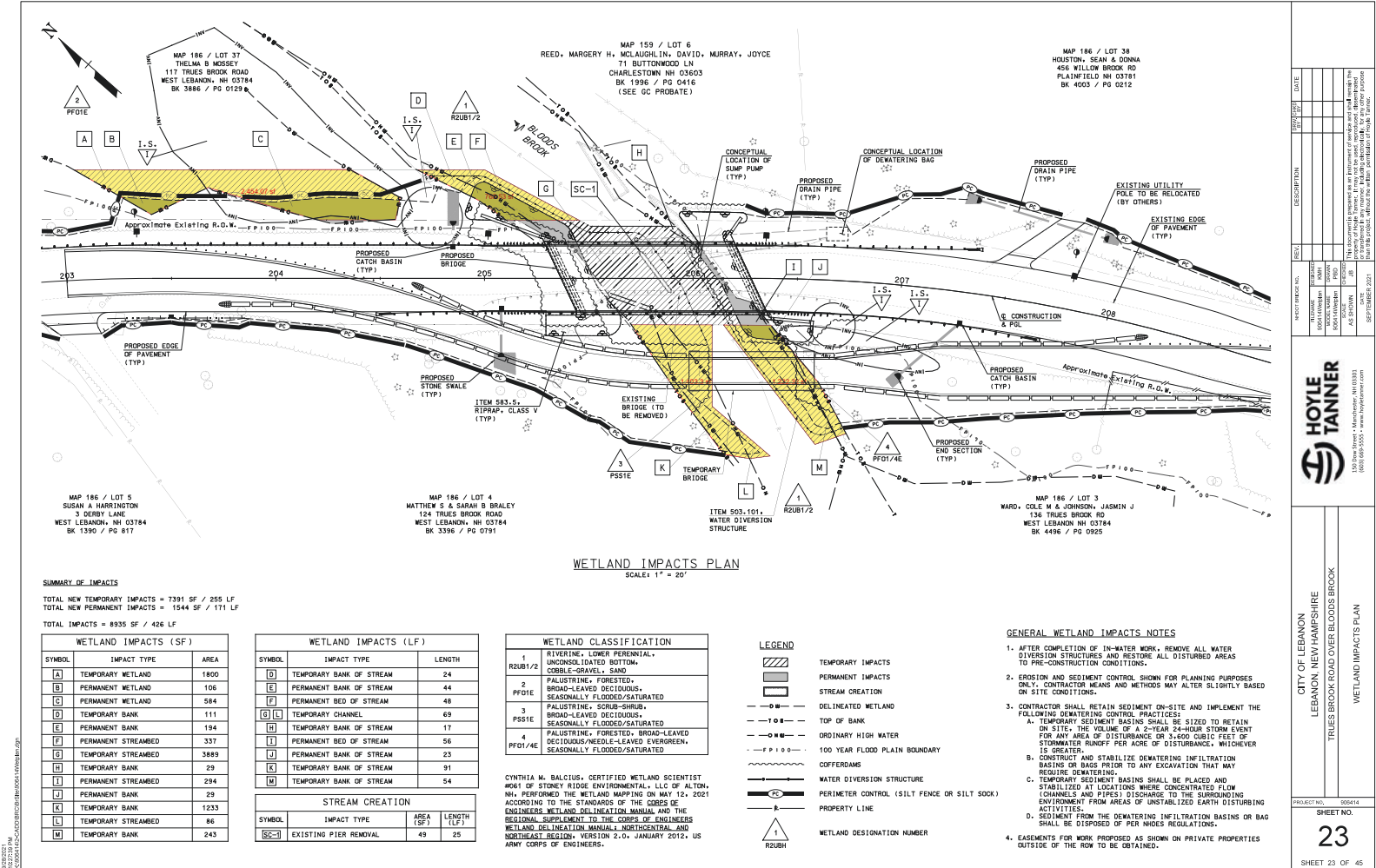
Action

The Council is requested to consider the following motion:

MOVED that in accordance with Section 214 of the Lebanon Zoning Ordinance, the City Council hereby exempts the Trues Brook Road Bridge project from all zoning requirements; however, in accordance with NH RSA 674:54, the Department of Public Works is directed to prepare all necessary documentation to notify the Planning Board of the planned Bridge project prior to the commencement of construction.

Included In This Section:

1. Plan entitled "Trues Brook Road Over Bloods Brook, Wetland Impacts Plan" (Sheet 23 of 45), prepared by Hoyle Tanner, dated September 2021, Project No. 906414



**Agenda
Lebanon City Council
February 7, 2024**

10. New Business:

**10.E – Request for Exemption of Zoning Requirements per Section 214 of the
Zoning Ordinance for City of Lebanon to Construct Public Infrastructure
Improvements for the Lahaye Drive/Mt. Support Road Intersection Project**

Background

Between 2019 and 2024, several large residential development projects were proposed and approved in the Mt. Support Road corridor, including: 401 Mt. Support Road sponsored by Trustees of Dartmouth College (309 residential units), 343 Mt. Support Road, the Marek (250 residential units), and 402 Mt. Support Road, the Marek 2 (204 residential units). In addition, Dartmouth Health constructed a new, 5-story patient tower containing 128 additional hospital beds. These projects, and the associated traffic generated by them, have rendered the Lahaye Drive/Mt. Support Road Intersection (Intersection) into a poorly functioning and inefficient intersection. This problem is exacerbated as vehicle capacity needs are projected over the next 10 to 20 years.

The Department of Public Works has an ongoing project to address this poor level of service problem. In addition to intersection improvements, the project proposes improvements to pedestrian and bike movement and accessibility with the addition of 1,200+ linear feet of a multi-use path along Mt. Support Road, north of the intersection. The Intersection Improvements project was authorized by the City Council as part of the CIP process. The costs associated with the Intersection project are covered using a Special Assessment District comprised of the aforementioned developments including the DH patient tower expansion.

At the current time, the Intersection Improvements project is in the final design phase. Permits were sought from the New Hampshire Department of Environmental Services (NHDES) to include an Alteration of Terrain (AOT) Permit and a Wetland Dredge and Fill (Wetland) Permit. The AOT permit was received on December 7, 2023 and the Wetland Permit was received on December 29, 2023. The Intersection Improvements project impacts adjacent properties owned by the Trustees of Dartmouth College and Dartmouth Health. The City is seeking easements for these impacts, and preliminary discussions have been very positive as both entities strongly support this project.

In accordance with RSA 674:54, the Intersection Improvements project was presented to the Lebanon Planning Board in 2022 and 2023 as part of the CIP process, and the Planning Board expressed no objection to proceeding as planned.

The project is scheduled to go to bid in the Summer of 2024 and begin construction later in 2024 contingent upon utility pole relocation and finalization of the easement process.

Section 214 of the Zoning Ordinance regulates Governmental Uses as follows: “Governmental Uses shall be governed by RSA 674:54; provided, however, that governmental uses proposed by the City of Lebanon shall be considered to be subject to this Ordinance, unless expressly exempted from it by vote of the City Council.” The Intersection Improvements project is a public infrastructure and safety improvements project. The project is a capital improvements project that

does not seek any kind of revenue or profit generation. The project is not a “land use” project such as the development of a building lot. Rather, it constitutes an expansion of existing infrastructure in response to public need. With that, Public Works requests an exemption from the requirements of Section 214 for this project.

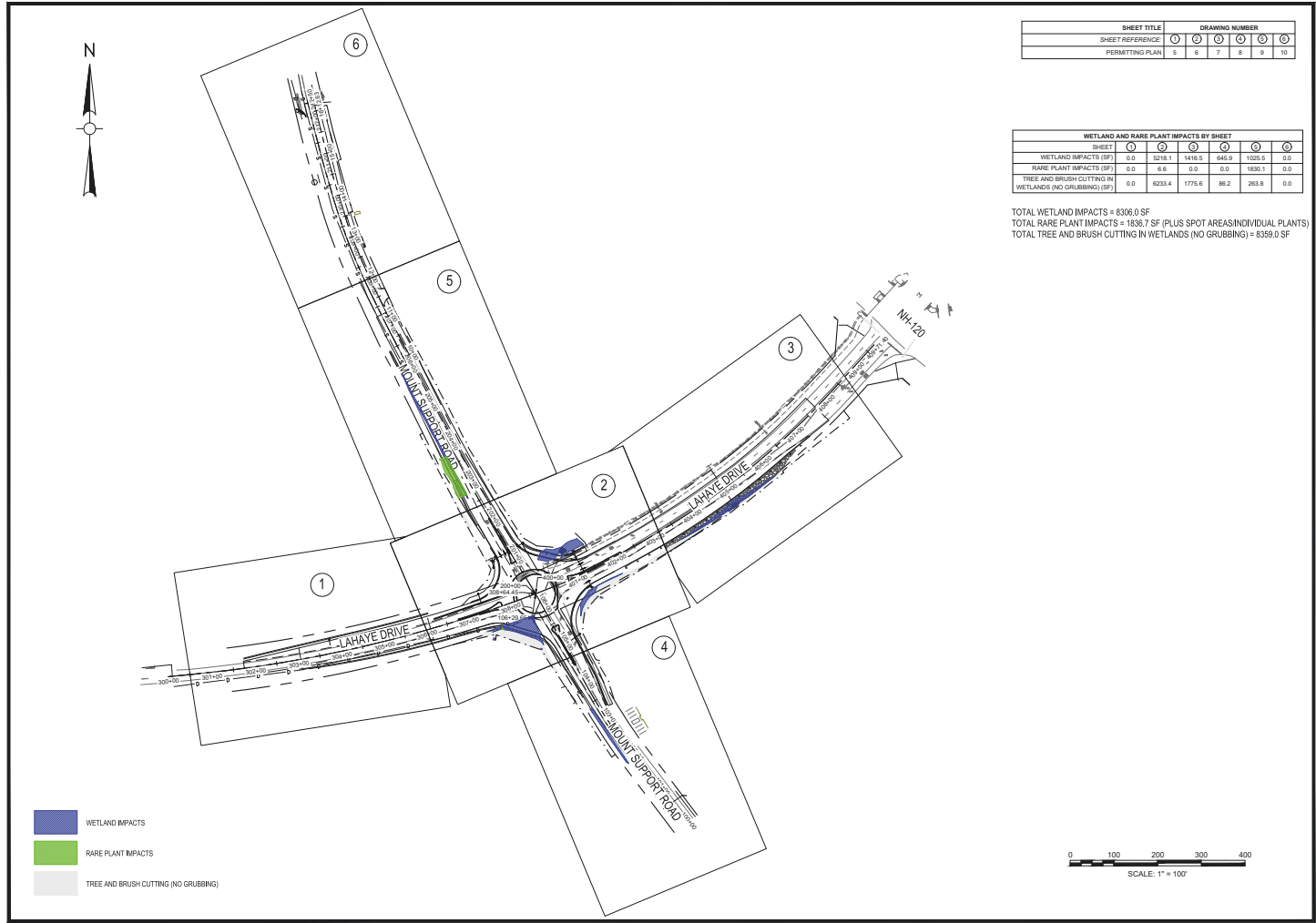
Action

The Council is requested to consider the following motion:

MOVED that in accordance with Section 214 of the Lebanon Zoning Ordinance, the City Council hereby exempts the Lahaye Drive/Mt. Support Road Intersection Improvements project from all zoning requirements.

Included In This Section:

1. Plan entitled “Lahaye Drive At Mount Support Road Intersection Improvements, Key Plan” (Sheet 2), prepared by Weston & Sampson, dated September 2023, Project No. ENG21-1276.
2. NHDES Permit: AOT-2496, dated December 6, 2023.
3. NHDES Wetlands and Non-Site Specific Permit 2023-02602, dated December 28, 2023.
4. Approved Standard Dredge and Fill Wetlands Permit Application (RSA 482-A), NHDES File Number: 2023-02602, dated December 29, 2023.



SHEET TITLE	DRAWING NUMBER									
SHEET REFERENCE	1	2	3	4	5	6	7	8	9	10
PERMITTING PLAN	5	6	7	8	9	10				

WETLAND AND RARE PLANT IMPACTS BY SHEET						
SHEET	1	2	3	4	5	6
WETLAND IMPACTS (SF)	0.0	5218.1	1418.5	645.9	1025.5	0.0
RARE PLANT IMPACTS (SF)	0.0	6.6	0.0	0.0	1830.1	0.0
TREE AND BRUSH CUTTING IN WETLANDS (NO GRUBBING) (SF)	0.0	6233.4	1775.6	86.2	263.8	0.0

TOTAL WETLAND IMPACTS = 8388.0 SF
 TOTAL RARE PLANT IMPACTS = 1836.7 SF (PLUS SPOT AREAS/INDIVIDUAL PLANTS)
 TOTAL TREE AND BRUSH CUTTING IN WETLANDS (NO GRUBBING) = 8358.0 SF

Project

LAHAYE DRIVE AT MOUNT SUPPORT ROAD INTERSECTION IMPROVEMENTS

Western & Sampson

Western & Sampson Engineers, Inc.
 130 Dow Street, Tower 4, Suite 200
 Manchester, NH 03101
 603.252.2000
 www.westernandsampson.com

Revision

No.	Date	Description

Scale: AS SHOWN

Date: September 2023

Drawn By: OGA

Reviewed By: CMS

Approved By: JMS

W&S Project No.: ENG23-1278

W&S File No.:

Sheet Number: 2

KEY PLAN

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The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner



December 6, 2023

City of Lebanon
Department of Public Works
Attn: Brian Vincent, P.E.
193 Dartmouth College Highway
Lebanon, New Hampshire 03766
(via email to: brian.vincent@lebanonnh.gov)

Re: Lahaye Drive at Mt Support Road Intersection Improvements
Lebanon, NH

Permit: AoT-2496

Dear Applicant:

Based upon the plans and application, approved on December 6, 2023, we are hereby issuing RSA 485-A:17 Alteration of Terrain Permit AoT-2496. The permit is subject to the following conditions:

PROJECT SPECIFIC CONDITIONS:

1. Plans by Weston & Sampson Engineers, Inc., entitled "Lahaye Drive at Mount Support Road Intersection Improvements – AoT Permitting Plans", dated October 2023, and supporting documentation in the permit file are a part of this approval.
2. **This permit expires on December 6, 2028.** No earth moving activities shall occur on the project after this expiration date unless the permit has been extended by the Department. If an extension is required, the request must be received by the department before the permit expires. The Amendment Request form is available at: <https://www.des.nh.gov/land/land-development>

GENERAL CONDITIONS:

1. Activities shall not cause or contribute to any violations of the surface water quality standards established in Administrative Rule Env-Wq 1700.
2. You must submit revised plans for permit amendment prior to any changes in construction details or sequences. You must notify the Department in writing within ten days of a change in ownership.
3. You must notify the Department in writing prior to the start of construction and upon completion of construction. Forms can be submitted electronically at: <https://www.des.nh.gov/land/land-development>. Paper forms are available at the referenced web address.
4. **Upon completion of construction, a written notice signed by the permit holder and a qualified engineer shall be submitted to the Department, in accordance with Env-Wq 1503.21(c)(1), stating that the project was completed in accordance with the approved plans and specifications.** If deviations were made, the permit holder shall review the requirements in Env-Wq 1503.21(c)(2).
5. **All stormwater practices shall be inspected and maintained in accordance with Env-Wq 1507.07 and the project Operation and Maintenance (O&M) Plan.** All record keeping required by the O&M Plan shall be maintained by the identified responsible party and be made available to the department upon request.
6. This permit does not relieve the applicant from the obligation to obtain other local, state or federal permits that may be required (e.g., from US EPA, US Army Corps of Engineers, etc.). Projects disturbing over 1 acre may

require a federal stormwater permit from EPA. Information regarding this permitting process can be obtained at:
<https://www.epa.gov/npdes/2022-construction-general-permit-cgp>

7. If applicable, no activity shall occur in wetland areas until a Wetlands Permit is obtained from the Department. Issuance of this permit does not obligate the Department to approve a Wetlands Permit for this project.

8. This project has been screened for potential impact to known occurrences of protected species and exemplary natural communities in the immediate area. Since many areas have never been surveyed, or only cursory surveys have been performed, unidentified sensitive species or communities may be present. This permit does not absolve the permittee from due diligence in regard to state, local or federal laws regarding such communities or species. This permit does not authorize in any way the take of threatened or endangered species, as defined by RSA 212-A:2, or of any protected species or exemplary natural communities, as defined in RSA 217-A:3.

Sincerely,



Ridgely Mauck, P.E.
Alteration of Terrain Bureau

cc: Lebanon Planning Board

ec: GM2 Associates, Inc.
Weston & Sampson Engineers, Inc.



The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner



WETLANDS AND NON-SITE SPECIFIC PERMIT 2023-02602

NOTE CONDITIONS

PERMITTEE: CITY OF LEBANON DPW
C/O BRIAN A VINCENT PE
193 DARTMOUTH COLLEGE HWY
LEBANON NH 03766

PROJECT LOCATION: MT SUPPORT ROAD/LAHAYE DRIVE INTERSECTION, LEBANON
TAX MAP #ROW, LOT #ROW

WATERBODY:

APPROVAL DATE: DECEMBER 28, 2023

EXPIRATION DATE: DECEMBER 28, 2028

Based upon review of permit application 2023-02602 in accordance with RSA 482-A and RSA 485-A:17, the New Hampshire Department of Environmental Services (NHDES) hereby issues this Wetlands and Non-Site Specific Permit. To validate this Permit, signatures of the Permittee and the Principal Contractor are required.

PERMIT DESCRIPTION:

Dredge and fill 6,634 square feet (SF) of Palustrine Forested wetland and 1,672 SF of Palustrine Emergent wetlands to construct a roundabout, drainage infrastructure improvements and reconstruction/extension of pedestrian/bike path along Mt Support Road. In addition, permanently convert 8,359 SF of forested wetlands to emergent wetlands to relocate overhead utilities.

Compensatory mitigation consists of a one-time payment of \$53,764.71 into the Aquatic Resource Mitigation (ARM) Fund within the Lower Connecticut River Watershed account.

THIS PERMIT IS SUBJECT TO THE FOLLOWING PROJECT-SPECIFIC CONDITIONS:

1. This permit shall not be effective until NHDES confirms the receipt and clearance of a one-time in lieu fee payment of \$53,764.71, as calculated in accordance with Env-Wt 803.07 and RSA 482-A, to the NHDES Aquatic Resource Mitigation (ARM) Fund. The applicant shall remit payment in the form of a check payable to "Treasurer- State of NH" and mailed to NHDES Wetlands Bureau, 29 Hazen Drive, PO Box 95, Concord, NH 03302-0095. No work is authorized for RSA 482-A jurisdiction under this permit until receipt and clearance of the ARM fund payment specified by this condition.
2. In accordance with Env-Wt 307.16, all work shall be done in accordance with the plans by GM2 Associates, Inc. in September 2023 as received by the NH Department of Environmental Services (NHDES) on September 22, 2023.
3. In accordance with Env-Wt 524.05(a), residential, commercial, or industrial development projects in non-tidal wetlands shall submit a construction notice with the department at least 48 hours prior to commencing work.
4. In accordance with Env-Wt 307.03(c)(3), water quality control measures shall be installed prior to start of work and in accordance with the manufacturer's recommended specifications or, if none, the applicable requirements of Env-Wq 1506 or Env-Wq 1508.
5. In accordance with Env-Wt 307.11(a), fill shall be clean sand, gravel, rock, or other material that meets the project's specifications for its use; and does not contain any material that could contaminate surface or groundwater or otherwise adversely affect the ecosystem in which it is used.

www.des.nh.gov

29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095

NHDES Main Line: (603) 271-3503 • Subsurface Fax: (603) 271-6683 • Wetlands Fax: (603) 271-6588

TDD Access: Relay NH 1 (800) 735-2964

6. In accordance with Env-Wt 307.03(g)(1), the person in charge of construction equipment shall inspect such equipment for leaking fuel, oil, and hydraulic fluid each day prior to entering surface waters or wetlands or operating in an area where such fluids could reach groundwater, surface waters, or wetlands.
7. In accordance with Env-Wt 307.03(g)(2), the person in charge of construction equipment shall repair any leaks prior to using the equipment in an area where such fluids could reach groundwater, surface waters, or wetlands
8. In accordance with Env-Wt 307.03(h), equipment shall be staged and refueled outside of jurisdictional areas (unless allowed) and in accordance with Env-Wt 307.15.
9. In accordance with Env-Wt 307.12(b), upon completion of construction, all disturbed wetland areas shall be stabilized with wetland seed mix containing non-invasive plant species only.
10. In accordance with Env-Wt 307.12(c), any seed mix used shall not contain plant species that are exotic aquatic weeds.
11. In accordance with Env-Wt 307.03(d), any sediment collected by water quality control measures shall be removed with sufficient frequency to prevent the discharge of sediment; and placed in an upland location in a manner that prevents its erosion into a surface water or wetland.
12. Per Env-Wt 307.05, prior to the installation of swamp mats, the mats and any heavy machinery used to install them shall be inspected for and cleaned of all vegetative matter by a method and in a location that prevents the spread of the vegetative matter to jurisdictional areas.
13. In accordance with Env-Wt 307.11(k) and Env-Wt 307.15(e)(2) and (3), swamp mats shall be properly installed (not dragged into position) and removed so as to minimize impacts to wetland areas and be installed with adequate erosion and sediment controls at approaches to the mats to promote a smooth transition to, and minimize sediment tracking onto, the mats.
14. In accordance with Env-Wt 307.15(e)(1), swamp mats shall be placed in the wetland from the upland or from equipment positioned on swamp mats if working within a wetland.
15. In accordance with Env-Wt 307.15(a), heavy equipment shall not be operated in any jurisdictional area unless specifically authorized by this permit.
16. In accordance with Env-Wt 307.12(a), within 3 days of final grading or temporary suspension of work in an area that is in or adjacent to surface waters, all exposed soil areas shall be stabilized by seeding and mulching, if during the growing season; or mulching with tackifiers on slopes less than 3:1 or netting and pinning on slopes steeper than 3:1 if not within the growing season.
17. In accordance with Env-Wt 307.03(g)(3) and (4), the person in charge of construction equipment shall maintain oil spill kits and diesel fuel spill kits, as applicable to the type(s) and amount(s) of oil and diesel fuel used, on site so as to be readily accessible at all times during construction; and train each equipment operator in the use of the spill kits.

MONITORING

18. In accordance with Env-Wt 514.05(h), within 60 days of completion of construction, the applicant shall submit a post-construction report that has been prepared by a professional engineer, certified wetland scientist, or qualified professional which describes the monitoring conducted and date(s) of inspections, and includes photos showing the extent of jurisdictional impacts, areas of restoration, and progress of any plantings in accordance with Env-Wt 307.18(c).

THIS PERMIT IS SUBJECT TO THE FOLLOWING GENERAL CONDITIONS:

1. Pursuant to RSA 482-A:12, a copy of this permit shall be posted in a secure manner in a prominent place at the site of the approved project.
2. In accordance with Env-Wt 313.01(a)(5), and as required by RSA 482-A:11, II, work shall not infringe on the property rights or unreasonably affect the value or enjoyment of property of abutting owners.
3. In accordance with Env-Wt 314.01, a standard permit shall be signed by the permittee, and the principal contractor who will build or install the project prior to start of construction, and will not be valid until signed.
4. In accordance with Env-Wt 314.03(a), the permittee shall notify the department in writing at least one week prior to commencing any work under this permit.
5. In accordance with Env-Wt 314.08(a), the permittee shall file a completed notice of completion of work and certificate of compliance with the department within 10 working days of completing the work authorized by this permit.

6. In accordance with Env-Wt 314.06, transfer of this permit to a new owner shall require notification to, and approval of, the NHDES.
7. The permit holder shall ensure that work is done in a way that protects water quality per Env-Wt 307.03; protects fisheries and breeding areas per Env-Wt 307.04; protects against invasive species per Env-Wt 307.05; meets dredging activity conditions in Env-Wt 307.10; and meets filling activity conditions in Env-Wt 307.11.
8. This project has been screened for potential impact to known occurrences of protected species and exemplary natural communities in the immediate area. Since many areas have never been surveyed, or only cursory surveys have been performed, unidentified sensitive species or communities may be present. This permit does not absolve the permittee from due diligence in regard to state, local or federal laws regarding such communities or species. This permit does not authorize in any way the take of threatened or endangered species, as defined by RSA 212-A:2, or of any protected species or exemplary natural communities, as defined in RSA 217-A:3.
9. In accordance with Env-Wt 307.06(a) through (c), no activity shall jeopardize the continued existence of a threatened or endangered species, a species proposed for listing as threatened or endangered, or a designated or proposed critical habitat under the Federal Endangered Species Act, 16 U.S.C. §1531 et seq.; State Endangered Species Conservation Act, RSA 212-A; or New Hampshire Native Plant Protection Act, RSA 217-A.
10. In accordance with Env-Wt 307.02, and in accordance with federal requirements, all work in areas under the jurisdiction of the U.S. Army Corps of Engineers (USACE) shall comply with all conditions of the applicable state general permit.

APPROVED:



Mary Ann Tilton
Assistant Bureau Administrator, Wetlands Bureau
Land Resources Management, Water Division

THE SIGNATURES BELOW ARE REQUIRED TO VALIDATE THIS PERMIT (Env-Wt 314.01).

PERMITTEE SIGNATURE (required)

PRINCIPAL CONTRACTOR SIGNATURE (required)



The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner



December 29, 2023

CITY OF LEBANON DPW
C/O BRIAN A VINCENT PE
193 DARTMOUTH COLLEGE HWY
LEBANON NH 03766

Re: Approved Standard Dredge and Fill Wetlands Permit Application (RSA 482-A)
NHDES File Number: 2023-02602
Subject property: Mt Support Road/Lahaye Drive Intersection, Lebanon, Tax Map #ROW, Lot #ROW

Dear Applicant:

On December 29, 2023, the New Hampshire Department of Environmental Services (NHDES) Wetlands Bureau approved the above-referenced Standard Dredge and Fill Wetlands Permit Application. Enclosed please find Wetlands Permit # 2023-02602 to Dredge and fill 6,634 square feet (SF) of Palustrine Forested wetland and 1,672 SF of Palustrine Emergent wetlands to construct a roundabout, drainage infrastructure improvements and reconstruction/extension of pedestrian/bike path along Mt Support Road. In addition, permanently convert 8,359 SF of forested wetlands to emergent wetlands to relocate overhead utilities.

Compensatory mitigation consists of a one-time payment of \$53,764.71 into the Aquatic Resource Mitigation (ARM) Fund within the Lower Connecticut River Watershed account.

This approval is based on the following findings:

1. This is classified as a major impact project per Rule Env-Wt 524.06(d)(1) and Env-Wt 524.06(d)(2) , as the commercial development project that proposes impacts to a PRA and it exceeds the minor impact criteria.
2. Per Rule Env-Wt 311.01(b), the applicant coordinated with the Natural Heritage Bureau (NHB) to determine how to avoid and minimize project-related impacts on protected plants or exemplary natural communities.
3. Per Rule Env-Wt 311.06(h), the Lebanon Conservation Commission provided comments on the proposed project on Thursday, October 26, 2023.
4. Per Rule Env-Wt 313.04(a), compensatory mitigation is required for permanent impacts to PRAs. Compensatory mitigation consists of a one-time payment of \$53,764.71 into the Aquatic Resource Mitigation (ARM) Fund within the Lower Connecticut River Watershed account.

This NHDES approval is contingent on receipt and clearance of a one-time in-lieu mitigation payment of \$53,764.71 to the ARM Fund as compensatory mitigation for the NHDES Wetlands Permit pursuant to RSA 482-A:28 through A:31 and Env-Wt Chapter 800. This payment amount has been verified by the USACE to include the cost of purchasing 0.209 Wetland credits from the ARM Fund as federal mitigation pursuant to the New England District Compensatory Mitigation Standard Operating Procedures (12/29/2020). USACE and its regulatory partners, including the U.S. Environmental Protection Agency, will review your project and confirm the final credit amount to be purchased to satisfy federal obligations.

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29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095
NHDES Main Line: (603) 271-3503 • Subsurface Fax: (603) 271-6683 • Wetlands Fax: (603) 271-6588
TDD Access: Relay NH 1 (800) 735-2964

NHDES recommends delaying the ILF payment until after the NHDES appeal period and following written authorization from USACE. For questions regarding federal mitigation requirements, please contact USACE at (978) 318-8832, (978) 318-8295, or by email at cenae-r-nh@usace.army.mil.

Payment Instructions: Mitigation payments must be payable to "Treasurer - State of NH" and must reference "ARM Fund", NHDES File Number (2023-02602) and USACE File Number NAE-2023-02559. Payments can be mailed to NHDES Wetlands Bureau, 29 Hazen Drive, PO Box 95, Concord, NH 03302-0095. The ARM Fund will post a payment receipt letter, available to the permittee via Onestop, indicating the processed payment amount, the impacts authorized through the payment, and the number of federal credits purchased by the payment, as applicable.

In accordance with RSA 482-A:10, RSA 21-O:14, and Rules Env-WtC 100-200, **any person aggrieved by this decision may file a Notice of Appeal directly with the NH Wetlands Council (Council) within 30 days of the decision date, December 29, 2023.** Every ground claiming the decision is unlawful or unreasonable must be fully set forth in the Notice of Appeal. Only the grounds set forth in the Notice of Appeal are considered by the Council. Information about the Council, including Council Rules, is available at <https://nhec.nh.gov/wetlands/index.htm>. For appeal related issues, contact the Council Appeals Clerk at (603) 271-6072.

If you have any questions, please contact me or Emmanuel.UWIZEYE@des.nh.gov or (603)271-4197.

Sincerely,



Mary Ann Tilton
Assistant Bureau Administrator, Wetlands Bureau
Land Resources Management, Water Division

Enclosure

cc: City of Lebanon
GM2 Associates Inc./Jennifer M. Riordan
Lebanon Conservation Commission

**Agenda
Lebanon City Council
February 7, 2024**

10. New Business:

**10.F – Request for Exemption of Zoning Requirements per Section 214 of the
Zoning Ordinance for City of Lebanon to Construct Public Infrastructure
Improvements for the Lahaye Drive Multi-Use Path (MUP)/Transportation
Alternatives Program (TAP) Project**

Background

In 2016, the City sought and received grant funding under the Transportation Alternatives Program (TAP) through the NH Department of Transportation. The goal of the federally-funded TAP program is to provide choices for non-motorized users that are safe, reliable, and convenient. At the time of the original TAP application, the City was aware of a gap in connectivity along Lahaye Drive between Mt. Support Road and the Centerra and Altaria Business Parks on the east side of NH Route 120.

Subsequently, between 2019 and 2024, several large residential development projects were proposed and approved in the Mt. Support Road corridor, including: 401 Mt. Support Road sponsored by Trustees of Dartmouth College (309 residential units), 343 Mt. Support Road, the Marek (250 residential units), and 402 Mt. Support Road, the Marek 2 (204 residential units). In addition, Dartmouth Health constructed a new, 5-story patient tower containing 128 additional hospital beds. These newer projects, and the overall need for expanded pedestrian and bike facilities and improved connectivity, have only increased the importance of the Lahaye Drive TAP project.

The TAP project consists of a multi-use path (MUP) along the north edge of Lahaye Drive, extending from the Route 120/Centerra Intersection to the intersection with Mt. Support Road. The current road shoulder in this area is very narrow with guardrail extending along its length, which is somewhat unsafe pedestrians. The Lahaye Drive MUP project was authorized by the City Council as part of the CIP process. The costs associated with the MUP project are shared by the NHDOT LPA Program, city funds, donations from Dartmouth College and Dartmouth Health, and other local resources.

At the current time, the Lahaye Drive MUP project has been bid and Public Works is in the process of evaluating the bids. Permits were sought and obtained from NHDES for a Wetland Dredge and Fill (Wetland) Permit. The MUP project impacts adjacent properties owned by the Trustees of Dartmouth College. The City has received permanent and temporary easements for these impacts, with permanent easements recorded at the Grafton County Registry of Deeds.

In accordance with RSA 674:54, the Lahaye Drive MUP project was presented to the Lebanon Planning Board in 2022 and 2023 as part of the CIP process, and the Planning Board expressed no objection to proceeding as planned.

The project schedule is to select a contractor in February 2024 and begin construction shortly thereafter, as the NHDES Wetlands Permit requires certain work to be completed during winter months to avoid impacting sensitive plants.

Section 214 of the Zoning Ordinance regulates Governmental Uses as follows: "Governmental Uses shall be governed by RSA 674:54; provided, however, that governmental uses proposed by the City of Lebanon shall be considered to be subject to this Ordinance, unless expressly exempted from it by vote of the City Council." The Lahaye Drive MUP project is a public infrastructure and safety improvements project. The project is a capital improvements project that does not seek any kind of revenue or profit generation. The project is not a "land use" project such as the development of a building lot. Rather, it constitutes an expansion of existing infrastructure in response to public need. With that, Public Works requests an exemption from the requirements of Section 214 for this project.

Action

The Council is requested to consider the following motion:

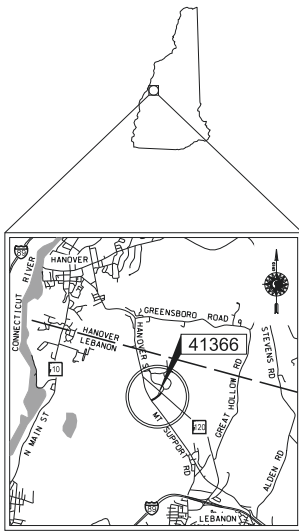
MOVED that in accordance with Section 214 of the Lebanon Zoning Ordinance, the City Council hereby exempts the Lahaye Drive Multi-Use Path/TAP project from all zoning requirements.

Included In This Section:

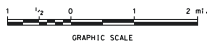
1. Plans entitled "Construction Plans, Transportation Alternatives Program (TAP), Lahaye Drive Multi-Use Path, FHWA Project No. X-A004(617), NHDOT Project No. 41366", prepared by Dubois & King, dated November 2, 2023, D&K Project No. 624260.
2. Approved Standard Dredge and Fill Wetlands Permit Application – Required Payment to Aquatic Resource Mitigation Fund (RSA 482-A), NHDES File Number: 2021-02369, dated January 10, 2022.

CONSTRUCTION PLANS TRANSPORTATION ALTERNATIVES PROGRAM (TAP)

LAHAYE DRIVE MULTI-USE PATH
FHWA PROJECT NO. X-A004(617)
NHDOT PROJECT NO. 41366



LOCATION MAP



DuBois & King
ENGINEERING • PLANNING •
MANAGEMENT • DEVELOPMENT
6 GREEN TREE DRIVE
S. BURLINGTON, VT 05403
TEL: (802) 876-7161
FAX: (802) 876-7161
www.dubois-king.com
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CITY OF LEBANON
COUNTY OF GRAFTON
SCALE: 1" = 100'



11/2/2023

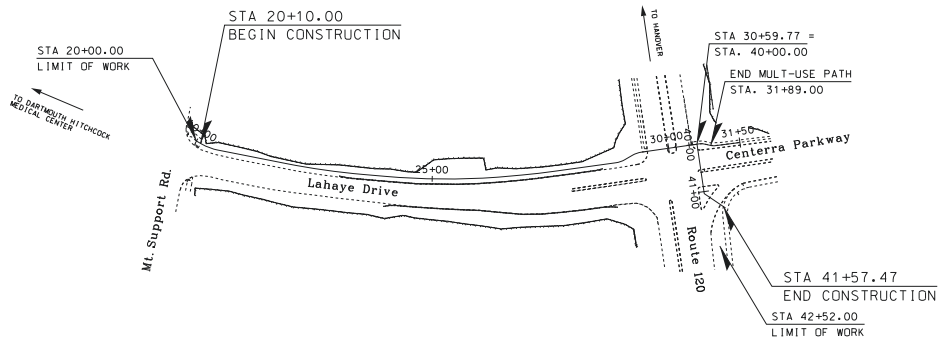
CONTRACT PLANS

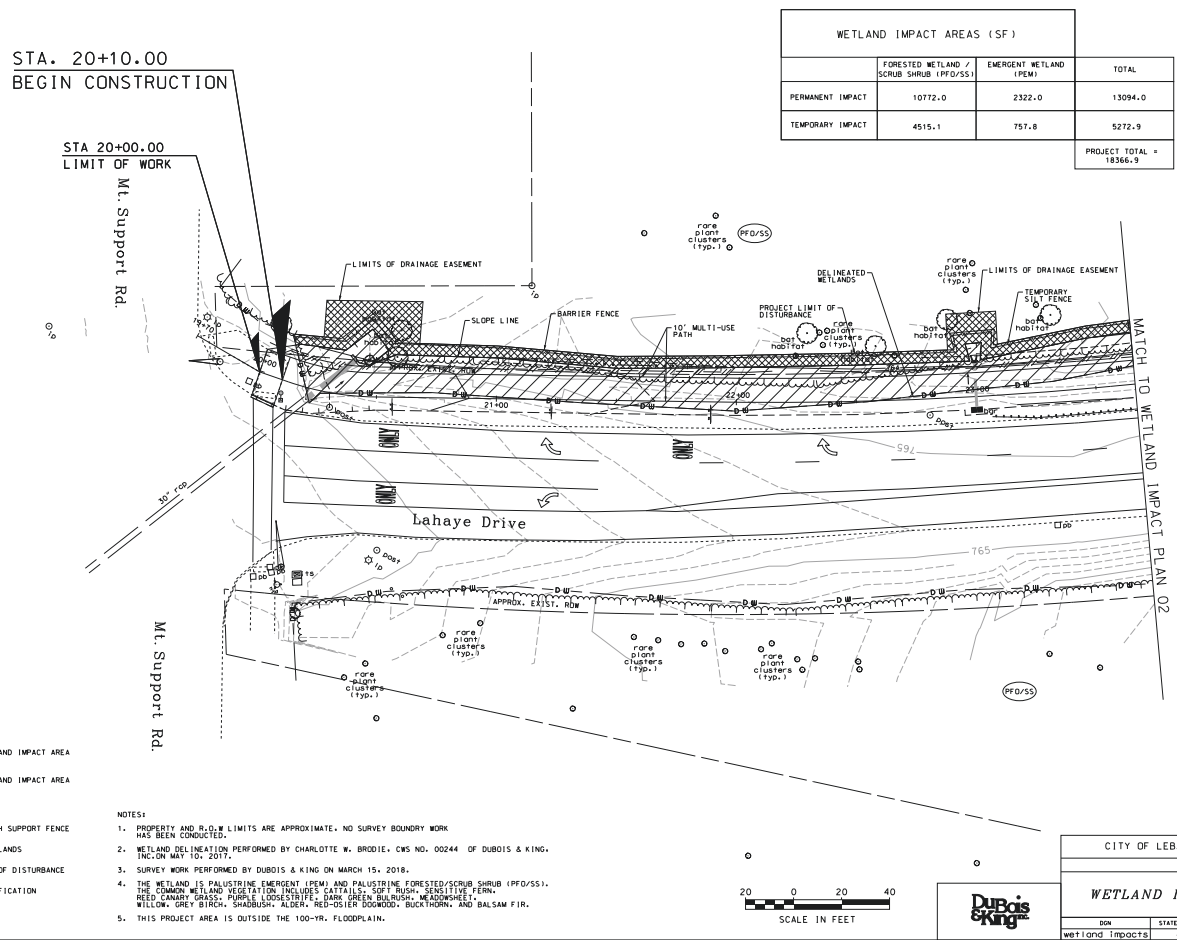
DATE 11/2/2023

NOT FOR CONSTRUCTION

CITY OF LEBANON, NEW HAMPSHIRE

DUBOIS & KING PROJECT NO.	STATE PROJECT NO.	SHEET NO.	TOTAL SHEETS
624260	41366	1	68



[illegible]

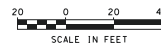
WETLAND IMPACT AREAS (SF)			
	FORESTED WETLAND / SCRUB SHRUB (PFD/S5)	EMERGENT WETLAND (PEM)	TOTAL
PERMANENT IMPACT	10772.0	2322.0	13094.0
TEMPORARY IMPACT	4515.1	757.8	5272.9
			PROJECT TOTAL = 18366.9



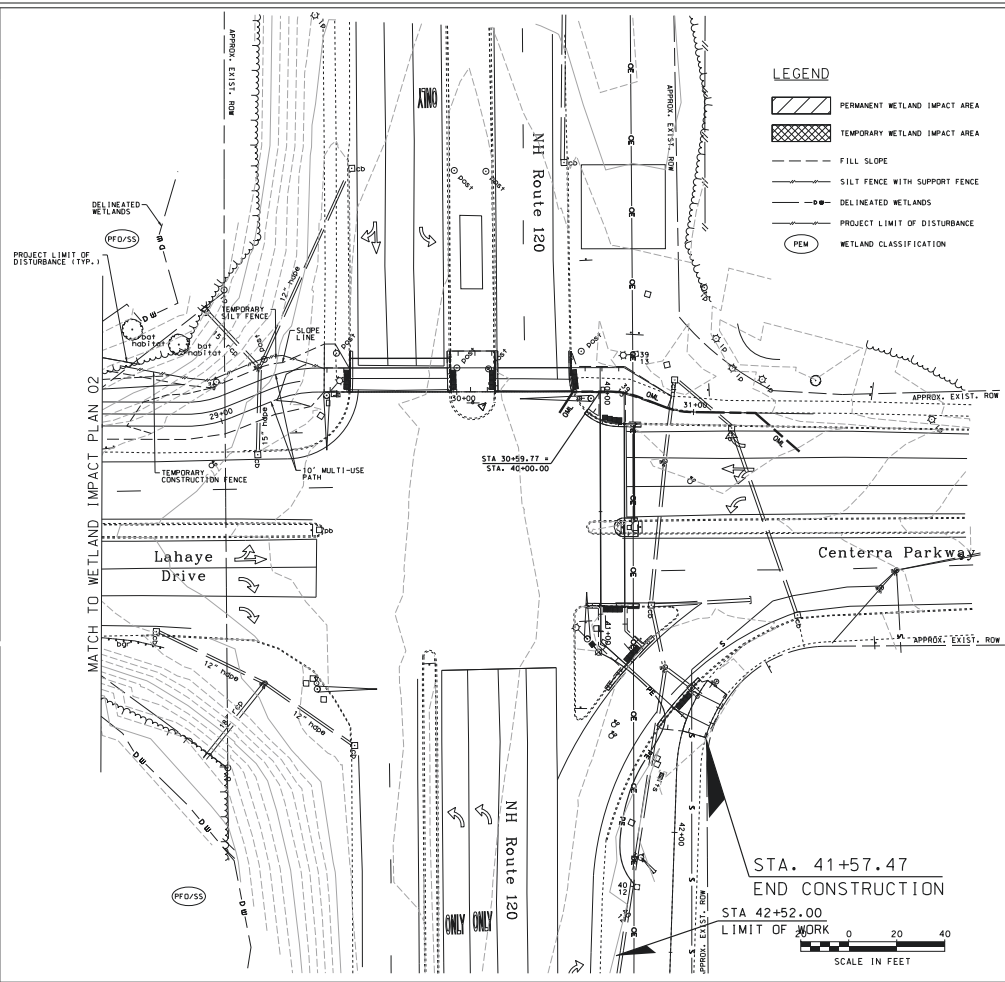
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 PERMANENT WETLAND IMPACT AREA
 TEMPORARY WETLAND IMPACT AREA
 FILL SLOPE
 SILT FENCE WITH SUPPORT FENCE
 DELINEATED WETLANDS
 PROJECT LIMIT OF DISTURBANCE
 WETLAND CLASSIFICATION LIMITS
 WETLAND CLASSIFICATION

- NOTES:
1. PROPERTY AND R.O.W LIMITS ARE APPROXIMATE. NO SURVEY BOUNDARY WORK HAS BEEN CONDUCTED.
 2. WETLAND INEATING PERFORMED BY CHARLOTTE W. BRODIE, CWS NO. 00244 OF DUBOIS & KING, INC. ON MAY 10, 2017.
 3. SURVEY WORK PERFORMED BY DUBOIS & KING ON MARCH 15, 2018.
- THE WETLAND IS PALUSTRINE EMERGENT (PEM) AND PALUSTRINE FLOODED/SCUDR SHRUB (PPF/S).
LOW GROUND GRASS, RED CANADIAN BLUEGRASS, SMOOTH SPARGANNA, SENSITIVE SWAMP
RED CANADIAN GRASS, PURPLE LOOSESTIFE, DARK GREEN BLUEGRASS, MADWHEATSE,
YELLOW GREY BURCH, SHAGBARK, ALDER, REDLER DOGWOOD, BLACKTHORN, AND BALSAM FIR.
- THIS PROJECT AREA IS OUTSIDE THE 100-YR. FLOODPLAIN.



CITY OF LEBANON, NEW HAMPSHIRE			
WETLAND IMPACTS PLAN 02			
DGN	STATE PROJECT NO.	SHEET NO.	TOTAL SHEETS
wetland impacts	41366	63	68

[illegible]

WETLAND IMPACT AREAS (SF)			
	FORESTED WETLAND / SHRUB SHRUB (PFG/S5)	EMERGENT WETLAND (PEM)	TOTAL
PERMANENT IMPACT	10772.0	2322.0	13094.0
TEMPORARY IMPACT	4515.1	757.8	5272.9
			PROJECT TOTAL = 18366.9

- NOTES:
1. PROPERTY AND R.O.W. LIMITS ARE APPROXIMATE. NO SURVEY BOUNDARY WORK HAS BEEN CONDUCTED.
 2. MET/LAND DELINEATION PERFORMED BY CHARLOTTE W. BRODIE, CWS, NO. 00244 OF DUBOIS & KING, INC. ON MAY 10, 2017.
 3. SURVEY WORK PERFORMED BY DUBOIS & KING ON MARCH 15, 2018.
 4. THE MET/LAND IS PAULISTINE EMERGENT.
 5. THE COMMON WETLAND VEGETATION INCLUDES CATTAILS, SOFT RUSSIA, SENSITIVE FERN, BLUE GRASS, BUCKLEBUSH, RED DOGWOOD, RED BUD, BLACK WALNUT, MADONNA LILY, WILLOW, GREY BIRCH, SHADBLOW, ALDER, RED-ROOT DOGWOOD, BUCKTHORN, AND BALSAM FIR.
 6. THIS PROJECT AREA IS OUTSIDE THE 100-YR FLOODPLAIN.

	CITY OF LEBANON, NEW HAMPSHIRE										
	WETLAND IMPACTS PLAN 03										
	<table border="1"> <thead> <tr> <th>DO#</th> <th>STATE PROJECT NO.</th> <th>SHEET NO.</th> <th>TOTAL SHEETS</th> </tr> </thead> <tbody> <tr> <td>wetland impacts</td> <td>41366</td> <td>64</td> <td>68</td> </tr> </tbody> </table>	DO#	STATE PROJECT NO.	SHEET NO.	TOTAL SHEETS	wetland impacts	41366	64	68		
DO#	STATE PROJECT NO.	SHEET NO.	TOTAL SHEETS								
wetland impacts	41366	64	68								



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

January 10, 2022

CITY OF LEBANON
ATTN REBECCA OWENS-PLANNING & DEVELOPMENT
51 N PARK ST
LEBANON NH 03766

Re: Approved Standard Dredge and Fill Wetlands Permit Application – Required Payment to Aquatic Resource Mitigation Fund (RSA 482-A)
NHDES File Number: 2021-02369
Subject Property: Lahaye Drive, Lebanon, Tax Map #10, Lot #ROW and #24-200

Dear Applicant:

On January 7, 2022, the New Hampshire Department of Environmental Services (NHDES) Wetlands Bureau approved the above-referenced Standard Dredge and Fill Wetlands Permit Application to dredge and fill a total of 13,094 square feet (SF), including 10,772 SF of palustrine forested wetland and 2,322 SF of palustrine emergent wetland, to construct a 10 foot wide paved multi-use path to safely accommodate bicycle and pedestrian traffic along the north side of Lahaye Drive, and temporarily impact 5,273 SF for the installation and subsequent removal of erosion and sediment controls. Compensatory mitigation includes a one-time payment of \$67,958.99 into the Aquatic Resource Mitigation Fund for the 13,094 SF of permanent impacts within the Lower Connecticut River watershed account.

This approval is contingent on the following conditions being met:

1. In accordance with Env-Wt 307.16, all work shall be done in accordance with the revised plans (Sheets 1 - 40) dated December 9, 2021 by DuBois & King, Inc., as received by the NH Department of Environmental Services (NHDES) on December 9, 2021.
2. Per the Natural Heritage Bureau (NHB) and rule Env-Wt 311.06(g), work shall not occur between April 15 and November 1.
3. Per the Natural Heritage Bureau (NHB) and Rule Env-Wt 311.06(g), in the vicinity of the rare plants identified within the temporary impact areas at the site, any machinery used in this area shall be tracked to avoid rutting of the soil and reduce soil compaction.
4. In accordance with Rule Env-Wt 311.06(h), per correspondence from the City of Lebanon Conservation Commission, and in order to protect water quality during construction, trees shall be removed for the project only when the ground is frozen.
5. In accordance with Rule Env-Wt 311.06(j), all work shall comply with the avoidance and minimization measures for threatened wildlife species, as provided by the US Fish and Wildlife Service and outlined on Sheet 34 of the revised plans.
6. In accordance with Env-Wt 307.15(c), where construction requires the operation of heavy equipment in wetlands, the equipment shall either have low ground pressure, namely less than 4 psi, or not be located directly on wetland soils and vegetation; or be placed on timber or swamp mats that are adequate to support the equipment in such a way as to minimize disturbance of wetland soil and vegetation.
7. In accordance with Env-Wt 307.12(h), any trees cut in an area of authorized temporary impacts shall be cut at ground level with the shrub and tree roots left intact, to prevent disruption to the wetland soil structure and to allow stump sprouts to revegetate the work area.

www.des.nh.gov

29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095
NHDES Main Line: (603) 271-3503 • Subsurface Fax: (603) 271-6683 • Wetlands Fax: (603) 271-6588
TDD Access: Relay NH 1 (800) 735-2964

8. In accordance with Env-Wt 307.03(c)(2), water quality control measures shall be comprised of wildlife-friendly erosion control materials if erosion control blankets are utilized.
9. In accordance with Env-Wt 307.11(b), limits of fill shall be clearly identified prior to commencement of work and controlled in accordance with Env-Wt 307.03 to ensure that fill does not spill over or erode into any area where filling is not authorized.
10. In accordance with Env-Wt 307.11(e), fill shall be not placed so as to direct flows onto adjacent or down-current property.
11. In accordance with Env-Wt 307.05(e), to prevent the use of soil or seed stock containing nuisance or invasive species, the contractor responsible for work shall follow Best Management Practices for the Control of Invasive and Noxious Plant Species (Invasive Plant BMPs).
12. In accordance with Env-Wt 307.11(a), fill shall be clean sand, gravel, rock, or other material that meets the project's specifications for its use; and does not contain any material that could contaminate surface or groundwater or otherwise adversely affect the ecosystem in which it is used.
13. In accordance with Env-Wt 307.12(i), wetland areas where permanent impacts are not authorized shall be restored to their pre-impact conditions and elevation by replacing the removed soil and vegetation in their pre-construction location and elevation such that post-construction soil layering and vegetation schemes are as close as practicable to pre-construction conditions.
14. In accordance with Env-Wt 307.03(e), all exposed soils and other fills shall be permanently stabilized within 3 days following final grading.
15. In accordance with Env-Wt 307.11(c), slopes shall be immediately stabilized by a method specified in Env-Wq 1506 or Env-Wq 1508, as applicable, to prevent erosion into adjacent wetlands or surface waters.
16. In accordance with Env-Wt 307.03(a), no activity shall be conducted in such a way as to cause or contribute to any violation of surface water quality standards specified in RSA 485-A:8 or Env-Wq 1700; ambient groundwater quality standards established under RSA 485-C; limitations on activities in a sanitary protective area established under Env-Dw 302.10 or Env-Dw 305.10; or any provision of RSA 485-A, Env-Wq 1000, RSA 483-B, or Env-Wq 1400 that protects water quality.
17. In accordance with Env-Wt 307.03(b), all work, including management of soil stockpiles, shall be conducted so as to minimize erosion, minimize sediment transfer to surface waters or wetlands, and minimize turbidity in surface waters and wetlands.
18. In accordance with Env-Wt 307.03(g)(1), the person in charge of construction equipment shall inspect such equipment for leaking fuel, oil, and hydraulic fluid each day prior to entering surface waters or wetlands or operating in an area where such fluids could reach groundwater, surface waters, or wetlands.
19. In accordance with Env-Wt 307.03(g)(2), the person in charge of construction equipment shall repair any leaks prior to using the equipment in an area where such fluids could reach groundwater, surface waters, or wetlands.
20. In accordance with Env-Wt 307.03(g)(3) and (4), the person in charge of construction equipment shall maintain oil spill kits and diesel fuel spill kits, as applicable to the type(s) and amount(s) of oil and diesel fuel used, on site so as to be readily accessible at all times during construction; and train each equipment operator in the use of the spill kits.
21. In accordance with Env-Wt 307.03(h), equipment shall be staged and refueled outside of jurisdictional areas (unless allowed) and in accordance with Env-Wt 307.15.

MITIGATION

22. The permit is contingent on submittal of a check in the amount of \$67,958.99 to the Aquatic Resource Mitigation Fund by the applicant as calculated per Env-Wt 803.07 and RSA 482-A:30.
23. In accordance with Env-Wt 807.01(b), the payment shall be received by NHDES within 120 days from the approval decision, by May 7, 2022, or NHDES will deny the application.

This approval is based on the following findings:

1. This is classified as a major project per Rule Env-Wt 527.07 and Env-Wt 407.03(a), as impacts to jurisdictional areas other than a watercourse are equal to or greater than 10,000 square feet (SF), and the project is not subject to an adjustment under Env-Wt 407.02; does not qualify for a project-type exception (PTE) under Env-Wt 407.04; and does not qualify for project-specific criteria as identified in Env-Wt 407.04, Table 407-2.
2. Per Rule Env-Wt 306.05, the applicant has addressed all of the required planning items that are used to determine the appropriate impact classification of a project and the type of approval required.
3. Per Rule Env-Wt 313.04(a)(2), the applicant submitted a compensatory mitigation proposal as the total permanent impacts are equal to or more than 10,000 square feet (SF) of non-tidal wetlands.
4. Per Rule Env-Wt 801.03(b), the applicant is offering an in-lieu mitigation payment as specified in RSA 482-A:30 for permanent wetland impacts, as permittee-responsible compensatory mitigation is not practicable or appropriate for the applicant's project.
5. Per Rule Env-Wt 803.10(e), the department has accepted the proposal for an in-lieu mitigation payment.
6. The Department decision is issued in letter form and upon receipt of the ARM fund payment, the Department shall issue a posting permit in accordance with Env-Wt 803.11(c).
7. The payment into the ARM fund shall be deposited in the NHDES fund for the Lower Connecticut River watershed per RSA 482-A:29.
8. Per Rule Env-Wt 311.01(b), the applicant coordinated with the Natural Heritage Bureau (NHB) to determine how to avoid and minimize project-related impacts on protected plants or exemplary natural communities.
9. Per Rule Env-Wt 311.06(h), the municipal conservation commission provided comments on the proposed project on 8/23/2021, and the applicant has addressed the comments.
10. Per Rule Env-Wt 311.06(j), the US Fish and Wildlife Service provided comments on the proposed project on 6/28/2021, and the applicant has addressed the comments.
11. Per Rule Env-Wt 313.01(a)(1)(a), the applicant has met the requirements of Env-Wt 311.10 regarding functional assessments.
12. Per Rule Env-Wt 313.01(a)(3), all resource-specific criteria established in Env-Wt 400 and Env-Wt 500 have been met.
13. Per Rule Env-Wt 313.01(a)(4), all project-specific criteria established in Env-Wt 500 have been met.
14. Per Rule Env-Wt 313.01(a)(5) and pursuant to RSA 482-A:11, II, the applicant obtained written consent from abutting landowner(s) as a portion of the proposed project will extend onto another property, to ensure that the project does not infringe on the property rights or unreasonably affect the value or enjoyment of the property of abutting owners.
15. Per Rule Env-Wt 313.03(a), the applicant has demonstrated that potential impacts to jurisdictional areas have been avoided to the maximum extent practicable and that any unavoidable impacts have been minimized.
16. The applicant has demonstrated specifically that each factor listed in Env-Wt 313.03(b) has been considered in the design of the proposed major project.
17. The public highway project meets all of the approval criteria established in Env-Wt 527.02.

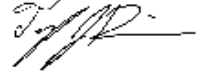
Pursuant to RSA 482-A:28, **this approval is contingent on receipt of a one-time in-lieu mitigation payment of \$67,958.99 to the NHDES Aquatic Resource Mitigation (ARM) Fund.** NHDES recommends delaying payment until after the 30-day reconsideration period ending February 6, 2022. In accordance with Env-Wt 803.11(c)(2) and Env-Wt 807.01(b), if NHDES has not received the in-lieu mitigation payment within 120 days of this letter, or by May 7, 2022, NHDES will deny the application. Please include a copy of this letter with the payment.

In accordance with RSA 482-A:10, RSA 21-O:14, and Rules Env-Wt 100-200, **any person aggrieved by this decision may file a Notice of Appeal directly with the NH Wetlands Council (Council) within 30 days of the decision date, January 07, 2022.** Every ground claiming the decision is unlawful or unreasonable must be fully set forth in the Notice of Appeal. Only the grounds set forth in the Notice of Appeal are considered by the Council. Information about the Council, including Council Rules, is available at <https://nhec.nh.gov/wetlands/index.htm>. For appeal related issues, contact the

Council Appeals Clerk at (603) 271-6072.

If you have any questions, please contact me directly at Tyler.Davidson@des.nh.gov or (603) 271-6876.

Sincerely,



Tyler J. Davidson
Wetlands Specialist, Wetlands Bureau
Land Resources Management, Water Division

cc: Dartmouth College Trustees, Attn: Daniel Justynski
Lebanon Municipal Clerk/Conservation Commission
DuBois & King, Inc. c/o Brian Breslend, PE

ec: Lori Sommer, NHDES Wetlands Bureau, Mitigation Program
Jessica Bouchard, NH Natural Heritage Bureau

**Agenda
Lebanon City Council
February 7, 2024**

10. New Business:

10.G – Discussion and Set Public Hearing for February 21, 2024:

**Establishment of a Redevelopment Properties Revolving Fund to Include
0 Barrows St. (M/L 77-106 and 77-107), 0 Hanover Street Ext. (M/L 64-1),
3 Seminary Hill (M/L 86-56), and 5 S. Main St. (M/L 86-55); Authorization to
Transfer InvestNH Grant Funds into the Revolving Fund**

Background

On January 17, 2024, the City Council reviewed and discussed a proposal from the City Manager's Office regarding the redevelopment of city-owned parcels in furtherance of the Council's April 2022 Resolution on Housing. Specifically, the City Manager is proposing to utilize \$440,000 in grant funding from the InvestNH program, along with the adopted cottage cluster zoning regulations and the Pattern Zoning study's housing plans to execute one or more demonstration projects on city-owned parcels around the community.

In order to provide for the planning and construction phases of the redevelopment proposal, the City Manager recommends that the City Council authorize the establishment of a Redevelopment Properties Revolving Fund pursuant to NH RSA 31:95-h for the accrual of grant funds and future sales proceeds and for the payment of costs associated with planning, design, permitting, and construction of residential units on the city-owned properties that have become the focus of the redevelopment proposal, including city-owned properties on Barrows Street, Hanover Street Extension, Seminary Hill and South Main Street.

In addition, it is recommended that the Council authorize the transfer of the \$440,000 in grant funding from the InvestNH program into the Redevelopment Properties Revolving Fund, upon receipt from the State, so those funds can be used as seed money for the initial design, permitting, and other costs associated with the redevelopment of the city-owned parcels as proposed. It is envisioned that as residential units are constructed and sold, any excess proceeds would be placed in the Revolving Fund as seed money for the subsequent redevelopment of other city-owned properties.

Action

If the Council decides to move forward with the establishment of a Revolving Fund, the following motion is offered for consideration:

MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, February 21, 2024, beginning at 7:00pm in Council Chambers, City Hall, and Remote via the City's Virtual Platform, for the purpose of receiving public input and taking action to establish a Redevelopment Properties Revolving Fund pursuant to NH RSA 31:95-h, to facilitate the planning, design, permitting, construction, and sale of residential units on city-owned properties at 0 Barrows St. (M/L 77-106), 0 Barrows St. (M/L 77-107), 0 Hanover St. Ext. (M/L 64-1), 3 Seminary Hill (M/L 86-56), and 5 S. Main St. (M/L 86-55).

Agenda

Lebanon City Council

February 7, 2024

10. New Business:

10.H – Discuss City Manager’s Plan to Begin the Process of Determining Development Options for Downtown Parking Lots

Background

In the 2016 Lebanon Downtown Vision Plan and Tunnel Assessment report, the surface parking areas located between City Hall and the Mascoma River were identified as one of several potential opportunity sites for the City to pursue redevelopment or other improvements to invigorate and enliven the downtown. In August of 2022, the City issued a Request for Expressions of Interest (RFI or RFEI) to solicit interest and redevelopment ideas and strategies for the parking areas, which would advance the City’s goals and objectives, including: enhanced visibility and access to the Mascoma River; improved connectivity between the Northern Rail Trail and the Mascoma River Greenway via the downtown tunnel; and economic development opportunities to further enhance vitality in the downtown core.

From the RFI, three responses were received from the design and development community. The Economic Development Commission (EDC) and Downtown TIF Advisory Board spent a number of months reviewing the individual responses with the developers and the community. The joint committees were in the process of considering changes to the RFI for incorporation into a potential future Request for Proposals (RFP) when the City Council redirected their attention to the 20 Spencer Street property.

Subsequently, in October 2023, the City Council, EDC, and Downtown TIF Board held a joint meeting to discuss reexamining the Downtown Parking Lot project. Both committees made suggestions regarding next steps. Following the joint meeting, the City Manager’s Office took responsibility for developing a process to determine and evaluate options for redeveloping the Downtown Parking Lots.

As envisioned in the attached Scope and Process of Evaluation document, the effort would start with engaging a planning and design firm to help the City address and resolve some of the outstanding issues and questions that impact what can or should be accomplished in the downtown parking lots, including: a comprehensive study of parking and traffic needs, consideration of environmental and floodplain issues, structural and geotechnical questions, economic development potential, and other factors. The next step would be to apply that information to creating a set of scenarios for community consideration. Along the way, the City would seek assistance in engaging stakeholders and the public and in coordinating with boards and committees to review the alternatives and identify preferred outcomes.

The City’s Strategic Plan, adopted in May 2023, includes Strategic Objective 8.5 to “implement opportunities for redevelopment in the four core business districts of the City.” Specific action plans and key performance indicators referenced in the Plan include: Action 8.5.2 “Downtown Redevelopment – 20 Spencer, Village Mkt, Kleen, Parking Lots” and KPI 8.5.2a “Redevelopment of the parking lots behind City Hall, maintaining the existing parking capacity, developing workforce housing and green space.”

As one of the stated objectives of the current Strategic Plan, redevelopment of the downtown parking lots is an effort that the City Manager's Office is prepared to work on and execute over the coming period, unless otherwise directed by the City Council.

Action

The Council is requested to consider the following motion:

MOVED that the Lebanon City Council supports the plan proposed by the City Manager, who also serves as the Downtown Lebanon TIF District Administrator, to initiate the process outlined in the February 7, 2024 City Council agenda packet regarding the potential development of the downtown parking lots behind City Hall.

Included In This Section:

1. Downtown Parking Lot Redevelopment, Scope and Process of Evaluation

Available, but not included in this Section:

1. [Lebanon 2024-2027 Strategic Plan](#)
2. [Strategic Plan Miro Board](#)

Downtown Parking Lot Redevelopment
Scope and Process of Evaluation
January 24, 2024

Issues and other considerations:

1. Parking-Mobility:
 - a. Complete a comprehensive parking study factoring in regular, year-round uses and seasonal uses (e.g. Farmer's Market) and intermittent uses (e.g. LOH or AVA gallery events)
 - b. Model anticipated parking needs and trip generation based on existing downtown uses and proposed uses depending on scenarios (discussed below)
 - c. Plan for connectivity between Mascoma River Greenway (MRG) and Northern Rail Trail (NRT) and from riverfront area to Colburn Park/Hanover Street Mall
2. Environmental-Riverfront:
 - a. Removal of invasive species along riverfront
 - b. Selective clearing or pruning of existing trees and planting of new shade trees along riverfront
 - c. Assess and address erosion issues along riverbank, as needed
 - d. Evaluate condition of parking lot drainage outfall headwall and other existing structures
3. Economic Development:
 - a. Can revenues and expenditures be projected and/or modeled for each different development scenario?
 - b. Is there a threshold above or below which a potential scenario would break even or generate positive revenue?
 - c. Determine the overall economic value of the project outside of anticipated property tax revenue, such as payroll added to the economy and additional commerce that would be added to the area
 - d. Determine how TIF revenues could be used to partner with the private/non-profit sector to enhance a project
4. Structural-Geotechnical Engineering:
 - a. Review 1990 geotechnical report and proposal for follow-up investigation
 - b. Determine if additional studies or soil borings are still required to accommodate any development, or certain types of development, in lower parking lot depending on scenarios
 - c. Engage civil or structural engineer to evaluate potential to develop on the lower parking area based on known geotechnical reports and additional information yet to be obtained
5. Property ownership:
 - a. City pursuing Boundary Line Adjustment with Grafton County Senior Citizens Council (M/L 91-245 and M/L 92-23)
 - b. City attorney working on Title research and opinion regarding status of former railroad corridor; Does City have sufficient right, title, and interest to control future development proposals, or do others still have rights?
6. Prior Planning and Studies:
 - a. [2016 Downtown Visioning Study and Tunnel Assessment](#)
 - b. [2012 Master Plan, Chapter 3 – Central Business District](#)
 - c. [2024-2027 Strategic Plan](#)
 - d. 2022-2023 RFEI responses and EDC/Downtown TIF review

7. How could a project in the Downtown Parking Lots help to address the lack of housing in the City/region and how could a project assist in addressing the affordable housing issue.

Based on the results of the studies and other considerations listed above, develop a process for creating 3-4 potential development scenarios as outlined below:

1. Riverfront Park Only: If the City elects to only create a riverfront park along the Mascoma River
 - a. Engage landscape architect to develop capital project for design, permitting, and construction of park improvements
 - b. Quantify potential loss of parking and determine whether it needs to be replaced or whether excess parking exists currently
 - c. Evaluate potential changes to circulation and connections to Taylor Street
 - d. Plan for connections between MRG and NRT, including potentially under the Hanover Street bridge to the "Boy Scout" park area (M/L 91-229);
 - e. Identify and understand options for funding of public improvements
2. Intermediate redevelopment scenario:
 - a. Identify potential redevelopment options that include a riverfront park (#1), but not necessarily full redevelopment of the entire surface parking areas (#3) as an intermediate option
3. Full Redevelopment scenario:
 - a. Identify extent of potential for new mixed-use and/or residential development in the existing downtown parking areas, which could include a new riverfront park component completed by a developer
 - b. Evaluate potential cost/benefit for structured parking to replace lost parking spaces and to provide additional spaces for new or future uses
 - c. Plan for connections between MRG and NRT, including potentially under the Hanover Street bridge to the "Boy Scout" park area (M/L 91-229)
 - d. Evaluate potential changes in vehicle circulation from Taylor Street, Flynn Street, Court Street
4. Parking lot reconfiguration and repair: If the City elects to make no changes and continues to maintain the existing surface parking lots, what actions and expenditures will still be required:
 - a. Periodic resurfacing/crack sealing
 - b. Fix and maintain sidewalks
 - c. Repair/reconstruct and maintain retaining wall
 - d. Repair/reconstruct and maintain guard rail on top of retaining wall
 - e. Evaluate potential to remove retaining wall and slope the parking lot down to the river gradually by back filling the drop in elevation
 - f. Create path/extension of the MRG with the addition of more street trees to address urban heat island issues

Develop and facilitate a process for working with the Economic Development Commission and the Downtown TIF Advisory Board to review results and outcomes of the Issues and other Considerations and how to create a range of development scenarios for community consideration. Develop and implement a plan for stakeholder engagement and input regarding this project and the different options.