

FINAL

**LEBANON PLANNING BOARD
REGULAR SESSION
COUNCIL CHAMBERS, CITY HALL
OR REMOTE VIA MICROSOFT TEAMS
LEBANONNH.GOV/LIVE
MONDAY, FEBRUARY 12, 2024 6:30 PM**

MEMBERS PRESENT: Matthew Hall (Chair), Richard Ford Burley (Vice Chair), Jeremy Rutter, Andrew Faunce, Karen Zook (City Council Rep), Patrick Kennelly, Kathie Romano (REMOTE)

MEMBERS ABSENT: Laurel Stavis

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

1. CALL TO ORDER

Chair Hall called the meeting to order at 6:30pm. Ms. Romano said she is attending remotely because she is out of town.

Mr. Corwin reviewed the City's meeting in-person and REMOTE attendance policies and procedures.

2. NOTICE OF REGIONAL IMPACT

The following applications were received by the Planning and Development Department on or before February 12, 2024:

- **Edwards Properties, LLC, 99 Heater Road (Tax Map 78, Lot 41), zoned IND-L: In conjunction with a pending Conditional Use Permit application (PB2024-02-CUP), applicant requests Site Plan Review for a conversion of the existing two-family dwelling to a mixed-use building for a proposed office use and a dwelling unit, together with associated site improvements including additional parking spaces and a handicap ramp. PB2024-08-SPR**
- **City of Lebanon, 198 Dartmouth College Highway (Tax Map 108, Lot 23), zoned R-3: Site plan review for a temporary fire station including the construction of a +/- 5,800 sq. ft. garage, two living facility trailers, one office trailer, and additional parking spaces. PB2024-09-GOV (NOTE: This application will be reviewed as a Governmental Land Use pursuant to RSA 674:54)**

- **Adimab, LLC, 7 Lucent Drive (Tax Map 10, Lot 11, Plot 2600), zoned IND-L:** Pursuant to Section 9.1 of the Site Plan Review Regulations, applicant requests a modification to a previously approved Site Plan (PB2020-14-SPR) to change the parking lot surface material, to reduce the tree shading required, and to amend the approved landscaping and lighting plans. PB2024-10-SPA

Mr. Corwin said staff recommends the applications do not have the potential for regional impact.

A MOTION was made by Richard Ford Burley that the applications of Edwards Properties, LLC, 99 Heater Road (Tax Map 78, Lot 41), zoned IND-L, the City of Lebanon, 198 Dartmouth College Highway (Tax Map 108, Lot 23), zoned R-3, and Adimab, LLC, 7 Lucent Drive (Tax Map 10, Lot 11, Plot 2600), zoned IND-L do not have the potential for regional impact. The motion was seconded by Jeremy Rutter.

Roll Call Vote:

Voting in Favor – Mr. Faunce, Mr. Rutter, Mr. Hall, Mr. Ford Burley, Mr. Kennelly, Ms. Zook, Ms. Romano

Voting Against – None

****The MOTION was approved (7-0).***

3. PUBLIC HEARING ITEMS

- A. Oakes Storage, LLC and Oakes Real Estate SPE, LLC, 92 Riverside Drive (Tax Map 111, Lot 16), zoned RL-1:** Pursuant to Section 9.1 of the Site Plan Review Regulations, applicants request a modification to a previously approved Site Plan (PB2022-06-SPR) to construct a +/-26,176 sq. ft. commercial self-storage unit facility together with related site improvements. Applicants propose to lower the site 4 ft. and to relocate the garage and entry drive. PB2024-05-SPA

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

A MOTION was made by Jeremy Rutter that the application of Oakes Storage, LLC and Oakes Real Estate SPE, LLC, 92 Riverside Drive (Tax Map 111, Lot 16), zoned RL-1: Pursuant to Section 9.1 of the Site Plan Review Regulations, applicants request a modification to a previously approved Site Plan (PB2022-06-SPR) to construct a +/-26,176 sq. ft. commercial self-storage unit facility together with related site improvements is complete enough for the Planning Board to accept jurisdiction and commence review. The motion was seconded by Richard Ford Burley.

Roll Call Vote:

Voting in Favor – Mr. Faunce, Mr. Rutter, Mr. Hall, Mr. Ford Burley, Mr. Kennelly, Ms. Zook, Ms. Romano

Voting Against – None

***The MOTION was approved (7-0).**

Mr. Dan Nash, of Advanced Geomatics & Design, and Mr. Bobby Oakes were present as the applicants. Mr. Nash gave an overview of the site. He said, because of the excavation waste and other unsuitable materials on the site, the proposal was to lower the land by four feet, which would lessen the weight on the soil and decrease the likelihood of differential settlement. He said the building inspector also asked that the garage be moved farther away from the storage buildings. Mr. Nash said the footprint of the buildings has not changed.

Mr. Corwin said that, prior to the start of construction activities, all required state permits must be obtained. He said construction is underway, but there is a question of whether a state permit is required from DES Sewage Disposal Division. He said the Planning Board can determine that, because there is still a question if the permit is required, it is not applicable and construction activity would not need to pause. He said the Board can determine the DES permit is required, construction would pause, and the Board then would need to modify the Condition of Approval.

Mr. Corwin read Section 9.1 of the Site Plan Review Regulations related to modifying a condition of approval:

“...A request for a modification to an approved plan, which would entail a reversal or relaxation of any condition made by the Board as part of its original approval, shall not be heard unless the applicant demonstrates that a material change of circumstances has occurred affecting the merits of the original application.”

Mr. Corwin explained that, if the Board does require the DES solid waste permit, the delay in construction may cause the project timeline to extend beyond the two-year deadline provided by the active and substantial development threshold.

The Board discussed whether construction should be delayed in anticipation that the DES will require the solid waste permit. Mr. Nash said the only item in the “substantial completion” list that has not yet been completed is the installation of a conduit for a new power pole. He said that would be completed by the end of the month. Mr. Nash said it would be costly in time, resources, manpower and funds to delay the project in case the state might say a permit for solid waste is required.

The group discussed the status of the construction and what the impact on the project would be if the DES required the permit. Mr. Vincent said the state’s powers exceed that of the City and if it requires the permit and testing on the site, it can shut the project down and may not even have to let the City know it has done it.

Mr. Rutter asked if the site plan, included in the meeting materials, included the new plans for lighting and landscaping on the site. Mr. Nash said the new lighting and landscaping were not included on the materials provided to the Board for the meeting. Mr. Corwin said the applicant was asked to provide a full plan set for the Board’s review at this meeting.

Chair Hall invited Public Comment. There was none. Chair Hall closed the Public Hearing.

Ms. Romao said it is frustrating to the Board to try to approve something that is not included in the plans they are reviewing. Ms. Zook said she could not remember approving a site plan without having the final plans, especially when changes to light poles and trees are involved.

Chair Hall asked the applicant to return to the next Planning Board meeting with a complete set of updated site plans for the Board to review.

A MOTION was made by Andrew Faunce that the discussion of the application of Oakes Storage, LLC and Oakes Real Estate SPE, LLC, 92 Riverside Drive (Tax Map 111, Lot 16), zoned RL-1: Pursuant to Section 9.1 of the Site Plan Review Regulations, applicants request a modification to a previously approved Site Plan (PB2022-06-SPR) to construct a +/-26,176 sq. ft. commercial self-storage unit facility together with related site improvements will be continued to the February 26, 2024 Planning Board meeting. The motion was seconded by Richard Ford Burley.

Voting in Favor – Mr. Faunce, Mr. Rutter, Mr. Hall, Mr. Ford Burley, Mr. Kennelly, Ms. Zook, Ms. Romano

Voting Against – None

****The MOTION was approved (7-0).***

B. Growthcap Investments, LLC, 22 Maple Street (Tax Map 73, Lot 70), zoned R-3: Request for a Minor Subdivision of the subject property into two (2) lots. PB2024-06-MIN

Mr. Corwin said there was a question as to the number of units in the two buildings at the Growthcap Investments, LLC, 22 Maple Street (Tax Map 73, Lot 70) location. He said he has confirmed that the property includes an eight-unit multi-family building and a detached six-unit multi-family building.

Mr. Wayne McCutcheon and Mr. Robert Parpinelli were present as the applicants.

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

A MOTION was made by Andrew Faunce that the application of Growthcap Investments, LLC, 22 Maple Street (Tax Map 73, Lot 70), zoned R-3: Request for a Minor Subdivision of the subject property into two (2) lots is complete enough for the Planning Board to accept jurisdiction and commence review. The motion was seconded by Patrick Kennelly.

Roll Call Vote:

Voting in Favor – Mr. Faunce, Mr. Rutter, Mr. Hall, Mr. Ford Burley, Mr. Kennelly, Ms. Zook, Ms. Romano

Voting Against – None

****The MOTION was approved (7-0).***

Mr. McCutcheon said there was an easement given to the City for the construction of a sidewalk at the corner of Maple Street and Pleasant Street. He said there was no deed or plans for the construction easement – just a reference to plans that are “to be recorded.” He also said there was no easement for Pole #5 on Property 5-1. He said he has hired Attorney Barry Schuster to draft easement documentation for the driveway that will be installed once the lots are divided. He said the missing documentation is needed to obtain the easement for the driveway.

Mr. Corwin said one correction to clarify the new proposed Condition of Approval 1a that, “the access and the egress easement agreement” (for the plot) “shall be recorded at the time of transfer of ownership by the parcel” will be added at the time of filing.

Ms. Romano asked how many parking spaces will be required for the existing houses and for the new lot combined. Mr. Corwin said the number of parking spaces is not relevant to the subdivision application. He said the proposed plan does not alter the parking configuration and no spaces will be lost. The group discussed the placement of the driveways and parking areas on the property.

Chair Hall invited Public Comment.

Mr. Steve Peterson, of 26 Maple Street, said he is an abutter to the location. He said historically, the parking lot is pretty much empty, and the driveway area is full of cars. He said it would be hard to manage parking on the site. Mr. McCutcheon said the owner will provide signage that will help direct people where to park.

Ms. Georgia Tuttle, of Mack Ave, asked what the process would be for the City if the owner wants to build on the second lot, once the lot is subdivided. Mr. Corwin explained that the location is in the R3 district, which is primarily a single-family zoning district. He said the owner would have to submit a building permit for a proposed single-family home that includes a site plan. He said the site plan would have to include two parking spaces. He said there are other permitted uses in the R3 zone, other than single-family homes. He said the Planning Board would not have jurisdiction on a single-family home project. Mr. Corwin said, if the owner proposes anything but a permitted use, he would have to submit a building permit to the Zoning Board and hold a public hearing. He said the only way a two-family duplex could be accomplished in the R3 District is if an existing one-family dwelling were converted to a two-family dwelling, which would require a special exception and public hearing before the Zoning Board.

Chair Hall closed the Public Hearing.

A MOTION made by Patrick Kennelly that the Lebanon Planning Board APPROVE the application of Growthcap Investments, LLC, for a proposed two (2)-lot Minor Subdivision of 22 Maple Street (Tax Map 73, Lot 70), PB2024-06-MIN, as shown on a plat titled “Minor Subdivision Plan of Land Owned by Growth Cap Investments, LLC,” prepared by Wayne McCutcheon Associates, Inc., dated January 4, 2024, last revised January 31, 2024, Project No: 1675923, including any and all supplemental submissions and testimony provided during the public hearing.

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

This approval is subject to the following conditions:

- 1. The applicant shall provide a revised plat depicting the following changes to the satisfaction of the Planning and Development Department:***
 - a. Revise the plat to indicate that an access and egress easement agreement shall be recorded at the time of transfer of ownership of either parcel.***
 - b. Provide the date and description of the plat revisions. (9.5.A.1)***
- 2. The applicant shall provide a digital record drawing of the revised plat (Cad .dwg format using NH State Plane Coordinate system or an alternative approved by the City's GIS Coordinator).***
- 3. This approval shall be considered void unless all conditions precedent have been met, and the plat has been recorded in the Registry of Deeds, within two (2) years from the date of the Notice of Action (Section 7.12.B).***
- 4. Future development on the new lot shall be subject to City of Lebanon Impact Fees, pursuant to Section 213 of the Zoning Ordinance. The Impact Fee shall be calculated at the time of Building Permit issuance based on the Impact Fee Schedule adopted on October 12, 2021, and such fees shall be due and payable at the time of issuance of a Certificate of Occupancy. In accordance with RSA 674:39, development of the new lot shall be exempt from any future changes in impact fees and methodology for five years from the date of approval; however, any building permits which are issued after the end of that five-year period shall be fully subject to whatever impact fees and methodology are in effect at the time of building permit issuance.***
- 5. All future construction shall substantially conform with and shall be subject to the requirements and specifications of the recorded plat (Section 7.9.A.2).***

The motion was seconded by Jeremy Rutter.

Roll Call Vote:

Voting in Favor – Mr. Faunce, Mr. Rutter, Mr. Hall, Mr. Ford Burley, Mr. Kennelly, Ms. Zook, Ms. Romano

Voting Against – None

****The MOTION was approved (7-0).***

A MOTION was made by Patrick Kennelly that the Lebanon Planning Board authorizes the Chair to sign the Minor Subdivision plat of Growthcap Investments, LLC, PB2024-06-MIN, titled “Minor Subdivision Plan of Land Owned by Growth Cap Investments, LLC,” prepared by Wayne McCutcheon Associates, Inc., dated January 4, 2024, last revised January 31, 2024, and as further revised per the Planning Board’s conditions of approval.

The motion was seconded by Richard Ford Burley.

Roll Call Vote:

Voting in Favor – Mr. Faunce, Mr. Rutter, Mr. Hall, Mr. Ford Burley, Mr. Kennelly, Ms. Zook, Ms. Romano

Voting Against – None

****The MOTION was approved (7-0).***

4. OTHER BUSINESS

A. Public Hearing determination per RSA 674:54 for Lahaye Drive Multi-Use Path TAP project and Lahaye Drive/Mount Support Intersection Improvements project.

Mr. Corwin explained that, for government use projects, such as the Lahaye Drive project, the statute says the government entity must provide a written notification of the project and the Planning Board has the choice whether or not to hold a public hearing. He said, until now, the Planning Board had automatically held a public hearing for these kinds of government use projects, but it really does have the choice.

The Board members discussed the details of the project with City Engineer Brian Vincent. They discussed how the project has been reviewed and approved. They agreed it is important for the Board to be presented with the plans for government use projects and to then make a decision about holding a public hearing.

Chair Hall called for a straw poll.

Voting in Favor of opening a Public Hearing for the Lahaye Drive Multi-Use Path TAP project and Lahaye Drive/Mount Support Intersection Improvements project - None

Voting Against – Mr. Faunce, Mr. Rutter, Mr. Hall, Mr. Ford Burley, Mr. Kennelly, Ms. Zook, Ms. Romano

The vote against was (7-0).

5. APPROVAL OF MINUTES – January 8, 2024

Mr. Rutter asked that it be added to the minutes that he recognized the excellent minutes prepared by the Recording Secretary.

Amendments: Page 3, Line 20: Remove “to be”

A MOTION was made by Jeremy Rutter to approve the Planning Board Minutes of January 08, 2024, as amended. The motion was seconded by Andrew Faunce.

Roll Call Vote:

Voting in Favor – Mr. Faunce, Mr. Rutter, Mr. Hall, Mr. Ford Burley, Mr. Kennelly, Ms. Zook, Ms. Romano

Voting Against – None

****The MOTION was approved (7-0).***

6. ADJOURNMENT

A MOTION was made by Jeremy Ruter to adjourn the meeting at 7:53pm. The motion was seconded by Andrew Faunce.

Roll Call Vote:

Voting in Favor – Mr. Faunce, Mr. Rutter, Mr. Hall, Mr. Ford Burley, Mr. Kennelly, Ms. Zook, Ms. Romano

Voting Against – None

****The MOTION was approved (7-0).***

The meeting was adjourned at 7:53pm.

Respectfully submitted,
Paula Roux
Recording Secretary