



**LEBANON PLANNING BOARD
OCTOBER 14, 2024 - 6:30 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: 987 098 392#). If you have trouble accessing this meeting, please [email tim.corwin@lebanonnh.gov](mailto:tim.corwin@lebanonnh.gov).

2. Notice of Regional Impact

3. Public Hearing Items

- A. **Mark & Susan Rose Sr. and Lebanon Housing Authority, 4 Waterman Avenue & 31 Romano Circle (Tax Map 101, Lot 17, and Tax Map 101, Lot 20, zoned R-2: Request for approval of a Boundary Line Adjustment. PB2024-39-BLA**
- B. **Brickyard One Nominee Trust, 174 Hanover Street (Tax Map 48, Lot 4), 0 Hanover Street (Tax Map 48, Lot 2), 0 Hanover Street (Tax Map 48, Lot 1), and 238 Hanover Street (Tax Map 63, Lot 1), zoned R-1, R-O-1, R-3 & RL-3: Request for Site Plan Review and a Conditional Use Permit pursuant to Sections 308.2, 310.2, 311A.2, and 501.2 of the Zoning Ordinance for a proposed 474-unit multi-family Planned Unit Residential Development (PURD) totaling +/- 731,600 sq. ft. in size, consisting of 11 buildings together with parking, utilities, landscaping, access, and other related site improvements. Applicant also requests a Conditional Use Permit pursuant to Section 308.4 of the Zoning Ordinance to allow an increase in the maximum permitted building height from 45 ft. to 55 ft. PB2024-22-CUPSPR - Continued from September 9, 2024**
- C. **XYZ Dairy, LLC, River Park Drive (Tax Map 44, Lots 21 - 30, and Tax Map 44, Lot 7), zoned CB, IND-L and R-3: Appeal of administrative decision made on September 10, 2024, that conditions 1, 2, 4, 5, 7 and 14-4 of the River Park development Site Plan approval as set forth in the Notice of Action dated September 9, 2019, for PB2018-34-SPA, have not yet been satisfied and, consequently, that construction of Phase 1 may not commence. PB2024-40-AAD**
- D. **XYZ Dairy, LLC, River Park Drive (Tax Map 44, Lots 21 - 30 & Tax Map 44, Lot 7), zoned CBD, IND-L and R-3: Applicant requests a 2-year extension of the River Park Subdivision approval (PB2011-01-FMAJ) and Site Plan approval (PB2010-25-SPR), as most recently amended on September 9, 2019 (PB2018-34-SPA) and extended on October 12, 2021 (PB2021-29-EXT). PB2024-34-EXT - Continued from September 9, 2024**

4. Other Business

5. Approval of Minutes

- A. September 9, 2024
B. September 16, 2024
C. September 23, 2024
D. September 30, 2024

6. Adjournment

The order of agenda items is subject to change.

Meetings are open for in-person and remote attendance. Members of the public that wish to attend remotely may do so by going to LebanonNH.gov/Live where you will find instructions on how to enter the meeting. Members of the public will be able to participate and ask questions through the City's virtual platform or by phone. Please note: Should technical difficulties occur during the meeting that disrupts virtual or phone connection(s), the meeting will continue without remote access capabilities.



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

PLANNING BOARD

October 14, 2024 Meeting

Staff Memorandum – PB2024-39-BLA

APPLICATION INFORMATION

Agenda Item: 3.A

Application ID: PB2024-39-BLA

Application Type:
Boundary Line Adjustment

Property Location & Tax Map:

- 31 Romano Circle (Tax Map 101, Lot 20)
- 4 Waterman Avenue (Tax Map 101, Lot 17)

Applicants/Property Owners:

Mark & Susan Rose Sr. and
Lebanon Housing Authority

Property Sizes (existing):

- 31 Romano Circle (Tax Map 101, Lot 20): +/-9.5 acres *per boundary line adjustment plat*
- 4 Waterman Avenue (Tax Map 101, Lot 17): +/-0.7395 acres *per boundary line adjustment plat*

Property Sizes (proposed):

- 31 Romano Circle (Tax Map 101, Lot 20): +/-9.53 acres *per boundary line adjustment plat*
- 4 Waterman Avenue (Tax Map 101, Lot 17): +/-0.771 acres *per boundary line adjustment plat*

Zoning District:

Residential Two (R-2)

LEGAL NOTICE

Mark & Susan Rose Sr. and Lebanon Housing Authority, 4 Waterman Avenue & 31 Romano Circle (Tax Map 101, Lot 17 and Tax Map 101, Lot 20), zoned R-2: Request for approval of a Boundary Line Adjustment. PB2024-39-BLA

PLANS AND APPLICATION MATERIALS

- ▶ Application forms (2 pages)
- ▶ Letter dated September 4, 2024, from Timothy Rockwood, LLS, of Rockwood Land Services LLC (project description; 1 page)
- ▶ Letter dated October 7, 2024, from Timothy Rockwood, LLS, of Rockwood Land Services LLC (response to staff comments; 1 page)
- ▶ Subdivision Regulations - Technical Checklist, dated September 4, 2024 (3 pages)
- ▶ Certified Notification List (2 pages)
- ▶ Fee Schedule (2 pages)
- ▶ Plat titled "Minor Lot Line Adjustment – Lebanon Housing Authority – Mark & Susan Rose," prepared by Rockwood Land Services, LLC, dated September 4, 2024, last revised October 7, 2024, Project No. 1424-1

COMPLETENESS REVIEW

This application has been reviewed in accordance with the Lebanon Subdivision Regulations. The Planning and Development Department recommends that the Board find that the application is complete enough to accept jurisdiction and to commence review.

APPLICATION OVERVIEW

This is a request for a Boundary Line Adjustment between lands located at 31 Romano Circle (Tax Map 101, Lot 20) and 4 Waterman Avenue (Tax Map 101, Lot 17). The changes resulting from the proposed Boundary Line Adjustment are as follows:

- ▶ Map/Lot 101-20 will increase by a net of +/-0.0315 acres, from +/-9.5 acres to +/-9.53 acres.
- ▶ Map/Lot 101-17 will decrease by a net of +/-0.0315 acres, from +/-0.771 acres to +/-0.7395 acres.

STAFF MEMORANDUM

PB2024-39-BLA
4 Waterman Ave & 31 Romano Cir
October 14, 2024 PB Mtg
Agenda Item 3.A
Page 2 of 3

31 Romano Circle a multi-family housing complex owned and operated by the Lebanon Housing Authority; 4 Waterman Circle is improved with a one-family dwelling. The +/-0.0315 acre portion of 4 Waterman Avenue that is proposed to be annexed to 31 Romano Circle is approximately outlined in red in Figure 1 below. It is staff's understanding that the boundary line adjustment is proposed in connection with future development plans for 31 Romano Circle.

Figure 1. Bird's eye view of subject property (looking south).



©2021 Eagleview (image taken 4/3/2021)

STAFF COMMENTS**ASSESSING**

No comment provided.

BUILDING INSPECTION

No comment provided.

FIRE

No comment provided.

POLICE

No comment provided.

PUBLIC WORKS/CITY ENGINEER

No comment.

PLANNING & ZONING

Both lots currently conform to the applicable minimum lot sizes and dimensional requirements as set forth in the Zoning Ordinance and will continue to after reconfiguration. Recommended conditions of approval are set forth below under staff recommendations.

STAFF RECOMMENDATIONS

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

A. General Conditions

1. This approval shall be considered void unless all conditions precedent are met and the plat is recorded in the Registry of Deeds within two (2) years from the date of the Notice of Action (Section 7.12.B). The plat shall be recorded by the Planning & Development Department in accordance with Planning & Development Department recording procedures.
2. This approval shall automatically expire and be considered void upon failure to meet any of the conditions of approval set forth herein within the timeframes specified.

B. Conditions to be Satisfied Prior to the Signing and Recording of the Plat

1. The applicants shall provide to the City draft copies of the deeds of the land transfer for review to ensure the transfer will be completed properly for Assessing and recording purposes.
2. The applicant shall submit two (2) mylars of the approved plat and applicable recording fees to the Planning & Development Department in accordance with Planning & Development Department recording procedures. (8.1.D & 7.11)
3. The applicant shall submit the executed deeds of the land transfer together with applicable recording fees to the Planning & Development Department to be recorded contemporaneously with the plat.

Attachments

cc (via e-mail): Mark & Susan Rose Sr. (susan.rose@vermontel.gov)
Lebanon Housing Authority (ditha@lebanonhousing.org)
Timothy Rockwood, LLS (rockls@vermontel.net)
File

APPLICATION FOR

SPECIAL EXCEPTION	☐	☐	SITE PLAN REVIEW
VARIANCE	☐	☐	SUBDIVISION
MOTION FOR REHEARING	☐	☒	LOT LINE ADJUSTMENT
APPEAL OF AN ADMIN. DECISION	☐	☐	CONDITIONAL USE PERMIT

☐ OTHER _____

PROPERTY OWNER (APPLICANT):

NAME: Lebanon Housing Authority TEL.#: 603-298-5763

MAILING ADDRESS: 31 Romano Circle, West Lebanon, NH 03784

E-MAIL ADDRESS: ditha@lebanonhousing.org

CO-APPLICANT, AGENT, OR LESSEE:

NAME: Timothy Rockwood TEL.#: 802-299-0042

MAILING ADDRESS: 24 Cobb Hill Road, Hartland, VT 05048

E-MAIL ADDRESS: rockls@vermontel.net

PROJECT LOCATION:

TAX MAP #: 101 LOT#: 20 PLOT #: ZONE: R-2

STREET ADDRESS OF PROJECT: ~~Hanover Street Extension~~ 31 Romano Circle

IS THIS PROPERTY LOCATED IN THE: **WETLANDS** ☐ YES ☒ NO **HISTORIC DISTRICT** ☐ YES ☒ NO
FLOOD PLAIN ☐ YES ☒ NO

SCOPE OF PROJECT:

Lot Line Adjustment of 1370 sq.ft. from 101-17 to 101-20.

TYPE OF OCCUPANCY:

EXISTING ☐ VACANT ☒ ONE FAMILY ☐ TWO FAMILY ☐ MULTI-FAMILY ☐ COMMERCIAL ☐ INDUSTRIAL
 PROPOSED ☐ VACANT ☐ ONE FAMILY ☐ TWO FAMILY ☒ MULTI-FAMILY ☐ COMMERCIAL ☐ INDUSTRIAL
 IF USE IS **COMMERCIAL** OR **INDUSTRIAL**, PLEASE NOTE **SPECIFIC** USE: _____

SIGNATURE BLOCK:

FOR PLANNING BOARD APPLICATIONS ONLY: I, the undersigned, hereby submit this application on the date noted below with the knowledge and understanding that the Planning Board shall determine if the submitted application is complete according to its regulations at its next regularly scheduled meeting on _____, 20____, unless I personally request, in writing, that the Board delay its determination of completeness to a later date.

PROPERTY OWNER: *Ditha Alonso*

DATE: *9-15-24*

NOTE: IF, AS OWNER, YOU WISH TO DESIGNATE AN AGENT TO ACT ON YOUR BEHALF, PLEASE READ THE FOLLOWING AND SIGN BELOW: I hereby designate the person listed above as my agent for the purpose of procuring the necessary local permits for the proposed work as described herein. Representations made by my agent may be accepted as though made by me personally, and I understand that I am bound by any official decision made on the basis of such representation.

PROPERTY OWNER: *Ditha Alonso*

DATE: *9-15-24*

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

APPLICATION FOR

SPECIAL EXCEPTION	☐	☐	SITE PLAN REVIEW
VARIANCE	☐	☐	SUBDIVISION
MOTION FOR REHEARING	☐	☒	LOT LINE ADJUSTMENT
APPEAL OF AN ADMIN. DECISION	☐	☐	CONDITIONAL USE PERMIT

☐ OTHER

PROPERTY OWNER (APPLICANT):

NAME: Mark Rose, Sr. & Susan Rose

TEL.#: 603-298-5753

MAILING ADDRESS: 4 Waterman Avenue, West Lebanon, NH 03784

E-MAIL ADDRESS: Susan.Rose@vermontel.gov

CO-APPLICANT, AGENT, OR LESSEE:

NAME: Timothy Rockwood

TEL.#: 802-299-0042

MAILING ADDRESS: 24 Cobb Hill Road, Hartland, VT 05048

E-MAIL ADDRESS: rockls@vermontel.net

PROJECT LOCATION:

TAX MAP #: 101

LOT#: 17

PLOT #:

ZONE: R-2

STREET ADDRESS OF PROJECT: 4 Waterman Avenue

IS THIS PROPERTY LOCATED IN THE: **WETLANDS** ☐ YES ☒ NO **HISTORIC DISTRICT** ☐ YES ☒ NO
FLOOD PLAIN ☐ YES ☒ NO

SCOPE OF PROJECT:

Lot Line Adjustment of 1370 sq.ft. from 101-17 to 101-20.

TYPE OF OCCUPANCY:

EXISTING ☐ VACANT ☒ ONE FAMILY ☐ TWO FAMILY ☐ MULTI-FAMILY ☐ COMMERCIAL ☐ INDUSTRIAL
PROPOSED ☐ VACANT ☐ ONE FAMILY ☐ TWO FAMILY ☒ MULTI-FAMILY ☐ COMMERCIAL ☐ INDUSTRIAL
IF USE IS **COMMERCIAL** OR **INDUSTRIAL**, PLEASE NOTE **SPECIFIC** USE:

SIGNATURE BLOCK:

FOR PLANNING BOARD APPLICATIONS ONLY: I, the undersigned, hereby submit this application on the date noted below with the knowledge and understanding that the Planning Board shall determine if the submitted application is complete according to its regulations at its next regularly scheduled meeting on _____, 20____, unless I personally request, in writing, that the Board delay its determination of completeness to a later date.

PROPERTY

OWNER: Mark Rose Sr. / Susan Rose

DATE: 9/16/2024

NOTE: IF, AS OWNER, YOU WISH TO DESIGNATE AN AGENT TO ACT ON YOUR BEHALF, PLEASE READ THE FOLLOWING AND SIGN BELOW: I hereby designate the person listed above as my agent for the purpose of procuring the necessary local permits for the proposed work as described herein. Representations made by my agent may be accepted as though made by me personally, and I understand that I am bound by any official decision made on the basis of such representation.

PROPERTY

OWNER: Mark Rose Sr. / Susan Rose

DATE: 9/16/2024

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

Rockwood Land Services LLC

24 Cobb Hill Road
Hartland, Vermont 05048

802-299-0042
rockls@vermontel.net

September 4, 2024

Tim Corwin, Senior Planner
Lebanon Planning Department
City of Lebanon
51 North Park Street
Lebanon, NH 03766

Dear Tim:

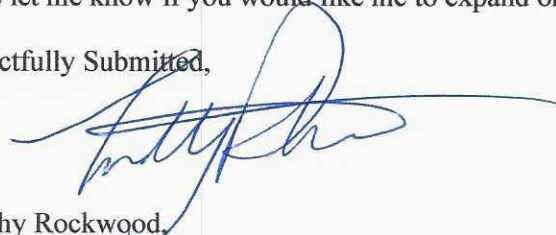
I am providing you the following project narrative in support of the attached Minor Lot Line Adjustment application for Lebanon Housing Authority (Lot 101-20) and Mark and Susan Rose (Lot 101-17). This request is to annex the 0.0315 ac, 1, 370 sq.ft. Parcel A from Rose to the Lebanon Housing Authority.

The lands are located in the Residential Two Zoning District. There are no improvements within Parcel A. Parcel A is located on a steep slope between Rose and Lebanon Housing Authority. Both 101-20 and 101-17 are Class 1 and exceed the Zone's size requirements. After the annexation both lots will continue to meet the building setback requirement.

Included with this Support Letter is the application fee and the required 8 copies of the Minor Lot Line Adjustment Plan along with the signed applications, signed Technical checklist and abutter's notification list.

Please let me know if you would like me to expand or clarify any of this information.

Respectfully Submitted,



Timothy Rockwood
Licensed Land Surveyor

cc Lebanon Housing Authority
 Mark and Susan Rose

Rockwood Land Services LLC

24 Cobb Hill Road
Hartland, Vermont 05048

802-299-0042
rockls@vermontel.net

October 7, 2024

Tim Corwin, Senior Planner
Lebanon Planning Department
City of Lebanon
51 North Park Street
Lebanon, NH 03766

RE: LHA and Rose Minor Lot Line Adjustment Plat revisions

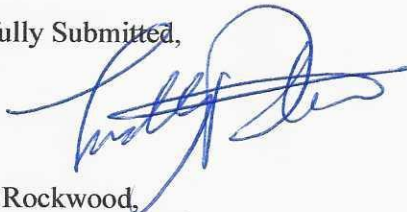
Dear Tim:

I am providing you the following list of the revisions made to the Minor Lot Line Plat following your Oct. 2, 2024 comments. Also included are 5 full sized plans and I will forward a PDF of both.

1. added the City of Lebanon to the title block
2. Added "City" to the easements shown on the plan
3. added dates of field survey to plan note 5
4. removed the 40 ft setback line and edited note 4
5. edited note 2 removing reference to a Boundary Line Agreement and suggested a corrective deed be prepared
6. removed reference to the pending easements since they are not finalize
7. edited the Romano Circle note to state Romano Circle is discontinued
8. removed the pending water line easement
9. added the note regarding approval pursuant to the regulations, note 8
10. added the Planning Board number, note 8
11. added this statement
12. provided this letter and added a revision note to the plan for Staff Comment

Please let me know if you would like me to expand or clarify any of this information.

Respectfully Submitted,



Timothy Rockwood,
Licensed Land Surveyor

cc Lebanon Housing Authority
Mark and Susan Rose

CITY OF LEBANON, NH SUBDIVISION REGULATIONS – TECHNICAL CHECKLIST MINOR LOT LINE ADJUSTMENT / BOUNDARY LINE AGREEMENT	
PROJECT NAME: Lebanon Housing Authority and Mark & Susan Rose MLLA	
APPLICANT: Ditha Alonzo, Lebanon Housing Authority	DATE: September 4, 2024
GENERAL SUBMISSION REQUIREMENTS:	

All applications to the Planning Board for Subdivision Review must be submitted by 12:00 Noon on the day of the filing cutoff. [§7.7.C] Submissions must be accompanied by the following information or review of the application may be delayed:

- ☒ A properly completed and signed Application Form. [§7.7.A(1)]
- ☒ The appropriate filing fees. [§7.7.A(2)]
- ☒ A written project description. [§7.7.A(3)]
- ☒ A list of the names and mailing addresses of all persons to be notified, by certified mail, of the public hearing. [§7.7.A(4)]
- ☒ A completed and signed Technical Checklist. [§7.7.B]
[Applicants must complete the entire checklist to ensure that all necessary information and materials have been provided with the application or that written requests for waivers have been properly provided in accordance with Section 7.15 of the Subdivision Regulations, as appropriate.]
- ☒ Eight (8) sets of project plans to be distributed for Staff Review. [§8.2.A]
[A Staff Review meeting is held at City Hall one (1) week following the cutoff date. Staff Review meetings begin at 2:00PM, unless otherwise noted. All revised and/or additional information or materials must be submitted within one (1) week following the Staff Review meeting.]
- ☒ A digital copy of Subdivision plan in .PDF format. [§8.2.B]

NOTE: Applications shall contain sufficient information to enable the City Staff and the Planning Board to evaluate the proposed development for compliance with the Zoning Ordinance, the Planning Board's Regulations, and other applicable City Codes, and for the Planning Board to make an informed decision.

All required application materials shall be submitted as a single inclusive package, including any appropriate waiver requests as permitted by the Regulations. Submission of a complete application package ensures that the review process by City Staff is as efficient and effective as possible.

The purpose of the filing deadline is to provide adequate time for City review of the proposal. Submission of any altered, additional, or substitute application materials required by the Regulations, subsequent to the filing deadline, other than as directed by City Staff, shall cause the application to be deemed untimely filed, and such application shall not be heard until a subsequent month.

CITY OF LEBANON, NH
SUBDIVISION REGULATIONS - TECHNICAL CHECKLIST
MINOR LOT LINE ADJUSTMENT / BOUNDARY LINE AGREEMENT

PLAN SUBMITTAL TECHNICAL CHECKLIST:

NOTE: Minor Lot Line Adjustment / Boundary Line Agreement plans shall include the information described below pursuant to Section 8 of the Lebanon Subdivision Regulations. Plans shall be submitted on sheets no larger than 24" x 36". Plan sets with multiple sheets shall include sheets of uniform size and be bound on the left edge. When more than three (3) sheets are required, an additional cover sheet shall be attached including a table of contents. The scale of the plans shall be appropriate to the size of the overall development. All lettering shall be of a size and type that is legible.

In order to facilitate the use of the City's Geographic Information System (GIS) for planning purposes, all surveys and engineered plans submitted for Subdivision Review shall utilize the NH State Plane Coordinate system and shall reference the North American Vertical Datum of 1988 (NAVD 88), unless prior approval to use an alternate coordinate system and/or vertical datum is granted by the Planning Office.

A written request for waiver shall be required, pursuant to Section 7.15 of the Subdivision Regulations, for any submission requirement for which the information or data is not provided by the applicant. [§8.2.C]

Plan Requirements	Info. Provided	Waiver Sought
8.2.A(1) - - Name of the City and County in which the subdivision is proposed; - A Locus map; - North arrow; - Scale of the plat; - Date of the plat and of any revisions to the plat; (<u>NOTE:</u> The date on the plat at the time of initial submission for application review shall be included on all subsequent submissions to the City. Any subsequent change(s) to the plat shall include a revision date and description of the revision(s).)	☒ ☒ ☒ ☒ ☒	☐ ☐ ☐ ☐ ☐
8.2.A(2) - Names and mailing addresses of Applicant(s); Owner(s) of Record of subject properties; Owners of abutting properties, including tax map and lot references; and Holders of any easements, rights-of-way, or other restrictions.	☒	☐
8.2.A(3) - Names and business addresses of the surveyor, including license number and seal, and of every engineer, architect, soil scientist, or wetlands scientist whose professional seal appears on any plan or document submitted to the Board.	☒	☐
8.2.A(4) - Zoning District in which the subject lots are located, including district boundaries if in more than one district.	☒	☐
8.2.A(5) - Location of all existing structures on the subject lots.	☒	☐
8.2.A(6) - Site location map showing the original boundaries of the subject lots and adjacent lots.	☒	☐
8.2.A(7) - The new surveyed property line(s) as a result of the application, including bearings and distances, as determined by an actual field survey by a licensed land surveyor, including the date of the completion of the survey. All dimensions shall be shown in feet and decimals, and the area of the altered lots shall be shown in square feet and acres.	☒	☐

CITY OF LEBANON, NH
SUBDIVISION REGULATIONS - TECHNICAL CHECKLIST
MINOR LOT LINE ADJUSTMENT / BOUNDARY LINE AGREEMENT

Plan Requirements (cont.)	Info. Provided	Waiver Sought
8.2.A(8) - The plat shall be titled to include the names of the owners of all lots altered by the application.	☒	☐
8.2.A(9) - A statement shall be placed on the plat as follows: "This plan shows Minor Lot Line Adjustments / Boundary Line Agreements and does not require the approval of the Lebanon Planning Board as a subdivision."	☒	☐

NOTE: THE APPLICANT IS RESPONSIBLE FOR PROVIDING THE REQUIRED INFORMATION PURSUANT TO SECTION 8 OF THE SUBDIVISION REGULATIONS. PLEASE BE AWARE THAT THIS CHECKLIST IS FOR INFORMATION AND GUIDANCE ONLY AND DOES NOT REPRESENT THE LAW DICTATING SUBMITTAL REQUIREMENTS NOR IS IT COMPLETE AND INCLUSIVE THEREOF.

Completed By: Timothy Rockwood, Land Surveyor

Planning office Use Only:

Date Received ___/___/___ Checklist Complete YES or NO Checked by: _____

(Last Revised 05/22/13)

CERTIFIED NOTIFICATION LIST

Notice shall be sent by certified mail to the Owner; Applicant, if different from Owner; Abutters; Holders of conservation, preservation, or agricultural preservation restrictions (as defined under RSA 477:45) on the subject property; the holders of easements, rights-of-way, and other restrictions; and every engineer, architect, land surveyor, or soil or wetlands scientist whose seal appears on any plan submitted to the Board; and any other persons required by RSA 676:4, I(d). The names and mailing addresses shall be furnished by the Applicant.

672:3 Abutter. – "Abutter" means any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term abutter means the officers of the collective or association, as defined in RSA 356-B:3, XXIII. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a manufactured housing park form of ownership as defined in RSA 205-A:1, II, the term "abutter" includes the manufactured housing park owner and the tenants who own manufactured housing which adjoins or is directly across the street or stream from the land under consideration by the local land use board.

Source. 1983, 447:1. 1986, 33:2. 2002, 216:1, eff. July 15, 2002.

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

Map & Lot Number: 101-20	Map & Lot Number: 101-17
Property Owner: Lebanon Housing Authority 31 Romano Circle West Lebanon, NH 03784	Applicant, Co-Applicant, Agent, or Lessee: Mark Rose, Sr. and Susan Rose 4 Waterman Avenue West Lebanon, NH 03784
Map & Lot Number: 101-18	Map & Lot Number: 101-18-200
Kim Morse Martin Jeffries Life Estate 6 Waterman Avenue West Lebanon, NH 03784	Michael & Dorothy Griswold 8 Waterman Avenue West Lebanon, NH 03784
Map & Lot Number: 101-16	Map & Lot Number: 101-14
Jennifer Meade & Wilson Schreiber 1 Waterman Avenue West Lebanon, NH 03784	Christopher Morse 10 Waterman Avenue West Lebanon, NH 03784

Map & Lot Number: 101-2	Map & Lot Number: 86-1
City of Lebanon 51 North Park Street Lebanon, NH 03766	70-72-78 South Main St. LLC 32 Lebanon Street, Ste. A Hanover, NH 03755
Map & Lot Number: 101-23	Map & Lot Number: 101-22
Bhavnesk Kaushik 82 South Main Street West Lebanon, NH 03784	Nichaels Devers 84 South Main Street West Lebanon, NH 03784
Map & Lot Number: 101-21	Map & Lot Number: 101-27
Kyoto, LLC 288 Plainfield Road West Lebanon, NH 03784	Dejss, LLC 89 South Main Street West Lebanon, NH 03784
Map & Lot Number: 101-28	Map & Lot Number: Land Surveyor
Soodsma Holdings, LLC Ninety Three South Main LLC PO Box 111 Hanover, NH 03755	Rockwood Land Services, LLC Timothy Rockwood 24 Cobb Hill Road Hartland, VT 05048
Map & Lot Number: Architect	Map & Lot Number:
Right-Trak Design, Inc. Jerry Wuebbolt 14 Tatro Road Goffstown, NH 03045	
Map & Lot Number:	Map & Lot Number:
Map & Lot Number:	Map & Lot Number:

(Revised 2/8/2024)

FEE SCHEDULE LEBANON PLANNING BOARD

Adopted January 24, 2022

LOT LINE ADJUSTMENT (Boundary Line Adjustment)		
		TOTALS
FILING FEE	\$25.00	\$25.00
ADVERTISING FEE	\$100	\$100
NOTIFICATION FEE (see note on page 2)	\$5.00 + Current USPS rate per certified notice (see below) \$5.54 X 14 notices	\$5.00 \$5.54 \$ 77.56 (abutter certified) \$5.00 notice signs
TOTAL DUE		\$ 207.56

MINOR SUBDIVISION		
		TOTALS
FILING FEE	\$150.00	\$150.00
ADVERTISING FEE	\$100.00	\$100.00
NOTIFICATION FEE (see note on page 2)	\$5.00 + Current USPS rate per certified notice (see below) X _____ notices	\$5.00 \$ _____ (abutter certified)
TOTAL DUE AT TIME OF FILING		\$

**Engineering Review fees may also be required. See note on page 2.

PRELIMINARY REVIEW OF A MAJOR SUBDIVISION		
		TOTALS
FILING FEE	\$200.00	\$200.00
NUMBER OF LOTS* _____	\$30.00 per lot*	
ADVERTISING FEE	\$100.00	\$100.00
NOTIFICATION FEE (see note on page 2)	\$5.00 + Current USPS rate per certified notice (see below) X _____ notices	\$5.00 \$ _____ (abutter certified)
TOTAL DUE AT TIME OF FILING		\$

*Or units when the subdivision does not create individual lots.
 **Engineering Review fees will also be required. See note on page 2.

FINAL REVIEW OF A MAJOR SUBDIVISION		
		TOTALS
FILING FEE	\$500.00	\$500.00
FIRST FIVE (5) LOTS*	\$75.00 per lot*	
NUMBER OF LOTS 6+*	\$150.00 per lot*	
ADVERTISING FEE	\$100.00	\$100.00
NOTIFICATION FEE (see note on page 2)	\$5.00 + Current USPS rate per certified notice (see below) X _____ notices	\$5.00 \$ _____ (abutter certified)
TOTAL DUE TIME OF FILING		\$

*Or units when the subdivision does not create individual lots.
 **Engineering Review fees will also be required. See note on page 2.

SITE PLAN REVIEW		
		TOTALS
FILING FEE	\$250.00	\$250.00
SQUARE FOOTAGE	\$75.00 per 1,000 sq. ft. (gross floor area)	
ADVERTISING FEE	\$100.00	\$100.00
NOTIFICATION FEE (see note on page 2)	\$5.00 + Current USPS rate per certified notice (see below) X _____ notices	\$5.00 \$ _____ (abutter certified)

SITE PLAN REVIEW		
TOTAL DUE AT TIME OF FILING		\$
**Engineering Review fees will also be required. See note on page 2.		

SITE PLAN REVIEW AMENDMENT (WITH STRUCTURAL CHANGES)		
		TOTALS
FILING FEE	\$250.00	\$250.00
SQUARE FOOTAGE	\$75.00 per 1,000 sq. ft. (gross floor area)	
ADVERTISING FEE	\$100.00	\$100.00
NOTIFICATION FEE (see note below)	\$5.00 + Current USPS rate per certified notice (see below) X _____ notices	\$5.00 \$ _____ (abutter certified)
TOTAL DUE AT TIME OF FILING		\$
**Engineering Review fees may also be required. See note below.		

OTHER		
-SITE PLAN REVIEW AMENDMENT (WITH NO STRUCTURAL CHANGES) -EXTENSION REQUESTS -CONDITIONAL USE PERMITS		
		TOTALS
FILING FEE	\$250.00	\$250.00
ADVERTISING FEE	\$100.00	\$100.00
NOTIFICATION FEE (see note below)	\$5.00 + Current USPS rate per certified notice (see below) X _____ notices	\$5.00 \$ _____ (abutter certified)
TOTAL DUE AT TIME OF FILING		\$
**Engineering Review fees may also be required. See note below.		

MINOR SITE PLAN REVIEW		
		TOTALS
FILING FEE	\$150.00	\$150.00
NOTIFICATION FEE (see note below)	Current USPS rate per certified notice (see below) X _____ notices	\$ _____ (abutter certified)
TOTAL DUE		\$

ENGINEERING REVIEW FEES:

After an application to the Planning Board is submitted and the filing fees identified above have been paid, the Planning & Development Department will determine the scope of required engineering review and will obtain an estimated cost from the reviewing engineer. A cost estimate of the review fees will usually be generated within two (2) – three (3) business days. Once conveyed to the applicant, the estimated review fees shall be paid by the applicant within five (5) business days, and an escrow account shall be established by the Planning & Development Department. No plans will be reviewed unless and until the review fee estimate is paid, if required.

Please note that escrow fees are only an estimate of what services will cost and actual costs of review may be less or more than the amount initially estimated. Any unused portion of the escrow will be returned to the applicant at the end of the approval process if such a surplus remains. Additionally, in the event the escrow amount does not cover the full cost of services the Applicant shall pay any remaining costs as a condition of approval. See also Section 4.7 of the Site Plan Review Regulations and Section 7.7 of the Subdivision Regulations.

NOTIFICATION FEE: CURRENT FEE as of January 2024 is \$5.54 per certified notice

THE CERTIFIED 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 AND ANY OTHER PERSONS REQUIRED BY RSA 676:4, I(d).

Corner Monument
Descriptions

all dimension are outside diameter

No. 1 FOUND, in 2018, a Capped Rebar stamped by Hathorn No. 560 with 4" of reveal, firm, straight and in good condition, IN 2024 found a 5/8" rebar with no cap flush and 0.07 difference in position. Yield the 2018 position. Recent construction of retaining will likely altered this rebar.

No. 2 FOUND a Capped Rebar stamped by Hathorn No. 560 with 3" of reveal, firm, straight and in good condition,

No. 3 FOUND a 2" Iron Pipe rusted off on top with 4" of reveal , straight, firm and flush to the ground and placed a wooden witness stake

No. 4 FOUND, in 2018, a Capped Rebar by CMLS LLS 848 with 3" of reveal, firm, straight and in good condition, not found in 2024 and SET a 5/8"x36" blue rebar with an orange plastic cap and 6" of reveal.

No. 5 FOUND a Capped Rebar stamped by Bruno NH 575 with 7" of reveal, firm, straight and in good condition midway up the steep slope

No. 7 FOUND a 1" Iron Pipe buried 12" on the southwesterly side of a very large Silver Maple of reveal, firm, straight and in good condition

No. 8 FOUND a 3/4" yellow Iron Pipe with 5" of reveal firm, straight and in good condition at the base of a large Ash Tree

No. 9 FOUND a 1-1/4" yellow Iron Pipe with 12" of reveal bent southerly, located at the ground, firm, and in fair condition, on top of the steep slope

No. 10 FOUND a 2" yellow Iron Pipe with 7" of reveal firm, straight and in good condition on the easterly side of large Oak Tree on the top of the steep sope

No. 11 FOUND a 4"x6" granite bound with 16" of reveal firm, straight and in good condition 3" from Top of the bank and 20" to the corner on 6' chain link fence

No. 12 FOUND a 6"x8" granite bound broken off with 8" of reveal, located in the center, firm, straight and in good condition, 33" from to the corner on 4' chain link fence

No. 13 FOUND a Capped Rebar stamped by Bruno NH 575 with 8" of reveal, firm, straight and in good condition midway up the steep slope

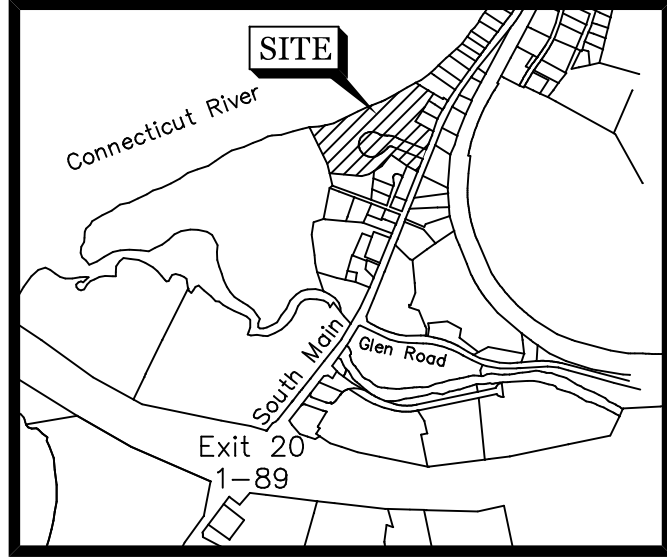
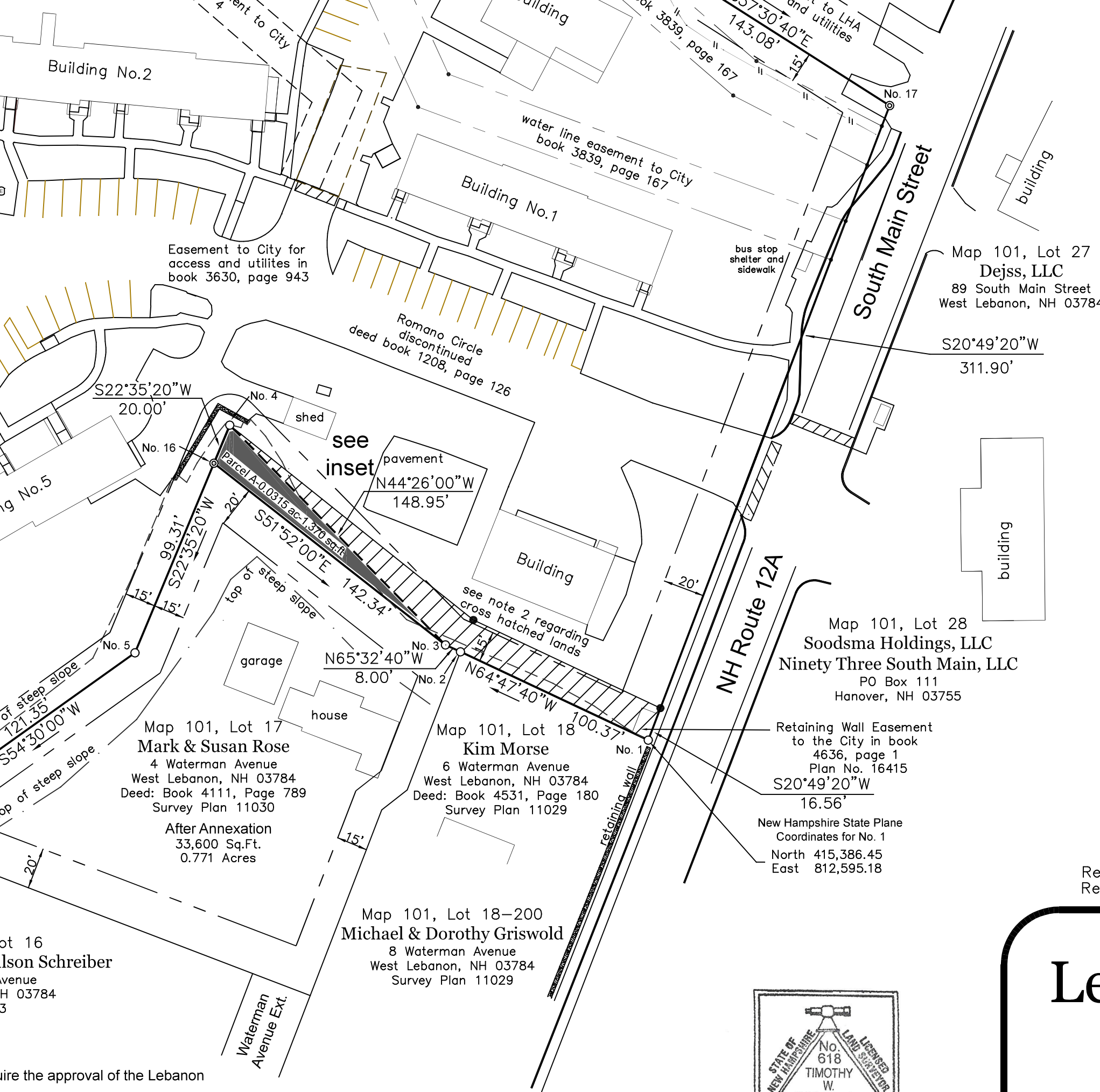
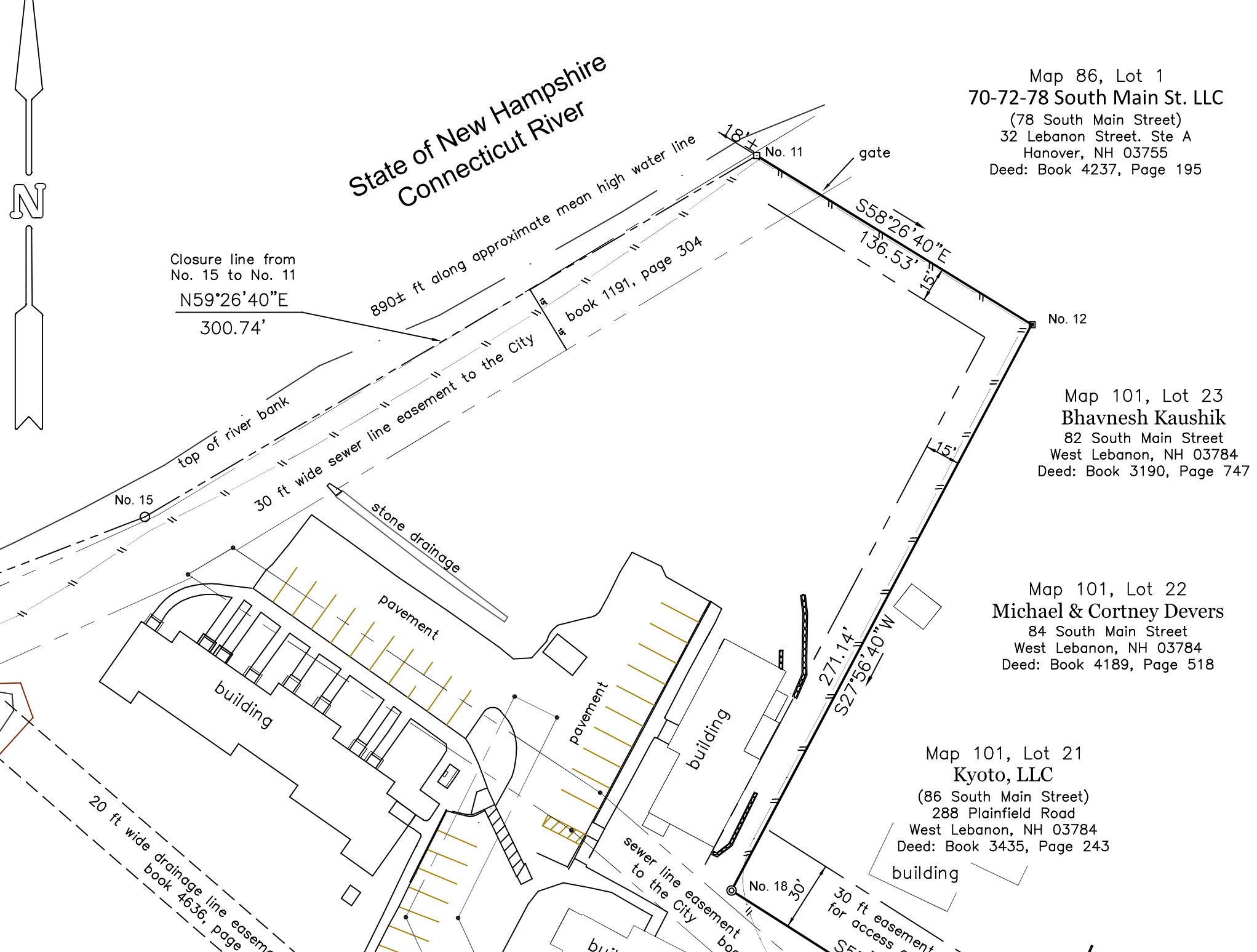
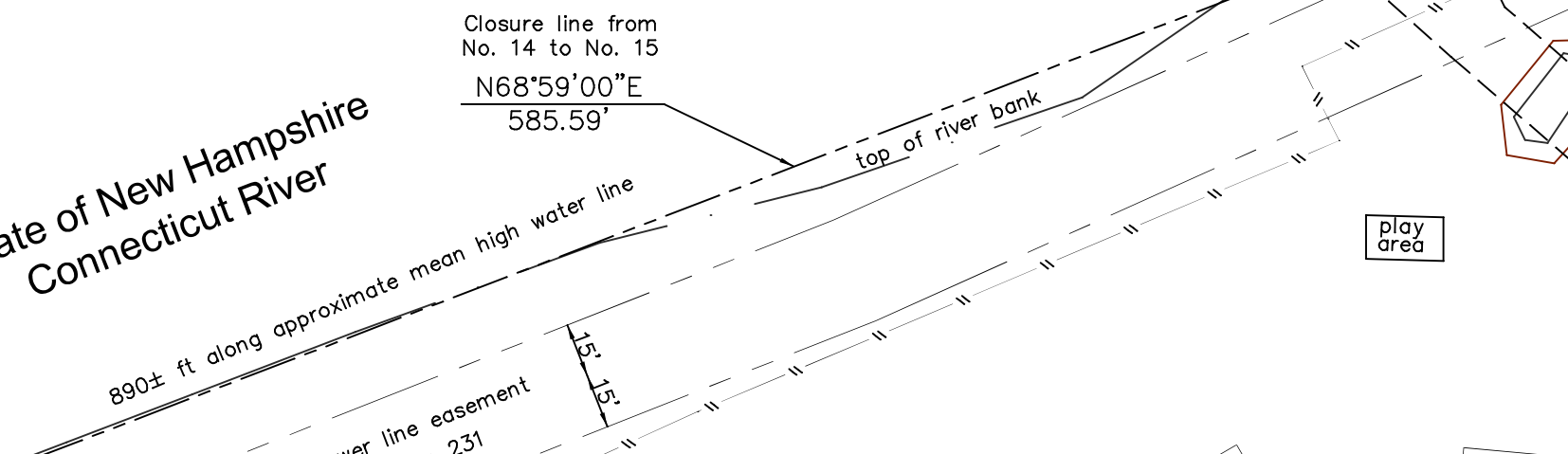
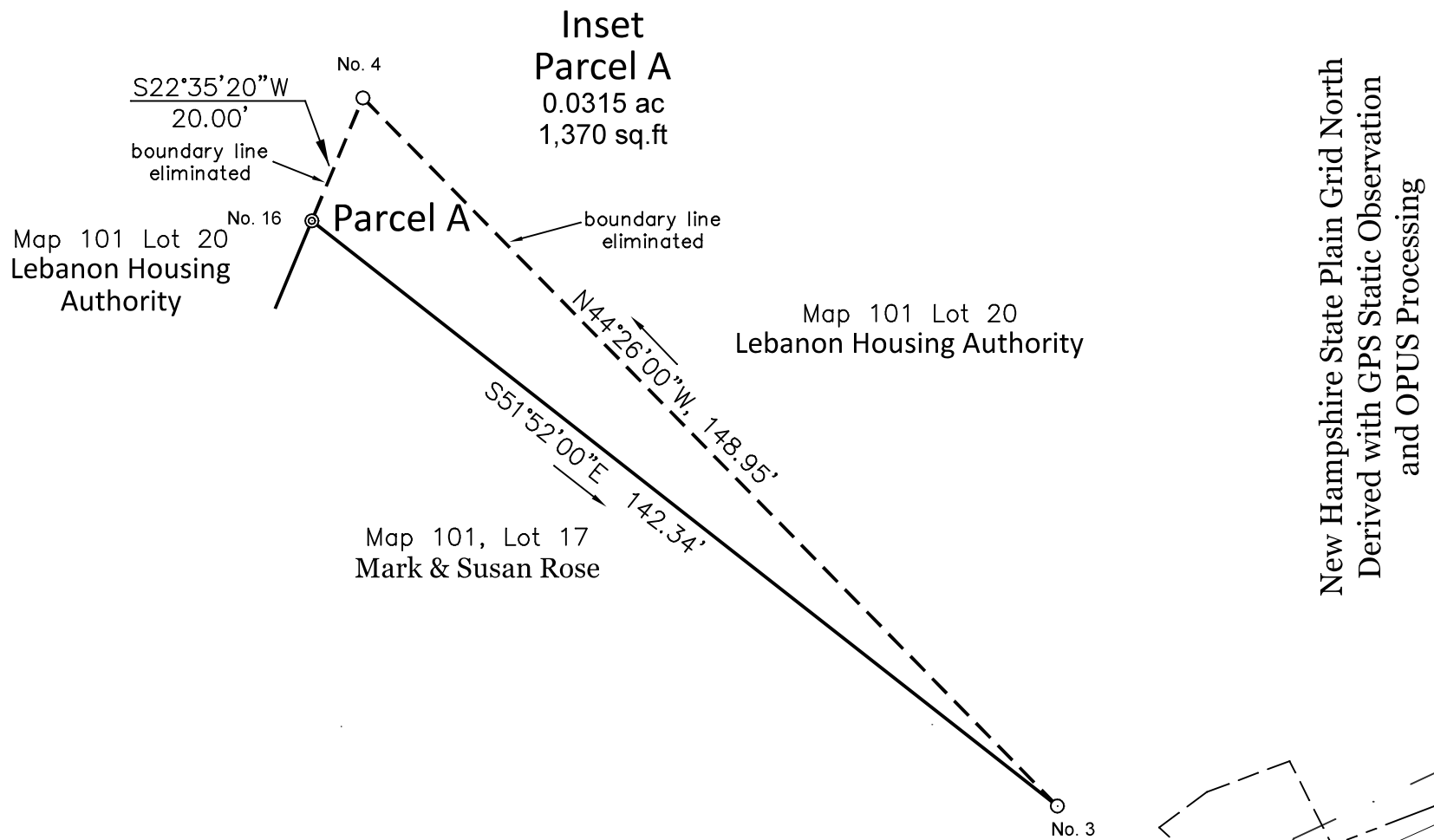
No. 14 FOUND a Capped Rebar stamped by Bruno NH 575 flush, firm, straight and in good condition at the edge of the sewer line clearing and at the top of the river slope

No. 15 FOUND a 2" yellow Iron Pipe with 6" of reveal firm, straight and in good condition near the top of the river bank

No. 16 SET a 5/8"x42" rebar with a 2" orange plastic cap and 6" of reveal firm, straight

No. 17 SET a 5/8"x24" rebar with a 1" orange plastic cap flush with the pavement

No. 18 SET a 5/8"x42" rebar with a 2" orange plastic cap flush with the ground



LOCUS

BOUNDARY SURVEY NOTES

- The purpose of this Minor Lot Line Adjustment Plat is to identify and monument the boundary Lines for Lebanon Parcel Map 101, Lot 20, the Subject Parcel, and to create Parcel A to be annexed from Parcel 101. Lot 17.
- Surveyor's Report: The deed description for the Subject Parcel is generally consistent within the deed chain and also the abutting deeds. The subject parcel's deed describes two Parcels. The deed in book 1208, page 145 included 8.1 acres. The deed in book 3402, page 283 added 1.4 acres on the northerly side. Boundary lines are consistent with abutting deeds and plans excepting for the cross hatched lands between the Subject Parcel and Lots 101/18 and 101/17. The Subject Parcel's deed chain does not specifically describe this boundary line. The abutting deeds describe the line along the base of a bank. Lot 101/18's survey recorded as Plan No. 11029 identifies this boundary line as a straight line between monuments No. 1 and No. 3 generally following the meandering base of the bank. The Subject Parcel's 1971 survey recorded in Plan file 3, Folder 2 as No. 44 identifies this boundary line on the northerly side of the cross hatched area. The 2009 survey recorded as Plan 13513 identifies this cross hatched area. No correlative action was found. This cross hatched area should be included as lands of the Subject Parcel. I recommend a corrective deed be recorded. Several utility and assess easements to the City of Lebanon burden the Subject Parcel and are shown on the plan.
- The Limits of South Main Street or Route 12A are computed based on previous surveys as 25 ft from centerline.
- The subject lands are Class One and currently located in Lebanon's R2, Residential Two, Zoning District. The setback limits are Front 20', Side 15' and Rear 20'.
- The field survey commenced on April 2, 2024 was completed on April 16, 2024. The survey will be complete when corner monuments are placed. Corner monuments noted as SET are not yet placed. All monument dimensions are outside diameters.
- The subsurface utility connections shown are from Lebanon's Combined Sewer Separation Contract 13 for Romano Circle Area. Visible structures were located. Underground utilities were not verified.
- Romano Circle is discontinued and is shown as a part of the Subject Lands. The deed to Romano Circle is found in book 1208, page 126.
- The City of Lebanon Planning Board number is PB2024-39-BLA. This Plat was approved pursuant to the City of Lebanon Subdivision Regulations last revised June 28, 2021.

Record Owner
Lebanon Parcel Map 101, Lot 20
Lebanon Housing Authority

31 Romano Circle, West Lebanon, NH 03784
Deed References : Book 1208, Page 145
Book 3402, Page 283

Plan References: GCRD Plan Pck 3, Fld 2, No. 44
GCRD Plan No. 13513

Record Owners
Lebanon Parcel Map 101, Lot 17
Mark W. Rose, Sr. & Susan L. Rose

4 Waterman Avenue, West Lebanon, NH 03784
Deed References : Book 4111 Page 789

Plan References: GCRD Plan 11130
GCRD Plan No. 13513

Revised October 7, 2024, Staff Comments
Revised September 9, 2024, abutters and date

Minor Lot Line Adjustment
Lebanon Housing Authority
Mark & Susan Rose

4 Waterman Avenue and 31 Romano Circle
Grafton County, City of Lebanon, New Hampshire

Project No. 1424-1 Date: September 4, 2024

Scale: 1" = 50'

Rockwood Land Services, LLC

24 Cobb Hill Road, Hartland, Vt 05048
802.299.0042 rockis@vermontel.net

Legend

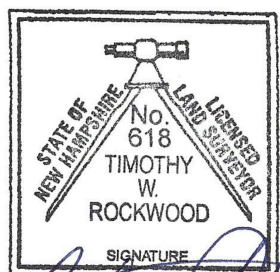
- | | | |
|--------------------------|--------------|--------------|
| Found Granite Bound | □ | as described |
| Found Iron Pipe or Rebar | ○ | as described |
| Set Capped Rebar | ● | as described |
| Boundary Line | — | |
| Boundary Line Eliminated | - - - | |
| Setback Limits | — | |
| Stone Retaining | — | |
| Water Main | — | |
| Drainage Line | — | |
| Sewer Line | — | |
| Electric line buried | — | |
| Edge of Pavement | — | |
| Utility Pole | — | |
| Sewer Manhole | — | |
| Communication Manhole | — | |
| Telephone Manhole | — | |
| Catch Basin | — | |
| Water Gate Valve | — | |
| Light | — | |
| Hydrant | — | |
| Sign | — | |
| GCRD Deed Reference | (Book, Page) | |
| GCRD Plan Reference | Plan No. | |

Lebanon Statements

"This plan shows the Minor Lot Line Adjustments/Boundary Agreement and does not require the approval of the Lebanon Planning Board as a Subdivision."

"The Subdivision Regulations of the City of Lebanon and the Notice of Action are a plat of the Plat, and approval of this Plat requires the completion of all the requirements of the Notice of Action and said Subdivision Regulations excepting only any modification or waiver set forth in the Notice of Action."

I hereby certify to the best of my belief and knowledge this boundary survey for Lebanon Parcel Map 101, Lot 20 and Parcel A meets the New Hampshire Urban Survey Standard. The boundary lines and corner monuments shown are consistent with the referenced deeds and plan unless otherwise noted and are the basis for this Surveyor's opinion of the boundary lines locations.



Timothy W. Rockwood
LLS No. 618



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

PLANNING BOARD

October 14, 2024 Meeting

Staff Memorandum – PB2024-22-CUPSPR – *con't from 9/9/24*

APPLICATION INFORMATION

Agenda Item: 3.B

Application ID: 2024-22-CUPSPR

Application Type:

Site Plan Review and CUP for a proposed 11-building, 474-unit multi-family PURD totaling +/- 731,600 sq. ft. in size, and a CUP to allow an increase in the maximum permitted building height from 45 ft. to 55 ft.

Property Location & Tax Map:

- 174 Hanover St (Tax Map 48, Lot 4)
- 0 Hanover St (Tax Map 48, Lot 2)
- 0 Hanover St (Tax Map 48, Lot 1)
- 238 Hanover St (Tax Map 63, Lot 1)

Applicant & Property Owner:

Brickyard One Nominee Trust

Property Size: +/-136.87 acres total (per City Assessor's records)

Zoning District(s):

- Residential One (R-1)
- Residential Three (R-3)
- Residential-Office-One (R-O-1)
- Rural Lands Three (RL-3)

Overlay District(s):

- Wetlands Conservation District
- Floodplain District
- Steep Slopes District

Future Land Use Map:

- Mixed Use
- Rural (where zoned RL-3)

Existing Use & Improvements:

- 174 Hanover Street: remains of Densmore Brickyard
- 238 Hanover Street: +/-5,146 (gross) sq. ft. one-family dwelling, constructed in 1800 (a conforming use in the R-3 District per §310.2) and accessory structures

LEGAL NOTICE

Brickyard One Nominee Trust, 174 Hanover Street (Tax Map 48, Lot 4), 0 Hanover Street (Tax Map 48, Lot 2), 0 Hanover Street (Tax Map 48, Lot 1), and 238 Hanover Street (Tax Map 63, Lot 1), zoned R-1, R-O-1, R-3 & RL-3: Request for Site Plan Review and a Conditional Use Permit pursuant to Sections 308.2, 310.2, 311A.2, and 501.2 of the Zoning Ordinance for a proposed 474-unit multi-family Planned Unit Residential Development (PURD) totaling +/- 731,600 sq. ft. in size, consisting of 11 buildings together with parking, utilities, landscaping, access, and other related site improvements. Applicant also requests a Conditional Use Permit pursuant to Section 308.4 of the Zoning Ordinance to allow an increase in the maximum permitted building height from 45 ft. to 55 ft. PB2024-22-CUPSPR

APPLICATION MATERIALS AND OTHER SUBMISSIONS

****NEW****

Other public comment:

- ▶ Letter dated October 6, 2024 from Nicole Ford Burley, Chair, Lebanon Heritage Commission (2 pages)

Applicant submissions:

- ▶ Letter dated October 9, 2024 from Dave Fenstermacher, PE, of VHB (description of revised site layout; 2 pages)
- ▶ Plan sheet titled, "Overall Site Plan," prepared by VHB, dated May 10, 2024, last revised 10/09/2024, Project Number 52933.00
- ▶ Site Rendering of the Brickyard Residential Development, prepared by VHB, dated October 9, 2024

****INCLUDED IN [8/12/24 AGENDA PACKET](#)****

Staff comments and other public comment:

- ▶ Letter dated June 26, 2024 from Steven Keach, PE, of Keach-Nordstrom Associates, Inc. (reviewing engineer comments; pgs 1-11 of 1113 of the attachment)
- ▶ Memo dated August 1, 2024 from Douglas Oster, PE, of Weston & Sampson (traffic study peer review; pgs of 12-13)
- ▶ Memo dated June 12, 2024 from Duane Egner, Lebanon Fire Department (review comments; pg 14)
- ▶ Memo dated June 5, 2024 from the Lebanon Pedestrian & Bicyclist Advisory Committee (PBAC) (review comments; pgs 15-16)

- ▶ Letter dated July 1, 2024 from Nicole Ford Burley, Lebanon Heritage Commission Chair (review comments; pgs 17-18)
- ▶ E-mail sent June 17, 2024 from Andrew Garthwaite, Lebanon Tree Advisory Board Chair (review comments; pg 19)
- ▶ E-mail sent July 1, 2024 from David Kroner, abutter at 194 Hanover Street (pg 20)
- ▶ E-mail sent July 7, 2024 from Brendan Nyhan (pgs 21-22)
- ▶ Letter dated June 11, 2024 from Brian Edwards, Town of Hanover Planning Board Chair (pgs 23-24)

Applicant submissions:

- ▶ Application form (pg 25)
- ▶ Letter dated May 13, 2024 from Dave Fenstermacher, PE, of VHB (transmittal letter; pg 26) Letter dated May 13, 2024, revised August 6, 2024, from Dave Fenstermacher, PE, of VHB (project description and impact statement; pgs 27-33)
- ▶ Letter dated July 2, 2024, from Dave Fenstermacher, PE, Managing Director of VHB (PUD/PURD Conditional Use Permit narrative; pgs 34-44)
- ▶ Application for Conditional Use Permit Support Statement (PUD/PURD CUP per Sections 501.1 & 501.2 of the Zoning Ordinance; pgs 45-47)
- ▶ Application for Conditional Use Permit Support Statement (CUP for building height per Section 308.4 of the Zoning Ordinance; pgs 48-50)
- ▶ Application for Waivers (pgs 51-52)
- ▶ Site Plan Review Regulations Technical Checklist dated May 10, 2024 (pgs 53-62)
- ▶ Certified Notification List (pgs 63-64)
- ▶ Fee Schedule (pgs 65-66)
- ▶ Fiscal Impact Analysis for The Brickyard – Hanover Street, dated May 8, 2024, prepared by Fougere Planning & Development (pgs 67-81)
- ▶ PURD Density Figure, dated May 2024, prepared by VHB (pg 82)
- ▶ PURD Open Space Figure, dated May 2024, prepared by VHB (pg 83)
- ▶ PURD Development Calculations, dated May 10, 2024, prepared by VHB (pg 84)
- ▶ Letter dated July 2, 2024 from Dave Fenstermacher, PE, of VHB (response to staff completeness comments; pgs 85-88)
- ▶ Letter dated August 7, 2024 from Dave Fenstermacher, PE, of VHB (response to staff review comments; pgs 89-125)
- ▶ Memo from Jason Plourde, PE, of VHB (response to Weston & Sampson peer review of traffic study; pgs 126-129)
- ▶ Plan set titled “The Brickyard Residential Development,” dated May 10, 2024, latest issue August 6, 2024, prepared by VHB, EV Project: 52933.00 (50 sheets plus cover sheet; pgs 130-180)
- ▶ Traffic Impact Study for Lebanon Brickyard Development, dated May 2024, revised August 2024, prepared by Jason Plourde, PE, of VHB (traffic study without appendices; pgs 181-248)

Available on-line only:

- ▶ Traffic Impact Study for Lebanon Brickyard Development, dated May 2024, revised August 2024, prepared by Jason Plourde, PE, of VHB (traffic study appendices; pgs 249-690)
- ▶ Drainage Report for Lebanon Brickyard Development, dated May 10, 2024, revised August 6, 2024, prepared by David Fenstermacher, PE, of VHB (pgs 690-1041)
- ▶ Lighting specifications by Gardco (pgs 1042-1113)

COMPLETENESS REVIEW

The Planning Board accepted the application as complete on July 8, 2024.

STAFF COMMENTS

Following an initial discussion with the Planning Board on August 12th and additional discussion and public comment at the September 9th meeting, the applicant has revised the site layout (see attached plan sheet (titled "Overall Site Layout") and the attached Site Rendering, together with a letter dated October 9, 2024, from Dave Fenstermacher, PE, of VHB describing the changes. The applicant intends to review the proposed layout changes with the Board at the October 14th meeting. Staff anticipates that a fully updated plan set and other revised application materials will be submitted for staff's review following the October 14th meeting.

OTHER COMMENTS

At its meeting on September 3, 2024, the Lebanon Pedestrian-Bicyclist Advisory Committee reviewed the plan set with a latest issue date of August 6, 2024 (see pages 130-180 of the [August 12, 2024 staff memo attachment](#)) and provided the following comments (as previously shared with the applicant):

1. Construct a sidewalk along the west side of Hanover Street the length of the development.
2. Move the northern street crossing south so it aligns at the school's northern driveway. Because this a narrower area to cross, the realignment will shorten the time pedestrians and children riding bikes will need to spend in the road.
3. Install a pedestrian-controlled stop light at the Evans Drive/Hanover Street intersection.
4. Perform new traffic/pedestrian/bike counts in September or in May when more people are riding and walking.
5. Create a link to the existing trail network at Boston Lot and have trail access parking available to the public.
6. Install more long-term bike parking.

Attachments

cc: Brickyard One Nominee Trust (emailmarchese@gmail.com)
Dave Fenstermacher, PE, VHB (dfenstermacher@vhb.com)
Richard Whitehouse, PE, VHB (rwhitehouse@vhb.com)

6 October 2024

Lebanon Planning Board
51 North Park Street
Lebanon, NH 03766

Re: Brickyard One Nominee Trust, 174 Hanover Street, 0 Hanover Street, and 238 Hanover Street

Dear members of the Planning Board,

This letter serves as a follow-up to the Heritage Commission's previous letter of 1 July 2024, which posed a number of questions regarding Brickyard One Nominee Trust's proposal for a multi-family Planned Unit Residential Development (PURD) at 174 Hanover Street, 0 Hanover Street & 238 Hanover Street. The applicant has responded to some of these questions, and the Heritage Commission would now like to provide the Planning Board with several recommendations regarding the site and its historical significance.

Questions and Responses

The Heritage Commission submitted the following questions (italicized) in our July letter. Having now received some answers and further information, below are the original questions supplemented with the additional information.

What research has been conducted into the history and cultural significance of the site?

The Commission is pleased to see that in the current plan, two kilns will be preserved, but we would like further information about how the kilns were evaluated, what historic assessment was conducted on the site, and what will be done to document the site before it is demolished. Has the Chandler Cabins site been evaluated for its historical and cultural significance? What assessment has been conducted on the cabins?

Applicant response:¹ "The project is subject to regulatory review by the Division of Historic Resources for potential impacts to historic resources. VHB's in-house architectural historians and Monadnock Archaeology are working with the development team, which will include research into the property and the surrounding area's history."

Is a preservation consultant on staff?

Projects of this scale on historic properties routinely employ a preservation consultant to assess the site and advise the team on how to preserve and respect the historic and cultural significance of the site. Has a preservation consultant been hired, or will one be?

Applicant response: "VHB's in-house architectural historians will be working with the development team and providing feedback. The team's archaeology consultant will also be involved when needed."

Will the site be open to the public?

The kilns and other historic elements of this site are significant parts of Lebanon's history and should be accessible to the public. Will the preserved structures be open to the public and accessible? Will they be part of a park or planned green space? What interpretative elements (e.g., signage, labels) will be included in these spaces?

¹ All responses are from a letter dated 7 August 2024, which can be found in the packet for the 12 August 2024 meeting of the Lebanon Planning Board, beginning at page 123 of 1113.

Applicant response: "The Applicant is considering public access accommodations to view the kilns, though the kilns themselves are not expected to be made accessible to the public or residents of the development for preservation and security purposes. The proposed site improvements include a patio/overlook sitting area to offer views of the kilns from an elevated position at the top of the proposed retaining wall."

Recommendations

The Heritage Commission is pleased to learn that the applicant not only has in-house architectural historians but have contracted with Monadnock Archaeology to research the history of the site. With this important partnership already in place, the commission has the following specific recommendations:

1. Assessment

- Conduct a historical survey of the project site, including the Densmore brickyard, Chandler's Cabins, and the quarries.
 - The majority of structures on the site will be destroyed as part of this project, but no action should be taken until the impact of the demolitions on the historical significance of the site and structures is fully understood.
- Conduct an archeological study of the project site, including the Densmore brickyard, Chandler's Cabins, and the quarries.
 - The archaeology of the site will largely be destroyed by the new construction, so it will be important to have a thorough record of the existing archaeological evidence.

2. Preservation

- Preserve and rehabilitate the two beehive kilns.
 - Under the current site plan, the kilns are intended to be retained, but active preservation and rehabilitation, if possible, should be undertaken to ensure that the kilns remain intact for future generations.

3. Access and education

- Provide public access to the beehive kilns, including the interiors.
 - Much of the significance of the kilns is their interiors, including the ceilings. Without access, much of their impact is lost.
 - As a significant part of Lebanon's history, the kilns should be accessible to Lebanon's residents, not only project residents.
- Create interpretative materials to educate the public about the history and significance of the site.
- Enact any practicable recommendations resulting from site assessments, including preservation and education guidance.

Over the past few months, it has become clear that many of Lebanon's residents feel that the Densmore brickyard site represents an important part of Lebanon's history, and that the proposed project impacts not merely an abandoned industrial site but the community and its collective memory. The Heritage Commission feels similarly, and we urge the Planning Board to consider how best to preserve and recognize that history.

Sincerely,



Nicole Ford Burley
Chair, Heritage Commission



October 9, 2024

Ref: 52933.00

Mr. Nathan Reichert
Planning and Development Director
51 North Park Street
City Hall, 5th Floor
Lebanon, NH 03766

Re: Proposed Multi-Family Development
Revised Site Layout Submission

Dear Mr. Reichert:

On behalf of Brickyard One Nominee Trust (the "Applicant"), VHB is pleased to provide the following revision to the site layout for the proposed multi-family development (the "Brickyard"). This revision is in response to the planning board meeting that took place on September 9th, 2024. Based on input from the Planning Board and the public, the applicant has modified the previous plan to address comments.

Please find the attached plan that includes the following modifications:

- The unit mix has been changed to eliminate 3-bedroom apartments in the multi-family buildings and focus on studio/one-bedrooms. The new count is for 420 multi-family units, supported by the one facility housing structure.
- The new mix results in the consolidation from 10 multi-family buildings to 5 multi-family buildings. The buildings to remain have been focused on the west side of the site to keep the massing closest to Interstate 89
- For the area behind the pond, where the larger scaled buildings were eliminated, 51 townhouses are proposed. It should be noted that the density bonus is being requested in order to provide these additional units.
- The wall at the northside of the pond was eliminated to maintain the existing natural bank, and the proposed buffer has increased varying an additional 20 feet to 60 feet along the pond from what was previously shown.
- Consolidated green spaces to provide larger community gathering spaces and park areas.

Overall improvement to the projects includes:

- Reduction in paved area and parking
- Reduction in sewer/water demand
- Vast reduction in the earthwork/blasting
- The maintenance of natural buffer along the pond
- Aesthetic improvements along the pond with the change of building type
- Enhanced community spaces

Mr. Nathan Reichert
Ref: 52933.00
October 9, 2024
Page 2



We look forward to presenting this to the Planning Board and public at the October 14th hearing.

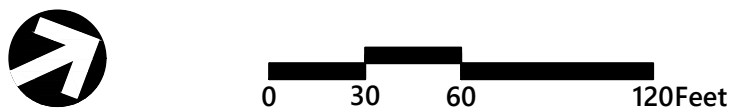
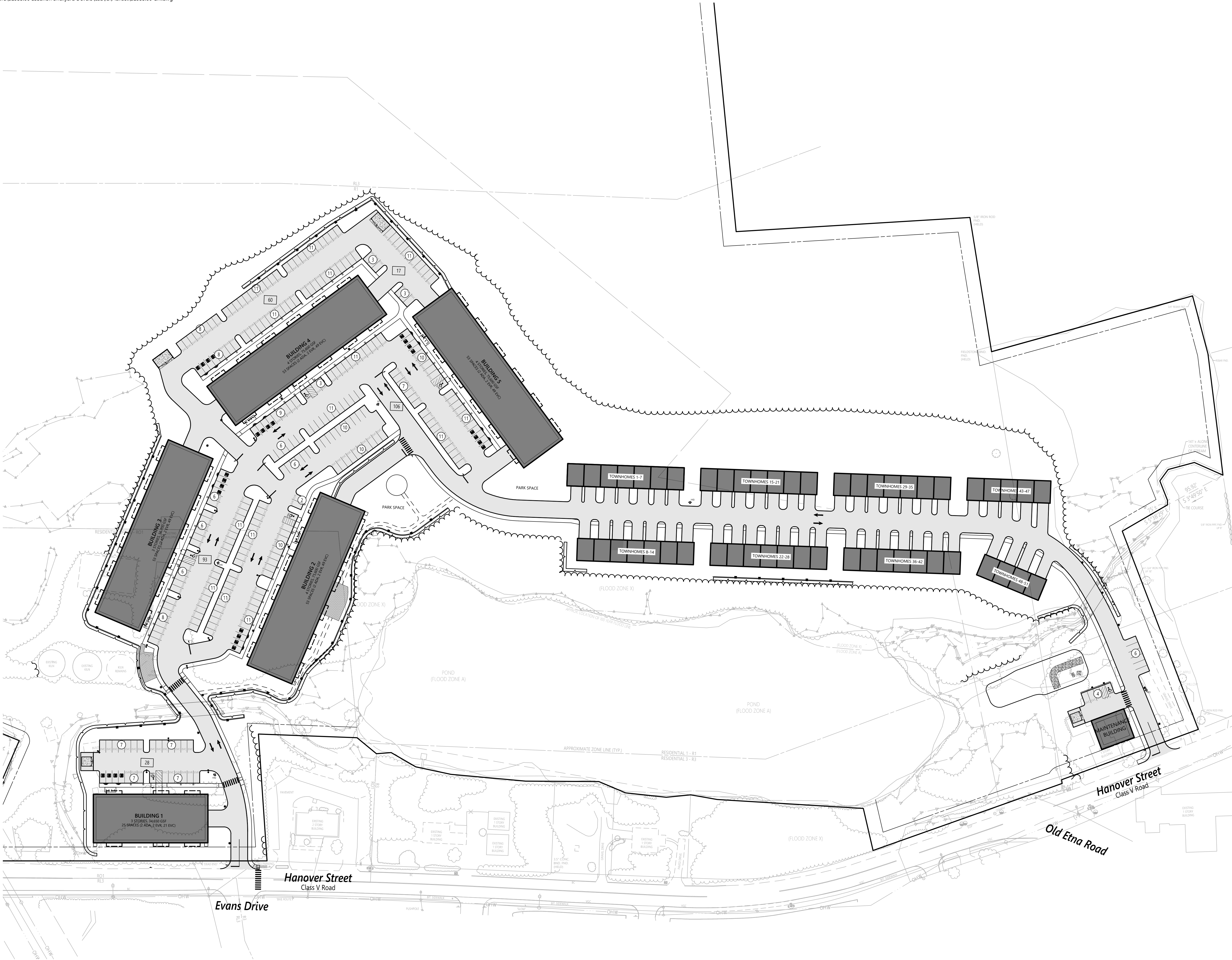
Sincerely,
VHB

A handwritten signature in blue ink, appearing to read "DF", is written over a light blue rectangular background.

David Fenstermacher, PE
Director of Land Development



2 Bedford Farms Drive
Suite 200
Bedford, NH 03110
603.391.3900



The Brickyard Residential Development

174 Hanover Street Extension
Lebanon, New Hampshire 03766

No.	Revision	Date	Appr'd.
1	Response to Comments Update	08/06/24	DF
2	Revised Layout	10/09/2024	DF

Designed by	TMD	Checked by	MJV
Issued for	Permitting	Date	May 10, 2024

Not Approved for Construction
Drawing Title
Overall Site Plan

Drawing Number

C1.4

Sheet 5 of 50

Project Number
52933.00



Site Rendering

The Brickyard Residential Development

Lebanon, New Hampshire

Source: **VHB**
Prepared for: **Planning Board Meeting**
Date: **October 9, 2024**



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

PLANNING BOARD

October 14, 2024 Meeting

Staff Memorandum – PB2024-40-AAD

APPLICATION INFORMATION

Agenda Item: 3.C

Application ID#:
PB2024-40-AAD

Application Type:
Appeal of Administrative Decision

Property Location:
North Main Street,
West Lebanon

Property Owner/Applicant:
XYZ Dairy, LLC

Property Size:
+/-38.18 Ac. (combined tract)

Zoning District(s):

- Central Business District (CBD)
- Light Industrial (IND-L)
- Residential Three (R-3)

Overlay District:

- Wetlands Conservation District
- Flood Plain District

LEGAL NOTICE

XYZ Dairy, LLC, River Park Drive (Tax Map 44, Lots 21 - 30, and Tax Map 44, Lot 7), zoned CB, IND-L and R-3: Appeal of administrative decision made on September 10, 2024, that conditions 1, 2, 4, 5, 7 and 14-4 of the River Park development Site Plan approval as set forth in the Notice of Action dated September 9, 2019, for PB2018-34-SPA, have not yet been satisfied and, consequently, that construction of Phase 1 may not commence. PB2024-40-AAD

APPLICATION MATERIALS

- Application Form
- Support Statement for an Appeal of an Administrative Decision
- Letter dated 9/23*24 from Chet Clem of Lyme Properties 2, LLC
- Certified Notification List
- Fee Schedule

Staff attachments:

- Planning Board Notice of Action for PB2018-34-SPA dated 9/9/19
- E-mail correspondence between applicant and the Planning & Development Department from 6/10/24, 6/13/24, 9/6/24, and 9/10/24

STAFF COMMENTS

At issue is the status of the applicant's compliance with conditions of approval 1, 2, 4, 5, 7 and 14-4 as set forth in the 9/9/19 Planning Board Notice of Action for PB2018-34-SPA. The Planning Board has jurisdiction to hear the applicant's appeal pursuant to condition of approval 30 which provides as follows: "If any dispute arises over the interpretation or application of any of the above conditions, such dispute shall be resolved by the Planning Board itself after notice and public hearing."

Having heard that the applicant intended to commence construction on July 1st, 2024, staff contacted the applicant to inquire about the status of the certain conditions of the Planning Board's site plan approval. *[Note that such requests are routinely made by staff and are routinely responded to by developers for projects that are significantly less complex than River Park.]* Staff did not receive a response, but at the 9/9/24 hearing regarding the site plan extension request (PB2024-34-SPA), the applicant seemed to suggest that the conditions relevant to phase 1 had been satisfied. Consequently, staff made the determination the following day that the conditions 1, 2, 4, 5, 7 and 14-4 hadn't yet been satisfied. This appeal ensued.

Attachments

cc: Chet Clem, Lyme Properties (via e-mail)
David Clem, XYZ Dairy, LLC (via e-mail)

CITY OF LEBANON APPLICATION FOR

SPECIAL EXCEPTION	☐	☐	SITE PLAN REVIEW
VARIANCE	☐	☐	SUBDIVISION
MOTION FOR REHEARING	☐	☐	LOT LINE ADJUSTMENT
APPEAL OF AN ADMIN. DECISION	☒	☐	CONDITIONAL USE PERMIT

☐ OTHER _____

PROPERTY OWNER (APPLICANT):

NAME: XYZ Dairy, LLC TEL.#: (603) 676-7800

MAILING ADDRESS: 57 Main Street, West Lebanon, NH 03784

E-MAIL ADDRESS: dclem@lymeproperties.com

CO-APPLICANT, AGENT, OR LESSEE:

NAME: Lyme Properties 2, LLC TEL.#: (603) 676-7106

MAILING ADDRESS: 57 Main Street, West Lebanon, NH 03784

E-MAIL ADDRESS: chet@lymeproperties.com

PROJECT LOCATION:

TAX MAP #: 44 LOT#: 21-30 & 7 PLOT #: ZONE: CBD, IND-L, R3

STREET ADDRESS OF PROJECT:

IS THIS PROPERTY LOCATED IN THE: **WETLANDS** ☐ YES ☒ NO **HISTORIC DISTRICT** ☐ YES ☒ NO
FLOOD PLAIN ☐ YES ☒ NO

SCOPE OF PROJECT:

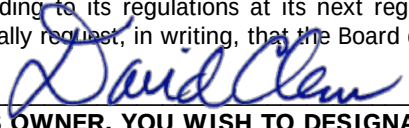
Appeal Mr. Corwin's determinstation that Conditions 1, 2, 4, 5, 7 and 14-4 from the 9/19/19 Notice of Action for PB2018-34-SPA have not yet been satisfied and construction of Phase 1 may not commence.

TYPE OF OCCUPANCY:

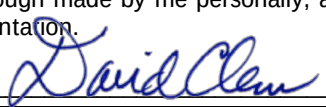
EXISTING ☒ VACANT ☐ ONE FAMILY ☐ TWO FAMILY ☐ MULTI-FAMILY ☐ COMMERCIAL ☐ INDUSTRIAL
 PROPOSED ☐ VACANT ☐ ONE FAMILY ☐ TWO FAMILY ☒ MULTI-FAMILY ☒ COMMERCIAL ☒ INDUSTRIAL
 IF USE IS **COMMERCIAL** OR **INDUSTRIAL**, PLEASE NOTE **SPECIFIC**
 USE: Lab, Office, Retail, Apartments

SIGNATURE BLOCK:

FOR PLANNING BOARD APPLICATIONS ONLY: I, the undersigned, hereby submit this application on the date noted below with the knowledge and understanding that the Planning Board shall determine if the submitted application is complete according to its regulations at its next regularly scheduled meeting on October 14, 2024, unless I personally request, in writing, that the Board delay its determination of completeness to a later date.

PROPERTY OWNER:  DATE: September 10, 2024

NOTE: IF, AS OWNER, YOU WISH TO DESIGNATE AN AGENT TO ACT ON YOUR BEHALF, PLEASE READ THE FOLLOWING AND SIGN BELOW: I hereby designate the person listed above as my agent for the purpose of procuring the necessary local permits for the proposed work as described herein. Representations made by my agent may be accepted as though made by me personally, and I understand that I am bound by any official decision made on the basis of such representation.

PROPERTY OWNER:  DATE: September 10, 2024

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

**CITY OF LEBANON, NEW HAMPSHIRE
SUPPORT STATEMENT FOR
AN APPEAL OF AN ADMINISTRATIVE DECISION**

A cover application, abutters list, filing fee and ten copies of the site plan (if applicable) must accompany this support statement.

City of Lebanon Zoning Ordinance:

APPEALS:

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 set forth in RSA 676:5. 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.

An appeal under this section shall be taken 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 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.

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.

- A. Majority Vote: The concurring vote of 3 members of the Board shall be necessary to reverse any action of the administrative official or to decide in favor of the applicant or any matter on which it is required to pass.

I am appealing the decision of: Tim Corwin, Deputy Planning,
(Name/Title of Official)
made on this date: September 10, 2024.

(Please describe the decision you are aggrieved by in the space provided or attach a separate statement.)

His determination that Conditions 1, 2, 4, 5, 7 and 14-4 from the 9/19/19* Notice of Action for PB2018-34-SPA have not yet been satisfied and, consequently, construction of Phase 1 may not commence. * wrong date, 9/9/2019

Concerning: _____

In Relation to Article(s): _____, Section(s): _____ of the City of Lebanon Zoning Ordinance.



FW: River Park Planning Board Conditions of Approval

1 message

Tim Corwin <Tim.Corwin@lebanonnh.gov>

Tue, Sep 10, 2024 at 11:28 AM

To: Chet Clem <chet@lymeproperties.com>

Cc: David Clem <dclem@lymeproperties.com>, Brian Vincent <brian.vincent@lebanonnh.gov>, Nathan Reichert <Nathan.Reichert@lebanonnh.gov>

Chet –

Based on your comments at last night's public hearing for your site plan extension request, I understand its your position that some or all of the site plan conditions of approval I identified in my June 10th and June 13th e-mails have been satisfied. However, I cannot currently verify these conditions have been satisfied and how. Please note that it's incumbent on the applicant to demonstrate compliance with the applicable Planning Board conditions of approval and that it's extremely common for staff to ask an applicant for a status update.

If it is your desire to move forward with construction, it is not clear why you have not responded to my requests for a status update on the River Park conditions of approval since construction cannot proceed without Planning staff's verification that the applicable conditions of approval have been satisfied.

So that there's clarity, unless you provide satisfactory information to the contrary, **it is my determination that Conditions 1, 2, 4, 5, 7 and 14-4 from the 9/19/19 Notice of Action for PB2018-34-SPA have not yet been satisfied and, consequently, construction of Phase 1 may not commence.**

Again, if you believe these conditions have been satisfied, please simply let me know how. Or, if you choose not to respond, you may also appeal this determination to the Planning Board. **Such an appeal would need to be received within 30 days of this e-mail.**

I will plan to provide a copy of this e-mail with the 10/14 Planning Board agenda packet so that the Board is aware of the status of the outstanding conditions of approval for Phase 1. Alternatively, if you provide information confirming that the conditions referenced above have in fact been satisfied, I will so inform the Planning Board in the staff memo for the 10/14 continued hearing.

If you have any questions or would like to discuss, please let me know.

Thank you, Tim

Tim Corwin, AICP

Deputy Planning and Development Director

City of Lebanon

51 North Park Street

Lebanon, NH 03766

(603) 448-1524 (Office)

(603) 442-6127 (Direct)

TIM.CORWIN@LEBANONNH.GOV

WWW.LEBANONNH.GOV

Book a time to meet with me



City Hall Hours:

Monday-Thursday, 7am – 5pm (No Friday Hours)

NOTICE: THIS E-MAIL AND ANY REPLY TO THIS E-MAIL MAY BE CONSIDERED A "GOVERNMENTAL RECORD" PER NH RSA 91-A:1-A. THE CITY OF LEBANON IS REQUIRED TO MAKE GOVERNMENTAL RECORDS AVAILABLE TO THE PUBLIC UPON REQUEST, IN ACCORDANCE WITH NH RSA 91-A:4. THE CITY IS ALSO REQUIRED TO RETAIN GOVERNMENTAL RECORDS FOR MINIMUM PERIODS OF TIME AS SET FORTH IN NH RSA 33-A:3-A.



September 23, 2024

Planning Board
City of Lebanon
51 N Park Street
Lebanon, NH 03766

Re: Appeal of Administrative Decision: #PB2024-40-AAD

In response to the Planning Staff's position in the August 12, 2024 Staff Memorandum, the discussion at the September 9, 2024 Planning Board hearing, and subsequent communication from the Planning Staff on September 10, 2024, XYZ Dairy provides the following additional information.

All of the conditions identified in Mr. Corwin's communications related to the Phase 1 Infrastructure have been previously satisfied. XYZ does not bear responsibility for the City's file management, nor should consideration or approval of **PB2024-34-EXT** before the Planning Board be withheld. These conditions, apart from having already been satisfied as outlined in **Appendix A**, are not germane to the extension request at hand.

I take umbrage at the Staff's position that XYZ is deficient in meeting these requirements while XYZ has not only provided the information previously, but also continues to address the larger issues resultant from the Planning Staff's own decisions and actions this year. This determination is disingenuous and a distraction from the matter at hand.

The two gating issues for XYZ are 1) the Extension of the Site Plan approvals (#PB2018-34-SPA,) and 2) the status of the Building Permit (#2016-00293). If those overarching permits are invalidated, there is no reason for XYZ or Lyme to expend effort addressing these minor issues and redundant requests for information.

Only the extension of #PB2018-24-SPA is before the Planning Board. Building Permit #2016-00293 is separate matter and is being addressed in a different venue.

Mr. Corwin's September 10, 2024 email references his June 10, 2024 and June 13, 2024 emails regarding these "outstanding" items, and he now asks why XYZ hasn't responded to previous requests for this information. A review of the timeline of events (**Appendix B**) provides a logical answer: these items were superseded by more pressing matters and were to be addressed in the Security Bond / Performance Agreement process necessary to complete the last portion of Phase 1 Infrastructure work.

Thus is the subject of Appeal #PB2024-40-AAD, Mr. Corwin's September 10, 2024 decision via email "So that there's clarity, unless you provide satisfactory information to the contrary, **it is my determination that Conditions 1, 2, 4, 5, 7 and 14-4 from the 9/19/19 Notice of Action for PB2018-34-SPA have not yet been satisfied and, consequently, construction of Phase 1 may not commence.**"



Mr. Corwin's Staff Memo and subsequent emails confuse the issue. The matter before the Planning Board is not whether Phase 1 can commence, but rather whether the underlying Site Plan and Subdivision approvals for River Park are to be extended to account for the delays incurred beyond XYZ's control.

We request that this "decision" be overturned, so that the Planning Board may continue its review of the Extension request before them.

Should the Board grant the requested extension and the Building Permit be reinstated, further requests for information will be addressed by XYZ's Construction Manager or Design/Engineering project team.

Having filed this Appeal in a timely fashion and paid all required fees, XYZ retains the right to have this Appeal heard by the Lebanon Planning Board on October 14, 2024.

Sincerely,

Chet Clem
Lyme Properties 2, LLC
57 Main Street
West Lebanon, NH 03784



Appendix A: Status of conditions

1. The applicant shall submit final designs, including construction drawings, of all infrastructure features associated with each phase, including proposed on- and off-site roadway and parking areas, sidewalks, water and sewer utilities, and storm drainage systems, to the City Engineer for approval, which shall not be unreasonably withheld.

July 28, 2016:

1 River Park and Phase 1 Infrastructure plans originally submitted to City of Lebanon.

December 21, 2018:

Amended drawings for re-routed path of Cross Country Connector submitted.

August 4, 2022:

Amended connection from Lot 29/30 to CCC submitted, following Lebanon DPW catching error made by previous City Engineer.

June 7, 2024:

Updated drawings submitted to City of Lebanon DPW and State of NH DOT for 2024 commencement, reflecting full review of any code changes by XYZ project team, with any changes denoted in the updated package.

2. The applicant has submitted sufficient site and building information to obtain Site Plan approval for development of the site. However, the applicant shall be required to submit updated site plans, building elevations, and phasing information sufficient to demonstrate compliance with the approval to the City for review and approval by the Planning Department, prior to the issuance of Building Permits for each phase and prior to the start of any construction activities for development shown or described in all remaining phases as depicted on the New Phasing Plan. For purposes of this decision, construction activities shall include any construction, excavation, or other site work associated with the construction or installation of buildings, roadways, parking, water, sewer, or storm drainage infrastructure. All such plans and information shall be in accordance with the Site Plan Review Regulations dated last revised November 9, 2009. Such Planning Department review shall be for the purpose of ensuring that the proposed building design and uses are in substantial conformance with the approved phased development project and with the Site Plan Review Regulations referenced above.

April 13, 2015:

Updated Site Plan showing the designed 1 River Park Drive footprint and change from massing footprint in original Site Plan approvals submitted by XYZ to City. (Note: the footprints shown in the original Site Plan application were not based on actual building designs; rather, they were shown to



demonstrate that each building would meet the setback requirements in each zone).

June 8, 2015:

Amended plans accepted by City of Lebanon Planning Board.

December 29, 2019:

Building Permit issued, further implying that this condition had been satisfied.

June 6-7, 2024:

Plan set confirms no change to site and building information.

4. Prior to the start of any construction activities for which construction inspection is required pursuant to this decision or any applicable ordinance or code for each phase of the project, the City shall retain the services of an independent 3rd party inspector, for which the applicant shall be responsible for all inspection fees related to construction and installation of on- and off-site roadways, parking, sidewalks, water and sewer utilities, storm drainage, and erosion control, in accordance with Chapter 181 of the City Code and Section 14 of the Subdivision Regulations unless waivers have been granted. The applicant shall provide funding for inspection services in a form acceptable to the City. Third party engineer inspection reports and as-built drawings provided by the applicant (using NH State Plane Coordinate system), including tie sheets and Northing and Easting coordinates and elevations of underground utilities, shall be reviewed and approved by the City Engineer, prior to acceptance of any utility improvements by the City and all inspection reports shall be made available to the applicant.

XYZ is aware of this requirement and has completed this for the three previous segments of the Phase 1 Infrastructure Improvements and paid a 5-14% project cost premium as a result. As in these three previous cases, the 3rd Party inspection scope of work is developed by the Planning Staff/Dept. of Public Works in parallel with the Security Bond/Performance Agreement.

Appendix B outlines the timeline of events and illustrates why the 3rd Party inspection agreement had not yet been provided: a final \$ value had not been accepted by the Lebanon DPW and Planning Department when the Appeal was filed on July 8, 2025

Crafts Avenue Sewer and Roadway Improvements (CASRI):

Total Construction Value:	\$1,048,348.54
Total 3 rd Party Inspection paid by XYZ:	\$86,080 (8%)

Crafts Avenue Extension (CAE):

Total Construction Value:	\$383,083.52
Total 3 rd Party Inspection paid by XYZ:	\$20,580 (5%)



Cross Country Connector (CCC):

Total Construction Value: \$122,879.26
Total 3rd Party Inspection paid by XYZ: \$18,000 (14%)

5. Edge-of-Disturbance fencing shall be installed and maintained before and during any site work for each phase under construction, to be verified by the City Engineer or City's third-party inspector on site.

XYZ is aware of this condition. Historically, this condition is satisfied by the Construction Manager as the first step for mobilization and signed-off upon by the 3rd Party Inspector on-site. Mobilization has not proceeded due to regulatory actions beyond XYZ's control.

7. Temporary parking facilities.
 - a. Temporary parking facilities are approved in accordance with the chart attached hereto as Exhibit "A".
 - b. Prior to the issuance of a building permit for any phase involving the construction of a temporary parking facility, the applicant shall provide the Planning & Development Department with plans for the proposed temporary parking facility, together with an operation and maintenance plan.
 - c. Each temporary parking facility shall be designed to ensure the safe movement of vehicles and pedestrians to the satisfaction of the Director of the Department of Public Works and the Director of the Planning Department, which shall not be unreasonably withheld. It shall be the responsibility of the applicant to maintain each temporary parking facility in accordance with the operation and maintenance plan.
 - d. The temporary parking identified in Exhibit A may be used until such parking is replaced by the permanent parking garage included in Phase 3 or December 31, 2038, whichever is earlier.

Building Permit #2016-00293 was issued by the Lebanon Planning Department on December 29, 2019, three months after this September 9, 2019 Notice of Action. The permit confirms that this requirement is not applicable and that sufficient parking had been provided, as shown on the Building Permit Construction documents for 1 River Park Drive.

The updated Phasing Plan in the September 9, 2019 Notice of Action reflects off-site parking requirements for Lot 1, if the 125-unit multi-family building were to be constructed concurrently as



XYZ had hoped. Unfortunately, that additional housing is not presently under consideration, due to repeated delays and the rejection of XYZ's proposed Site Plan amendments in 2023 that would have enabled this housing to progress simultaneously with 1 River Park.

The Phase 1 plans before the Department of Public Works and Planning Department are consistent with plans previously approved, there has been no material change to parking whatsoever, and there is no temporary parking facility required, making Condition 7 **not applicable**.

The Permit and subsequent updated plans (Sheets 1-5 and 1-6) provided to the Planning Department on June 6-7, 2024 show the original, approved plan for 1 River Park. This provides more than sufficient parking on Lot 1 (42 spaces) and Lot 2 (140 spaces) to meet the total parking requirements for 1 River Park (149 spaces).

14-4. Prior to the issuance of a Building Permit for Phase 1 of the development, the applicant shall obtain all required State approvals including, but not limited to, the following:

- NHDES Alteration of Terrain Permit
- NHDES approval for Sewage Discharge

Note: this requirement has already been satisfied. Alteration of Terrain Permit #AoT-0994 dated October 6, 2015 and Sewage Discharge Permit #D2015-0802 dated September 10, 2015, have been issued by NH DES for Phase 1.

As the Planning Department's own Notice of Action (highlighted above) states, this requirement has already been satisfied.

NHDES Alteration of Terrain Permit: #AoT-09943A

The NH DES Alteration of Terrain Permit #AoT-09943A was issued on October 6, 2015. Following the 2018 suspension and the 2020 suspension, TF Moran submitted a request for extension on XYZ's behalf to NH DES on August 2, 2020, which was granted on October 30, 2020 with an expiration date of October 30, 2025.

As referenced numerous times previously, the August 2, 2020 letter from TF Moran included reference to the temporary stormwater line to be installed to re-direct the City's stormwater line to allow construction of 1 River Park to commence, and until the permanent solution is installed. Per the October 30, 2020 letter from NH DES, XYZ's project team must abide by N.H. **Env-Wq 1507.07**.

As stated in numerous past communications to the City, the City of Lebanon was copied on all communications related to this permit.



To eliminate any further confusion regarding jurisdiction and approval, XYZ requests that the Planning Department provide reference to any specific, applicable City regulations regarding stormwater that have not been met.

NHDES approval for Sewage Discharge: #D2015-0802

This permit was granted by the NH DES/Lebanon DPW on 9/10/2015.

A memo sent by XYZ to the Lebanon DPW on December 4, 2019 includes all previous calculations related to water & sewer connections for 1 River Park, and minor updates related to fee calculations for the core & shell construction prior to the issuance of Building Permit #2016-00293. On December 19, 2019 XYZ paid the City of Lebanon \$15,886 for a water and sewer connection fee for 1 River Park in accordance with #D2015-0802.

Work on the sewerage construction under Permit #D2015-0802 was commenced prior to the three years of the approval date in accordance with the written condition on the permit, when the Crafts Avenue Sewer and Roadway Improvement (CASRI) construction began in 2018. Work on this same scope of work has continued, with the City's implicit approval, during the Crafts Avenue Extension (CAE) work in 2020 and the Cross Country Connector (CCC) work in 2022.



Appendix B: Timeline of relevant events

February 1, 2024

The Planning Staff's memo invalidating the Building Permit jeopardized the entire River Park project, and repeat efforts by XYZ and its Attorney to address this matter to allow development activities to continue while the matter was resolved were fruitless, causing months of uncertainty.

May 6, 2024

95 days and three (3) Lebanon Building Code Board of Appeals hearings later, the BCBA reinstated Permit #2016-00293. With the project seemingly back on track after the BCBA decision overturning the Staff's actions, XYZ's project team is re-released to file necessary information.

June 5, 2024

The City of Lebanon elects to appeal the BCBA's May 6, 2024 appeal decision. This appeal is filed at 4:30pm on the 30th day of the 30-day appeal period.

June 6, 2024

Engelberth Construction on behalf of XYZ submitted an Excavation Permit Application for the portion of remaining Phase 1 infrastructure under the City's jurisdiction. A parallel application to the NHDOT was submitted the same day.

That application was required to be reviewed and approved by the Lebanon DPW, and necessary for infrastructure cost values to be determined to reach a Performance Bond/Security Agreement.

June 7, 2024

Engelberth Construction on behalf of XYZ submits updated construction drawings for 1 River Park reflecting minor code changes from the two (2) code update reviews conducted under the direction of Elkus Manfredi Architects.

June 13, 2024

Planning Director Nathan Reichert responds to Engelberth Construction regarding technical issues with the City's ongoing OpenGov software transition.

In a conversation between Mr. Reichert and Chris Yandow at Engelberth Construction, memorialized by Mr. Yandow to XYZ via email on June 13, 2024, Mr. Reichert states that the Permit would not be recognized until the appeal process is over. Mr. Reichert's decision is contradictory to NH RSA 676:6, "The effect of an appeal to the board shall be to maintain the status quo."

Thus, the Permit that was reinstated by the Lebanon Building Code Board of Appeals on May 6, 2024 should have been honored as in-place while any State appeal process brought forth by the Lebanon Planning Department played out. This *ultra vires* decision further jeopardized XYZ's ability to move forward, contributing to the numerous, unwarranted delays XYZ has faced beyond its control.



Building Permit submission

1. Documentation submission began Monday morning outside the online building application portal.
2. Discussed the following in a phone conversation with Nate Reichert:
 - a. Recognizes an earlier permit was issued, but wants to use the new building permit system for tracking/processing.
 - b. They want the permit application submission redone thru their permit portal as all other building permit applications are now done. They are establishing Building 1 with an E911 address of 1 River Park Drive and I am waiting for the creation of that address to begin the process.
 - c. With the new Inspectors in place, they will review the new plans against the conditions from the 2016-00293 permit to see which either no longer pertain (because of new codes) or have been satisfied with the new drawings.
 - d. **NOTE** – he mentioned the City is appealing the State’s decision that the past permit is still valid. That appeal was just recently filed – were you aware of this.
 - e. **He said Planning and Development would still receive, process and review the application during the appeal process – but that a permit would not be recognized or issued (if they decide to issue a new number) until the appeal process is over.**

Figure 1: Portion of June 17, 2024 memo from Chris Yandow to XYZ.

June 25, 2024

XYZ’s Attorney submitted a draft Performance Bond/Security Agreement to Mr. Corwin.

A series of emails between Attorney Hastings, Mr. Corwin, and Mr. Vincent take place regarding the required bond values, and additional information is provided by XYZ in response on 6/26/2024.

Lebanon DPW subsequently signs off on Excavation Permit and sets cost of construction to be bonded and reflected in the Performance Bond/Security Agreement.

June 27, 2024

XYZ attends pre-hearing conference with the N.H. BCRB in Concord. Attorney Rob Miller for XYZ Dairy, LLC requests that the City drop its appeal so as to not jeopardize commencement of Site Work that had been rescheduled for July in order to meet the January 2, 2025 completion deadline, and more importantly, the required schedule of the anchor tenant for 1 River Park.

The City refused. As a result, XYZ cannot proceed with work as scheduled, loses Site Work contractor, and any reasonable chance to complete requisite work by January 2, 2025.

July 8, 2024

The Lebanon Planning Staff’s actions and the delay caused by the NH BCRB process, results in XYZ filing a request for extension of #PB2018-24-SPA.



July 12, 2024

N.H. BCRB hearing in Concord. BCRB overturns Lebanon BCBA. Resultant decision from BCRB remands the issue back to BCBA, but draws attention to the matter of municipal estoppel that was central to the BCBA's decision.

Last, it is evident that the BCBA based its interpretation and ultimate holding, at least in part, on the representations of City Officials to the permittee about what qualified as work in the early stages of the project. CR177-178. Because the City previously communicated in a March 2023 letter to XYZ that “preparation work” was sufficient to meet the requirements of “work” under Subsection 105.5, the BCBA held similar “preparation work” must also suffice as “work” in 2024. *Id.* It is beyond our jurisdiction to opine on whether there are equitable claims against the City of Lebanon for representations to XYZ. Here, our authority is limited to reviewing the interpretation of the text of the Code by the BCBA. *See* RSA 155-A:11-b. And it is beyond our authority to waive or grant variances to requirements of the code. *Id.* Accordingly, we do review whether the BCBA or another body may appropriately find the City is estopped from invalidating the permit because of representations made by city officials concerning the types of conduct that would qualify as work under Subsection 105.5.

Figure 2: Excerpt from N.H. BCRB Decision, July 31, 2024

July 16, 2024

Having heard nothing for 20 days from the Planning Staff regarding the draft Performance Bond / Security Agreement prepared by XYZ and provided to the City on June 25, 2024 following submission of the relevant Excavation Permit, Attorney Hastings follows-up with Mr. Corwin regarding the status of the draft agreement.

July 25, 2024

30 days after the draft was submitted to the City, Mr. Corwin responds with a redline of the Security Bond/Performance Agreement. Mr. Corwin identifies several new issues— which had not been raised during the three (3) previous Security Bond / Performance Agreements related to earlier segments of Phase 1 Infrastructure— that require additional consideration, and perhaps being brought before the Planning Board for review and approval.

August 12, 2024

The Staff Memo, arriving two (2) days prior to the scheduled August 12, 2024 hearing, brings forth new questions and requests for information from the Applicant.

XYZ prepares the relevant information requested by the Staff for the hearing, only to have the hearing continued for a month at the suggestion of the Planning Staff and Planning Board.



September 5, 2024

XYZ responds to Mr. Corwin's Staff Memo and subsequent August 13, 2024 email communication, pointing out the disparity between the Staff's actions and the Board's previous considerations of XYZ's request for extension of #PB2018-24-SPA, and the lack of communication from the Staff prior to the August 12, 2024 hearing that could have easily avoided any delay in consideration of the requested extension.

Had the Planning Staff observed their own Staff Review and Initial Completeness Determination (SPRR Section 4.7.C.3.a-c) following XYZ's submission of the request for extension on July 8, 2024, the new requirements from the Staff would have been provided by XYZ in a timely manner.

3. Initial Completeness Determination

 - a. The Planning & Development Department shall review the application for completeness pursuant to the requirements of Section 4.7.A and Section 5.1. If the Planning & Development Department finds that the application is complete, or lacks only those items or documents for which waiver requests have been submitted, then the Planning & Development Department shall make a preliminary determination of whether the waiver requests meet the standards of Section 7.1 of these Regulations, and if so, then the Planning & Development Department shall recommend to the Board acceptance of the application for review.
 - b. If the Planning & Development Department finds that the application is not complete or that one or more of the waiver requests do not meet the standards of Section 7.1, the Planning & Development Department shall so advise the Applicant, who can elect to complete the missing submission requirements. Missing submission requirements, including any necessary waiver requests, shall be delivered to the Planning & Development Department by close of business on the fourth Monday of the month (or the following business day if the office is closed) for submission to the Board the following month. Submission of additional or revised materials by this date is necessary to ensure that the Planning & Development Department has adequate time to review application materials and to prepare a staff report, as needed, for each application listed on the Board's agenda.
 - c. If the applicant elects not to complete the missing requirements, fails to deliver all missing submission requirements prior to the deadline as described above, or, if applicable, fails to pay engineering review fees, the Planning & Development Department shall recommend that the Board deem the application incomplete. Prior to acting on the recommendation, the Board shall give the applicant a reasonable opportunity to be heard on the limited issue of completeness.

Instead, the information requested on Thursday, September 5, 2024 was provided to the Planning Board at the outset of the hearing on Monday, September 9, 2024, as has been done historically by XYZ when insufficient time is allowed by the Planning Staff due to late receipt of the Staff Memorandum.

September 9, 2024

Following over 1.5 hours of answers and information provided to the Board by XYZ— including answers to the very same questions posed again via by Mr. Corwin on September 10, 2024— the second hearing of the extension request is continued another full month until October 14, 2024.

CERTIFIED NOTIFICATION LIST

Notice shall be sent by certified mail to the Owner; Applicant, if different from Owner; Abutters; Holders of conservation, preservation, or agricultural preservation restrictions (as defined under RSA 477:45) on the subject property; the holders of easements, rights-of-way, and other restrictions; and every engineer, architect, land surveyor, or soil or wetlands scientist whose seal appears on any plan submitted to the Board; and any other persons required by RSA 676:4, I(d). The names and mailing addresses shall be furnished by the Applicant.

672:3 Abutter. – "Abutter" means any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term abutter means the officers of the collective or association, as defined in RSA 356-B:3, XXIII. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a manufactured housing park form of ownership as defined in RSA 205-A:1, II, the term "abutter" includes the manufactured housing park owner and the tenants who own manufactured housing which adjoins or is directly across the street or stream from the land under consideration by the local land use board.

Source. 1983, 447:1. 1986, 33:2. 2002, 216:1, eff. July 15, 2002.

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

Map & Lot Number: 44-21 - 44-30 & 44-7	Map & Lot Number: 44-21 - 44-30 & 44-7
Property Owner: XYZ DAIRY, LLC 57 MAIN STREET WEST LEBANON, NH 03784	Applicant, Co-Applicant, Agent, or Lessee: LYME PROPERTIES 2, LLC 57 MAIN STREET WEST LEBANON, NH 03784
Map & Lot Number: 44-13 & 50-28-E	Map & Lot Number: 44-5
DARTMOUTH COLLEGE TRUSTEES PO BOX 5188 HANOVER, NH 03755	DOWNES, ROBIN C TTEE 187 NORTH MAIN ST WEST LEBANON, NH 03784
Map & Lot Number: 44-6	Map & Lot Number: 44-9 & 58-97
193 NMWL LLC 57 MAIN ST WEST LEBANON, NH 03784	CAESD LLC 57 MAIN ST WEST LEBANON, NH 03784

Map & Lot Number: 44-10	Map & Lot Number: 44-15
DVG VENTURES LLC 10 BENNING ST #160-255 WEST LEBANON, NH 03784	CHURCHILL, WAYNE & TINA M 194 NORTH MAIN ST WEST LEBANON, NH 03784
Map & Lot Number: 44-12	Map & Lot Number: 58-12
GRAHAM, DOUGLAS 10 BENNING ST #160-255 WEST LEBANON, NH 03784	TOWNSEND III, WINTHROP I 1823 US ROUTE 5 NORTH WINDSOR, VT 05089
Map & Lot Number: 44-14	Map & Lot Number: 59-18
BURNS, TRACY A & SALLY J 198 NORTH MAIN ST WEST LEBANON, NH 03784	STENGER-CRAFT PROPERTIES LLC 112 N MAIN ST WEST LEBANON, NH 03784
Map & Lot Number: 44-19-5700	Map & Lot Number: 58-91
HOMEOWNERS AT THE FALLS ATTN: DAN CHASE, COMM MGR PO BOX 1051 NORWICH, VT 05055	JONES, BECKY P TTEE 67 CRAFTS AVE WEST LEBANON, NH 03784
Map & Lot Number: 44-4	Map & Lot Number: 58-93
SALAZAR-KISH, JOLIN M TTEE 32 LEBANON ST, STE A HANOVER, NH 03755	CUMMINGS, LAUREN H & SANDRA L 66 CRAFTS AVE WEST LEBANON, NH 03784
Map & Lot Number:	Map & Lot Number:
Map & Lot Number:	Map & Lot Number:

(Revised 2/8/2024)

SITE PLAN REVIEW		
TOTAL DUE AT TIME OF FILING		\$
**Engineering Review fees will also be required. See note on page 2.		

SITE PLAN REVIEW AMENDMENT (WITH STRUCTURAL CHANGES)		
		TOTALS
FILING FEE	\$250.00	\$250.00
SQUARE FOOTAGE	\$75.00 per 1,000 sq. ft. (gross floor area)	
ADVERTISING FEE	\$100.00	\$100.00
NOTIFICATION FEE (see note below)	\$5.00 + Current USPS rate per certified notice (see below) X _____ notices	\$5.00 \$ _____ (abutter certified)
TOTAL DUE AT TIME OF FILING		\$
**Engineering Review fees may also be required. See note below.		

OTHER		
-SITE PLAN REVIEW AMENDMENT (WITH NO STRUCTURAL CHANGES)		
-EXTENSION REQUESTS		
-CONDITIONAL USE PERMITS		
		TOTALS
FILING FEE	\$250.00	\$250.00
ADVERTISING FEE	\$100.00	\$100.00
NOTIFICATION FEE (see note below)	\$5.00 + Current USPS rate per certified notice (see below) X <u>15</u> notices	\$5.00 \$ <u>5.54</u> (abutter certified)
TOTAL DUE AT TIME OF FILING		\$ <u>188.10</u>
**Engineering Review fees may also be required. See note below.		

MINOR SITE PLAN REVIEW		
		TOTALS
FILING FEE	\$150.00	\$150.00
NOTIFICATION FEE (see note below)	Current USPS rate per certified notice (see below) X _____ notices	\$ _____ (abutter certified)
TOTAL DUE		\$

ENGINEERING REVIEW FEES:

After an application to the Planning Board is submitted and the filing fees identified above have been paid, the Planning & Development Department will determine the scope of required engineering review and will obtain an estimated cost from the reviewing engineer. A cost estimate of the review fees will usually be generated within two (2) – three (3) business days. Once conveyed to the applicant, the estimated review fees shall be paid by the applicant within five (5) business days, and an escrow account shall be established by the Planning & Development Department. No plans will be reviewed unless and until the review fee estimate is paid, if required.

Please note that escrow fees are only an estimate of what services will cost and actual costs of review may be less or more than the amount initially estimated. Any unused portion of the escrow will be returned to the applicant at the end of the approval process if such a surplus remains. Additionally, in the event the escrow amount does not cover the full cost of services the Applicant shall pay any remaining costs as a condition of approval. See also Section 4.7 of the Site Plan Review Regulations and Section 7.7 of the Subdivision Regulations.

NOTIFICATION FEE: CURRENT FEE as of January 2024 is \$5.54 per certified notice

THE CERTIFIED 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 AND ANY OTHER PERSONS REQUIRED BY RSA 676:4, I(d).



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

LEBANON PLANNING BOARD NOTICE OF ACTION #PB2018-34-SPA

Notice is hereby given that on **JANUARY 14, 2019**, the following action was taken by a majority of the Lebanon Planning Board in accordance with the City of Lebanon Site Plan Review Regulations:

Bruce Garland moved that the Lebanon Planning Board finds the application of **XYZ DAIRY, LLC** for a Site Plan Amendment, #PB2018-34-SPA, is complete enough to accept jurisdiction and commence review.

The motion was seconded by Gregory Schwarz. The vote on the motion was 8-0.

Notice is hereby given that on **SEPTEMBER 9, 2019**, the following action was taken by a majority of the Lebanon Planning Board in accordance with the City of Lebanon Site Plan Review Regulations:

Matthew Hall moved that the Lebanon Planning Board **APPROVE** waivers for the application of **XYZ DAIRY, LLC**, #PB2018-34-SPA, from the requirements of Article VI ("Design and Construction Requirements") of the Site Plan Review Regulations, Sections 6.2, 6.5, 6.6 and 6.7, to allow the construction of temporary parking facilities on Lots 3, 4 and 5 of the River Park development.

The motion was seconded by Matthew Cole. The vote on the motion was 5-2, with Ms. Monroe and Mr. Schwarz voting against the motion. Ms. Romano and Ms. Stavis recused themselves from hearing the application.

Notice is hereby given that on **SEPTEMBER 9, 2019**, the following action was taken by a majority of the Lebanon Planning Board in accordance with the City of Lebanon Site Plan Review Regulations:

Matthew Hall moved that the Lebanon Planning Board **APPROVE** the application of **XYZ DAIRY, LLC** for an amendment to the Site Plan approval for the River Park mixed-use development to (i) change the sequence of the project phasing, (ii) increase the number of proposed residential dwelling units from 80 to 125, (iii) relocate the proposed sewer line from Crafts Avenue Ext. across Lot 2, and (iv) allow temporary parking facilities on Lots 2, 3, 4, and 5 for the first three phases of the development, #PB2018-34-SPA, including any and all supplemental submissions and testimony provided for and during the public hearing, and per the conditions of approval noted below.

Approval of the River Park development is in accordance with the Lebanon Zoning Ordinance dated December 5, 1990, last revised July 21, 2010, and the Lebanon Site Plan Review Regulations dated May 9, 1977, last revised November 9, 2009. The phased

build-out of River Park shall be as shown on the map and described in the chart under the heading "NEW PHASING PLAN" on page 5 of this Decision¹ (the "New Phasing Plan"), and is projected to occur over a 15-year period, unless the applicant requests and receives an extension of time for such build-out from the Planning Board.

This Site Plan approval is related to a subdivision plat for River Park that was originally approved by the Planning Board on October 11, 2011 (#PB2011-01-FMAJ), was revised on May 11, 2015 (#PB2015-07-FMAJ) and was recorded in the Grafton County Registry of Deeds on January 2, 2018.

PRIOR NOTICES OF ACTION

River Park, located at North Main Street, Tax Map 44, Lots 3 & 7 and Tax Map 58, Lot 27, in the CBD, IND-L and R-3 zones, was originally approved in 2011, and received extensions and modifications in 2013, 2015, and 2016. This Notice of Action is intended to consolidate and update all prior conditions of Site Plan approval for River Park and, therefore, is intended to supersede and replace the following Notices of Action:

- Notice of Action dated October 24, 2011, approving the site plan review application for XYZ DAIRY, LLC for a seven (7) phase development known as River Park, located at North Main Street, Tax Map 44, Lots 3 & 7 and Tax Map 57, Lot 27, West Lebanon, NH, in the CBD, IND-L and R-3 zones, #PB2010-25-SPR, as shown on plans titled "Site Plans – River Park" (Sheets numbered 1 through 5; D1 through D18; 1-1 through 1-16; 2-1 through 2-21; 3-1 through 3-16; 4-1 through 4-9; 5-1 through 5-7; 6-1 through 6-9; and 7-1 through 7-8), prepared by Holden Engineering & Surveying, Inc., issued for permitting: June 10, 2010, latest issue: May 2, 2011.
- Notice of Action dated September 9, 2013, approving the request of XYZ Dairy, LLC, for an extension of time in order to obtain Building Permits for each phase of a phased development known as River Park, located at North Main Street, Tax Map 44, Lots 3 and 7, and Tax Map 58, Lot 27, in the CBD, IND-L and R-3 zones, #PB2013-22-EXT.
- Notice of Action dated June 8, 2015, approving the application of XYZ DAIRY, LLC for a Site Plan Amendment to amend the layout of Lot 1, including changes to the building footprint, parking layout, vehicular circulation, loading location of the building, landscaping, lighting, and drainage and engineering of the site and associated site improvements, located at North Main Street, Tax Map 44, Lot 3, in the CBD district, #PB2015-10-SPA, plans titled "River Park, Proposed Amendment to Site Plan – Lot 1, West Lebanon, Grafton County, New Hampshire" prepared by Elkus/Manfredi Architects, dated April 13, 2015, and plans titled "Site Plans, River Park, River Park Drive, Lebanon, New Hampshire, Grafton County," prepared by TF Moran, dated May 26, 2015.
- Notice of Action dated November 9, 2015, approving the application XYZ DAIRY, LLC for an extension pursuant to the Site Plan Review Regulations for a 7-phase development known as River Park, located at North Main Street, Tax Map 44, Lots

¹ The New Phasing Plan replaces and supersedes the Master Phasing Plan (Sheet 5 of the Approved Plan Set).

3 and 7, and Tax Map 58, Lot 27, in the CBD, IND-L, and R-3 zones, #PB2015-34-EXT, as requested in a letter from David Clem of Lyme Properties.

- Notice of Action dated November 14, 2016, approving the request of XYZ DAIRY, LLC, for an extension of Site Plan Approval for a seven (7) phase development known as River Park, located at North Main Street, Tax Map 44, Lots 3 and 7, and Tax Map 58, Lot 27, in the CBD, IND-L, and R-3 zones, #PB2016-28-EXT.

The approval documented by this Notice of Action for #PB2018-34-SPA incorporates the following:

- The following approvals granted on October 24, 2011, as part of #PB2010-25-SPR:
 - A conditional use permit for the use of off-lot parking within the development in accordance with Section 607.5 of the Zoning Ordinance as set forth in the "Master Plan-Phasing Parking" table on Sheet 5 of the Approved Plan Set.
 - Waivers for Sections 5.2.A (Statement of Service from Utilities) and Section 7.3.C (Use of Landscape Architect) of the Site Plan Review Regulations for the overall development.
- Any and all supplemental submissions and testimony provided for and during the public hearings for #PB2010-25-SPR, #PB2013-22-EXT, #PB2015-10-SPA, #PB2015-34-EXT, #PB2016-28-EXT, and for the current application, #PB2018-34-SPA.

APPROVED SITE PLANS

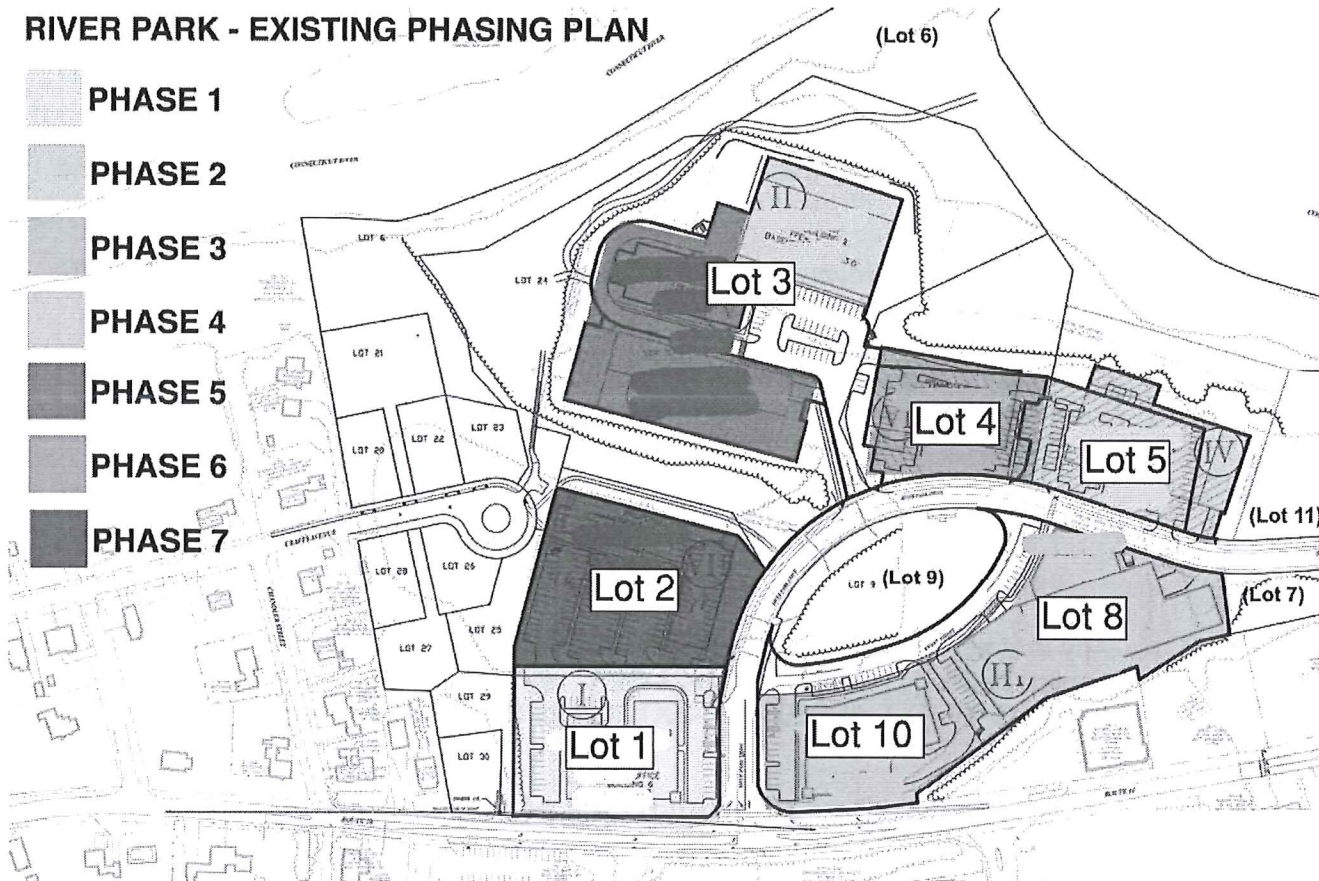
As set forth in the Notices of Action outlined above, the approved site plans for River Park consist of the following:

- Plans titled "Site Plans – River Park" (Sheets numbered 1 through 5; D1 through D18; 1-1 through 1-16; 2-1 through 2-21; 3-1 through 3-16; 4-1 through 4-9; 5-1 through 5-7; 6-1 through 6-9; and 7-1 through 7-8), prepared by Holden Engineering & Surveying, Inc., issued for permitting: June 10, 2010, latest issue: May 2, 2011 ("Approved Plan Set").
- Plans titled "River Park, Proposed Amendment to Site Plan – Lot 1, West Lebanon, Grafton County, New Hampshire" prepared by Elkus/Manfredi Architects, dated April 13, 2015, and plans titled "Site Plans, River Park, River Park Drive, Lebanon, New Hampshire, Grafton County," prepared by TF Moran, dated May 26, 2015. [These plans sets supersede and replace Sheets 1-1 through 1-16 of the Approved Plan Set].

[continued on following page]

PRIOR PHASING PLAN

River Park was originally approved as a seven (7) phase project as follows:

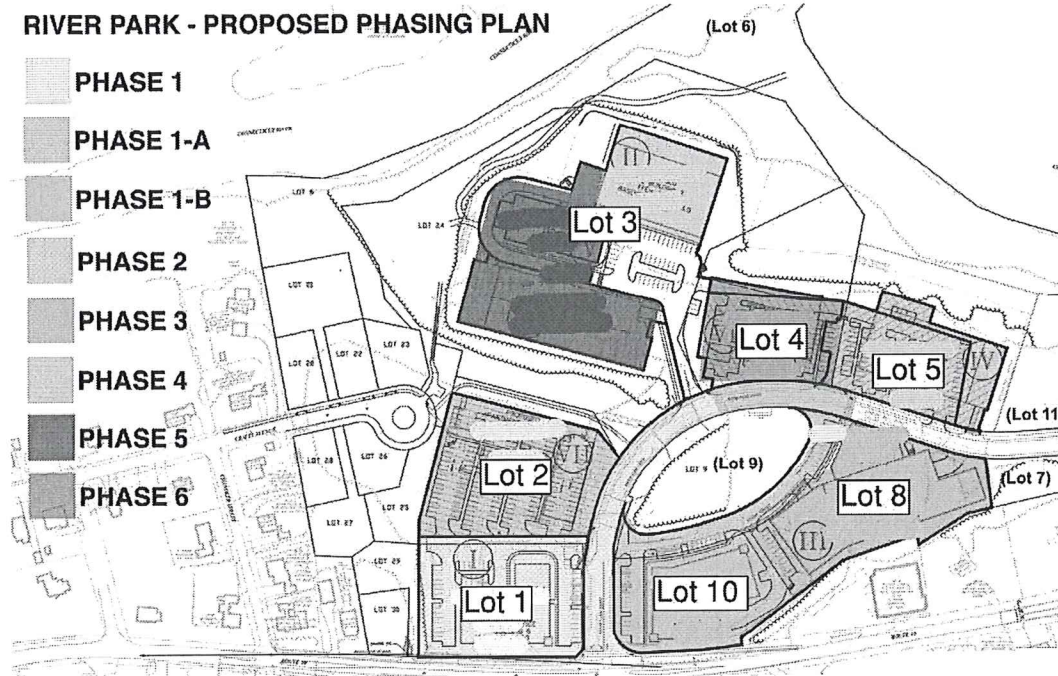
RIVER PARK - EXISTING PHASING PLAN

PRIOR PHASING -- APPROVED ON 10/24/11	
Phase	Improvements
1	48,750-square-foot building for office and retail use located on Lot 1 with temporary parking located on Lot 2. Phase 1 also includes construction of a portion of the development roadway sufficient to access the proposed building, the southerly development entrance intersection, the extension of Crafts Avenue, and the installation of water and sewer lines necessary for this portion of the site.
2	178,650-square-foot building for laboratory/office use located on Lot 3 with temporary parking located on Lots 4 and 5. Phase 2 also includes the construction of the remainder of the development roadway and the northerly access intersection.
3	95,800-square-foot building for office and retail use located on Lot 10; a 23,000-square-foot building for office and retail use and a 585-space parking garage located on Lot 8, and construction of proposed Lyman Street.
4	153,120-square-foot building for laboratory/office use located on Lot 5.
5	81,500-square-foot building for laboratory/office use and an 808-space parking garage located on Lot 3.
6	133,200-square-foot building for laboratory/office use located on Lot 4.
7	125,125-square-foot building for 80 units of multi-family housing located on Lot 2.

NEW PHASING PLAN

This Notice of Action approves the rephasing of the River Park development, as follows:

RIVER PARK - PROPOSED PHASING PLAN



NEW PHASING	
Phase	Improvements
1	46,925 ² -square-foot building for office and retail use located on Lot 1 with temporary parking located on Lot 2 and Lot 3. Phase 1 also includes construction of a portion of the development roadway sufficient to access Lot 3, the southerly development entrance intersection, the extension of Crafts Avenue, and the installation of water and sewer lines necessary for this portion of the site.
1-A	125,125-square-foot building for 125 units of multi-family housing located on Lot 2, and the construction of a temporary parking lot on Lot 3 and Lot 4. Phase 1-A also includes the extension of the development roadway and construction of proposed Lyman Street.
1-B	95,800-square-foot building for office and retail use located on Lot 10 with temporary parking on Lot 3, Lot 4, and Lot 5.
2	178,650-square-foot building for laboratory/office use located on Lot 3 with temporary parking located on Lot 3, Lot 4, and Lot 5. Phase 2 also includes the construction of the remainder of the development roadway and the northerly access intersection.
3	23,000-square-foot building for office and retail use and a 585-space parking garage located on Lot 8.
4	153,120-square-foot building for laboratory/office use located on Lot 5.
5	81,500-square-foot building for laboratory/office use and an 808-space parking garage located on Lot 3.
6	133,200-square-foot building for laboratory/office use located on Lot 4.

² Reduced from 48,750 sq. ft. per Notice of Action dated June 8, 2015, #PB2015-10-SPA. The applicant may apply to the Planning Board for a Site Plan Amendment to reallocate the 1,825 sq. ft. difference towards another building or buildings in the River Park development.

CONDITIONS OF APPROVAL

GENERAL CONDITIONS-PRECEDENT TO THE ISSUANCE OF A BUILDING PERMIT FOR EACH PHASE:

1. The applicant shall submit final designs, including construction drawings, of all infrastructure features associated with each phase, including proposed on- and off-site roadway and parking areas, sidewalks, water and sewer utilities, and storm drainage systems, to the City Engineer for approval, which shall not be unreasonably withheld.
2. The applicant has submitted sufficient site and building information to obtain Site Plan approval for development of the site. However, the applicant shall be required to submit updated site plans, building elevations, and phasing information sufficient to demonstrate compliance with the approval to the City for review and approval by the Planning Department, prior to the issuance of Building Permits for each phase and prior to the start of any construction activities for development shown or described in all remaining phases as depicted on the New Phasing Plan. For purposes of this decision, construction activities shall include any construction, excavation, or other site work associated with the construction or installation of buildings, roadways, parking, water, sewer, or storm drainage infrastructure. All such plans and information shall be in accordance with the Site Plan Review Regulations dated last revised November 9, 2009. Such Planning Department review shall be for the purpose of ensuring that the proposed building design and uses are in substantial conformance with the approved phased development project and with the Site Plan Review Regulations referenced above.
3. The applicant shall complete all required improvements for all approved phases in accordance with the New Phasing Plan and in accordance with this decision, except that the applicant, upon written notice to the Planning Board, may elect to commence Phase 3 (including the 585-space parking garage located on Lot 8) at any time prior to the date referenced in Condition #18-1. In so doing, the applicant may commence Phase 3 prior to any one or more of the phases preceding Phase 3 in the sequence set forth in the New Phasing Plan. For purposes of this decision, the commencement dates referenced on the New Phasing Plan and in this decision shall be deemed to be the date by which a Building Permit shall have been applied for with stamped construction drawings prepared by a licensed architect and engineer for that phase, pursuant to Section 4.9.C(4) of the Site Plan Review Regulations, and the phasing deadline is tolled until the Building Permit is issued. If the applicant anticipates being unable to meet any time deadline(s) set forth in this decision with respect to any phase(s), the applicant shall submit an updated phasing schedule to the Planning Board for review and approval in accordance with Section 4.9.E of the Site Plan Review Regulations. In determining whether to grant any requested extensions, the Board shall consider the totality of the circumstances, including the extent and complexity of the conditions-precedent, and whether the need for more time is attributable to circumstances beyond the control of the applicant, rather than to the applicant's neglect or failure to proceed with reasonable promptness.
4. Prior to the start of any construction activities for which construction inspection is required pursuant to this decision or any applicable ordinance or code for each phase of the project, the City shall retain the services of an independent 3rd party

inspector, for which the applicant shall be responsible for all inspection fees related to construction and installation of on- and off-site roadways, parking, sidewalks, water and sewer utilities, storm drainage, and erosion control, in accordance with Chapter 181 of the City Code and Section 14 of the Subdivision Regulations unless waivers have been granted. The applicant shall provide funding for inspection services in a form acceptable to the City. Third party engineer inspection reports and as-built drawings provided by the applicant (using NH State Plane Coordinate system), including tie sheets and Northing and Easting coordinates and elevations of underground utilities, shall be reviewed and approved by the City Engineer, prior to acceptance of any utility improvements by the City and all inspection reports shall be made available to the applicant.

5. Edge-of-Disturbance fencing shall be installed and maintained before and during any site work for each phase under construction, to be verified by the City Engineer or City's third-party inspector on site.
6. The applicant shall be required to have at least one fire hydrant operational within the development prior to the issuance of any Building Permit for structural improvements (excluding the building foundation) to the satisfaction of the Lebanon Fire Department. Note: the Lebanon Fire Department has approved the fire hydrant on Crafts Avenue extension as satisfaction of this condition.
7. Temporary parking facilities.
 - a. Temporary parking facilities are approved in accordance with the chart attached hereto as Exhibit "A".
 - b. Prior to the issuance of a building permit for any phase involving the construction of a temporary parking facility, the applicant shall provide the Planning & Development Department with plans for the proposed temporary parking facility, together with an operation and maintenance plan.
 - c. Each temporary parking facility shall be designed to ensure the safe movement of vehicles and pedestrians to the satisfaction of the Director of the Department of Public Works and the Director of the Planning Department, which shall not be unreasonably withheld. It shall be the responsibility of the applicant to maintain each temporary parking facility in accordance with the operation and maintenance plan.
 - d. The temporary parking identified in Exhibit A may be used until such parking is replaced by the permanent parking garage included in Phase 3 or December 31, 2038, whichever is earlier.

GENERAL CONDITIONS-PRECEDENT TO THE ISSUANCE OF CERTIFICATES OF OCCUPANCY FOR EACH PHASE:

Temporary Certificates of Occupancy:

8. A water flow test shall be completed on the new water main within the development as soon as the water main is substantially complete and prior to any occupancy of any new buildings within the subdivision. Such test is for the purpose of designing

fire suppression sprinkler systems for each building and shall be witnessed and approved by the Lebanon Fire Department.

- 8a. The subdivision plat shall be recorded in the Grafton County Registry of Deeds prior to any occupancy of any new buildings within the subdivision. Note: The River Park Subdivision plat was filed on December 27, 2017 and recorded on January 2, 2018 in the Grafton County Registry of Deeds.
9. Prior to the issuance of any Certificate of Occupancy for each phase, the applicant shall enter into a Performance Security Agreement, pursuant to Section 8.2 of the Site Plan Review Regulations for any unfinished and outstanding improvements, unless waivers have been granted, that are required for the current development phase, both on- and off-site, including, but not limited to: parking and sidewalk improvements, sewer and water utilities, storm drainage systems, landscaping, and lighting, in an amount considered adequate by the Department of Public Works, and in a form satisfactory to the City Attorney. The Performance Security Agreement shall be secured by a surety bond, a letter of credit, or an escrow account.
10. Prior to the issuance of any Certificate of Occupancy for each phase, the applicant shall be required to provide the City with a copy of a recorded deed or easement, a 99-year lease, or other legal instrument acceptable to an attorney representing the City for off-lot parking in accordance with Section 607.5.A(2) of the Zoning Ordinance to ensure that the occupants of each phase have adequate on-site or off-site parking at all times.

Final Certificates of Occupancy:

11. Prior to the issuance of a final Certificate of Occupancy for each phase, the applicant shall dedicate the completed water mains and hydrants within the current development phase, excluding service connections beyond the curb shut-off valves, to the City for ownership and maintenance, subject to any appropriate easements. Said conveyance and easements shall be approved by the City Attorney and the Department of Public Works and recorded in the Grafton County Registry of Deeds prior to acceptance of any utility improvements by the City.
12. Prior to the issuance of a final Certificate of Occupancy for each phase, the applicant shall comply with all other applicable provisions of Chapter 181 of the City Code, to the satisfaction of the Department of Public Works.
13. Prior to the issuance of a final Certificate of Occupancy for each phase, the applicant shall provide a digital as-built record drawing for each lot (Cad .dwg format using the NH State Plane Coordinate System).

SPECIFIC CONDITIONS FOR PHASE 1:

- 14-1. The Applicant shall ensure that all trees are a minimum of ten (10) ft. from the water and sewer mains when planted.
- 14-2. The construction of Phase 1 infrastructure improvements, which commenced in 2018, shall be completed within 5 years from the date of the Planning Board's final

subdivision approval, unless the applicant requests and receives an extension of time for such build-out from the Planning Board.

- 14-3. This condition was originally Condition #14-2 in the October 24, 2011 Notice of Action, and was obviated by the Planning Board's Notice of Action dated June 8, 2015 (#PB2015-10-SPA). It is included below for historical purposes only:

Prior to the issuance of a Building Permit for Phase 1 of the development, the applicant shall provide two complete sets of revised plans to the Planning Department, depicting the following plan changes:

- a. Sheet 1 of the approved Site Plan sets shall be revised to include the tax map and lot number and abutter name and address for the adjacent islands within the Connecticut River, which are owned by the State of New Hampshire.
- b. Sheets 2 & 3 of the approved Site Plan sets shall be revised to eliminate the reference to "Lot 6" within the boundaries of proposed Lot 21.
- c. Sheet 3 of the approved Site Plan sets shall be revised to relocate the Surveyor's signature block and to properly label Lot 21.
- d. As proposed by the applicant in a letter to the Planning Board dated July 19, 2011, the Phasing Notes on Sheet 5 of the approved Site Plan sets shall be revised to push back by one year the dates of commencement for each phase of the overall development.
- e. Sheets 1-9 and 1-11, and any other applicable plan sheets, shall be revised to depict bollards or other safety measures around all propane tanks that are exposed to vehicle traffic to the satisfaction of the Lebanon Fire Department.

- 14-4. Prior to the issuance of a Building Permit for Phase 1 of the development, the applicant shall obtain all required State approvals including, but not limited to, the following:

- NHDES Alteration of Terrain Permit
- NHDES approval for Sewage Discharge

Note: this requirement has already been satisfied. Alteration of Terrain Permit #AoT-0994 dated October 6, 2015 and Sewage Discharge Permit #D2015-0802 dated September 10, 2015, have been issued by NH DES for Phase 1.

- 14-5. The requirements of Sections 6.2.B(1) of the Site Plan Review Regulations are waived for improvements on Lot 2 for Phase 1. See *also* Condition 15-3.

- 14-6. As proposed by the applicant, the southerly development entrance improvements shall be constructed as part of Phase 1 of the development. If a Traffic Signal Warrant Analysis for the southerly development entrance indicates that signalization of the intersection will be required during any phase of the development, the applicant shall be required to install and activate traffic signal improvements when actual traffic conditions warrant such implementation, pursuant to Condition 14-8 of this decision. Note: the applicant has provided a Traffic Signal Warrant Analysis as required by this condition.

- 14-7. As recommended in Phase "A" of the applicant's Traffic Impact and Site Access Study, prepared by Holden Transportation Engineering, dated August 17, 2010, the applicant shall be required to implement traffic signal timing optimization improvements at the intersection of Main Street/Bridge Street/Dana Street within 6 months following the issuance of any Certificate of Occupancy for Phase 1 of the development to the satisfaction of the Department of Public Works which shall not be unreasonably withheld. Prior to issuing any Certificate of Occupancy for Phase 1, the applicant shall provide the City with an acceptable performance security in an amount sufficient to guarantee the completion of the traffic signal timing update as required. Any performance security required under this condition for Phase 1 shall be separate from any performance security required by Condition 9 of this decision.
- 14-8. The applicant shall be required to monitor traffic volumes and distribution patterns at both the northerly and southerly development entrances to ensure the adequacy of proposed mitigation measures as outlined in the Traffic Impact and Site Access Study, prepared by Holden Transportation Engineering, dated August 17, 2010, and to determine when signalization of the southerly development intersection might be required, based on the Traffic Signal Warrant Analyses to be prepared by the applicant and provided to the City. Such monitoring shall be conducted within 6 months following the issuance of any Certificate of Occupancy for Phase 1 and for each later phase to the satisfaction of the Department of Public Works. The applicant shall be required to install and activate traffic signal improvements, to the satisfaction of the Department of Public Works, when actual traffic conditions warrant such implementation. Prior to issuing any Certificate of Occupancy for Phase 1 and for each later phase, the applicant shall provide the City with an acceptable performance security in an amount sufficient to guarantee the completion of the traffic monitoring as required. Any performance security required under this condition for Phase 1 and for each later phase shall be separate from any performance security required by Condition 9 of this decision. Note: the applicant has provided a Traffic Signal Warrant Analysis as required by this condition.
- 14-9. Prior to the issuance of a Building Permit, the applicant shall submit an updated Site Plan that reflects the correct and updated phasing schedule as approved as part of the Subdivision Amendment approved by the Planning Board May 11, 2015. Note: With the approval of the New Phasing Plan, this condition is no longer applicable.
- 14-10. Prior to the issuance of a Building Permit, the applicant shall submit an updated landscaping plan, to the satisfaction of the Planning Department, with a table indicating the proposed number, size, and species names of all the proposed plantings for Lot 1, as well as updating parking shading calculations for Lot 1 only. Note: the applicant has satisfied this condition.
- 14-11. Prior to the issuance of a Building Permit, the applicant shall submit an updated lighting plan showing the number of proposed light poles for Lot 1 and the location of any proposed lighting on the building façade, if applicable. The applicant shall also confirm that the lighting intensity on the residential lots to the south does not exceed 0.1 foot-candles, to the satisfaction of the Planning Department. Note: the applicant has satisfied this condition.

- 14-12. Prior to the issuance of a Building Permit, the applicant shall obtain approval from the Fire Department regarding the turning radius of the fire trucks and location of the proposed fire hydrants on Lot 1, and all plans shall reflect the final and approved details. Note: the applicant has satisfied this condition.
- 14-13. The applicant shall provide appropriate signage and/or pavement markings to identify the one-way circulation of the proposed driveway on site to the satisfaction of the City Engineer. Note: the applicant has satisfied this condition.
- 14-14. The applicant shall provide an accurate drainage report that shall reflect current and proposed drainage, to the satisfaction of the City Engineer. Note: the applicant has satisfied this condition.
- 14-15. The applicant shall provide a plan that demonstrates a lack of conflict between overhead utilities and landscaping, to the satisfaction of the City Engineer. Note: the applicant has satisfied this condition.
- 14-16. The requirements of Sections 5.1.E(13) and 6.2.B of the Site Plan Regulations are waived as was requested by the applicant in connection with the Site Plan Review approval for #PB2015-10-SPA.

SPECIFIC CONDITIONS FOR PHASE 1-A:

- 15-1. As proposed by the applicant, the construction of Phase 1-A improvements shall commence before the end of 2023 and shall be completed within 2 years of commencement, unless the applicant requests and receives an extension of time for such build-out from the Planning Board.
- 15-2. The applicant shall obtain all required State approvals including, but not limited to, the following:
- NHDES Alteration of Terrain Permit, if applicable
 - NHDES approval for Sewage Discharge
- 15-3. The requirements of Section 6.2.B(1) of the Site Plan Review Regulations are waived for improvements on Lot 2 for Phase 1-A.

SPECIFIC CONDITIONS FOR PHASE 1-B:

- 16-1. As proposed by the applicant, the construction of Phase 1-B improvements shall commence before the end of 2024 and shall be completed within 5 years of commencement, unless the applicant requests and receives an extension of time for such build-out from the Planning Board.
- 16-2. The applicant shall obtain all required State approvals including, but not limited to, the following:
- NHDES Alteration of Terrain Permit
 - NHDES approval for Sewage Discharge
- 16-4. The requirements of Section 6.2.B(6) of the Site Plan Review Regulations are waived for improvements on Lot 8 for Phase 1-B.

SPECIFIC CONDITIONS FOR PHASE 2:

- 17-1. As proposed by the applicant, the construction of Phase 2 infrastructure improvements shall commence before the end of 2026 and shall be completed within 5 years of commencement, unless the applicant requests and receives an extension of time for such build-out from the Planning Board.
- 17-2. Prior to the issuance of a Building Permit for Phase 2 of the development, the applicant shall provide two complete sets of revised plans to the Planning Department, depicting the following plan changes:
 - a. Landscaping on Sheet 2-15 shall be revised and foundation plantings added along the westerly side of the parking garage structure to be consistent with the relocated garage #2 layout as depicted on Sheet 5-4, dated last revised May 2, 2011.
- 17-3. The applicant shall obtain all required State approvals including, but not limited to, the following:
 - NHDES Alteration of Terrain Permit
 - NHDES approval for Sewage Discharge
 - NHDES Comprehensive Shoreland Protection permit
- 17-4. As proposed by the applicant, the northerly development entrance improvements shall be constructed as part of Phase 2 of the development. Prior to the issuance of a Building Permit and prior to the start of any construction activities for Phase 2, the applicant shall have received approval from the NH Department of Transportation for the northerly development entrance and any other improvements within the portion of NH Route 10 under NHDOT jurisdiction. Signalization of the northerly development entrance shall be subject to approval and requirement of the NH Department of Transportation.
- 17-5. As recommended in Phase "A" of the applicant's Traffic Impact and Site Access Study, prepared by Holden Transportation Engineering, dated August 17, 2010, the applicant shall be required to implement traffic signal timing optimization improvements at the intersections of Main Street/Tracy Street and Main Street/South Main Street/Maple Street within 6 months following the issuance of any Certificate of Occupancy for Phase 2 of the development. Prior to issuing any Certificate of Occupancy for Phase 2, the applicant shall provide the City with an acceptable performance security in an amount sufficient to guarantee the completion of the traffic signal timing optimization as required. Any performance security required under this condition for Phase 2 shall be separate from any performance security required by Condition 9 of this decision.

SPECIFIC CONDITIONS FOR PHASE 3:

- 18-1. As proposed by the applicant, the construction of Phase 3 improvements shall commence before the end of 2028 and shall be completed within 5 years of commencement, unless the applicant requests and receives an extension of time for such build-out from the Planning Board.
- 18-2. The applicant shall obtain all required State approvals including, but not limited to, the following:

- NHDES Alteration of Terrain Permit
- NHDES approval for Sewage Discharge

- 18-3. As recommended in Phase "B" of the applicant's Traffic Impact and Site Access Study, prepared by Holden Transportation Engineering, dated August 17, 2010, the applicant shall be required to make a payment to the City in the amount of \$274,554.00 toward design, construction and installation by the City of geometric improvements and/or traffic signal upgrades as outlined in the Study for the intersection of Main Street/Bridge Street/Dana Street intersection and/or traffic signal upgrades at Main Street/Tracy Street and Main Street/South Main Street/Maple Street intersections prior to the issuance of any Certificate of Occupancy for Phase 3 of the development.

If the City elects to pursue geometric improvements at the Main Street/Bridge Street/Dana Street intersection, the City shall determine whether any existing on-street parking spaces on Main Street will be lost due to construction of these intersection improvements. If existing on-street parking spaces are to be lost, the applicant shall, prior to the issuance of any Certificate of Occupancy for Phase 3, be required to pay to the City an amount equal to \$4,700.00 per space for each lost parking space, which is the amount estimated by the City needed to pay for land and construction costs necessary to replace such lost parking. Any funds received by the City from the applicant shall be used by the City to study the parking needs of the West Lebanon Village Central Business District and to identify locations for and/or to reconstruct such lost parking spaces. Any funds not expended by the City within a period of 6 years from receipt shall be returned to the applicant in accordance with RSA 674:21,V(j).

- 18-4. The applicant shall be required to monitor and update traffic signal timing optimization along Main Street as individual phases of the development are completed and occupied to ensure optimal traffic operations through the Main Street corridor for the duration of the project build-out. Such monitoring shall be conducted within 6 months, and updates shall be implemented within 1 year, following the issuance of any Certificate of Occupancy for Phase 3 and for each later phase, to the satisfaction of the Department of Public Works. Prior to issuing any Certificate of Occupancy for Phase 3 and for each later phase, the applicant shall provide the City with an acceptable performance security in an amount sufficient to guarantee the completion of the traffic signal timing monitoring and updates, as required. Any performance security required under this condition for Phase 3 and each later phase shall be separate from any performance security required by Condition 9 of this decision.
- 18-5. The requirements of Section 6.2.B(6) of the Site Plan Review Regulations are waived for improvements on Lot 8 for Phase 3.

SPECIFIC CONDITIONS FOR PHASE 4:

- 19-1. As proposed by the applicant, the construction of Phase 4 improvements shall commence before the end of 2030 and shall be completed within 5 years of commencement, unless the applicant requests and receives an extension of time for such build-out from the Planning Board.

- 19-2. The applicant shall obtain all required State approvals including, but not limited to, the following:
- NHDES Alteration of Terrain Permit, if applicable
 - NHDES approval for Sewage Discharge
 - NHDES Comprehensive Shoreland Protection permit

SPECIFIC CONDITIONS FOR PHASE 5:

- 20-1. As proposed by the applicant, the construction of Phase 5 improvements shall commence before the end of 2032 and shall be completed within 5 years of commencement, unless the applicant requests and receives an extension of time for such build-out from the Planning Board.
- 20-2. Prior to the issuance of a Building Permit for Phase 5 of the development, the applicant shall provide two complete sets of revised plans to the Planning Department, depicting the following plan changes:
- a. Landscaping on Sheet 5-7 shall be revised and foundation plantings added along the westerly side of the parking garage structure to be consistent with the relocated garage #2 layout as depicted on Sheet 5-4, dated last revised May 2, 2011.
- 20-3. The applicant shall obtain all required State approvals including, but not limited to, the following:
- NHDES Alteration of Terrain Permit, if applicable
 - NHDES approval for Sewage Discharge
 - NHDES Comprehensive Shoreland Protection permit

SPECIFIC CONDITIONS FOR PHASE 6:

- 21-1. As proposed by the applicant, the construction of Phase 6 improvements shall commence before the end of 2035 shall be completed within 5 years of commencement, unless the applicant requests and receives an extension of time for such build-out from the Planning Board.
- 21-2. The applicant shall obtain all required State approvals including, but not limited to, the following:
- NHDES Alteration of Terrain Permit, if applicable
 - NHDES approval for Sewage Discharge
 - NHDES Comprehensive Shoreland Protection permit

GENERAL CONDITIONS OF APPROVAL:

22. The applicant shall implement and maintain NHDES Site Specific Best Management Practices before, during, and after construction.
23. All proposed streets, sidewalks, water and sewer mains, and service lines shall be constructed pursuant to the City's standards.

-
24. All required landscape plantings shall meet the minimum size requirements for such plantings set forth in Section 6.2.B of the Site Plan Review Regulations at the time of installation.
25. Any light fixtures used to illuminate signage, including building-mounted signage, shall be installed to light the signs from above and shall conform to the City Site Plan Review Regulations.
26. In accordance with the City's Impact Fee Ordinance fee schedule adopted on September 13, 2010, this application is exempt from impact fees for a period of 5 years from the date of the Planning Board's final approval. Building permits obtained after the 5-year period shall be subject to impact fees in existence at the time of the Building Permit application submission. [Note: The River Park subdivision plat (#PB2011-01-FMAJ) was recorded on January 2, 2018, representing the final approval for the subdivision and starting the 5-year exemption period, which shall expire on January 2, 2023.]
27. The applicant shall provide to the City copies of any agreements, memoranda of understanding, or licenses granting permission for Advance Transit and other local transit service providers to utilize the River Park development as a transfer point for existing and future transit routes serving West Lebanon. Any such documents shall be provided as soon as practicable and prior to the relocation of transit services from Main Street to the River Park development.
28. The applicant is encouraged to work with tenants and residents of the River Park development to implement Transportation Demand Management measures, including flexible work hours, incentives for carpooling, adequate parking and showers and changing rooms for bicyclists, and other measures, to reduce peak hour travel and reliance on single-occupancy vehicles.
29. Effect of Approval. This approval is a final, conditional site plan approval for a "phased development" under Section 4.9 of the Site Plan Review Regulations and is a final decision of the Planning Board for purposes of RSA 677:15, I. As set forth in Section 4.10(C) of those Regulations, the deadlines for the construction of improvements within each phase shall be as stated in the approved phasing plan, rather than the 1-year period under Section 4.10(A). It is the intent and effect of this approval, subject to the satisfactory completion of the financial security requirements set forth in Condition #5 of the Final Major Subdivision approval (#PB2011-01-FMAJ) for the development, that upon completion of the Phase 1 infrastructure improvements within 5 years of the final subdivision approval, as set forth in Condition #14-2 above, the subdivision as a whole, including all phases, shall vest as provided in RSA 674:39, II, and no subsequent changes in subdivision regulations, site plan regulations, or zoning ordinances, except impact fees adopted pursuant to RSA 674:21 and 675:2-4, shall operate to affect this phased development, provided that the applicant and its successors-in-interest continue to comply with all conditions of this approval and of the Planning Board's approval of Final Major Subdivision application #PB2011-01-FMAJ, including the time limits set forth in the phasing plan, unless such a limit is extended for good cause by the Planning Board, acting upon an application submitted prior to the expiration of such limit.

PLANNING BOARD NOTICE OF ACTION

167-197 North Main Street

#PB2018-34-SPA

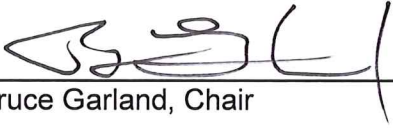
September 9, 2019

Page 16 of 16

30. If any dispute arises over the interpretation or application of any of the above conditions, such dispute shall be resolved by the Planning Board itself after notice and public hearing.

The motion was seconded by Matthew Cole. The vote on the motion was 5-2, with Ms. Monroe and Mr. Schwarz voting against the motion. Ms. Romano and Ms. Stavis recused themselves from hearing the application.

THE CITY OF LEBANON PLANNING BOARD

By:  DATE: 10/22/19
Bruce Garland, Chair

River Park

Master Plan – Proposed Phasing Parking

Color Code		<u>Lot #</u>	<u>Building#</u>	<u>Modified Parking Required</u>	<u>Onsite Parking Provided</u>	<u>Net Temporary Parking Needed</u>	<u>Temporary Parking Location ****</u>
	Phase 1	1	1	149	42	107	Lot 3 (120 spaces)
	Phase 1-A	2	8	132*	73	59	Lot 3 & 4 (225 spaces)
	Phase 1-B	10	3	285	30	255	Lot 3, 4, 5 (325 spaces + shared parking reduction credit of 123 spaces)
	Phase 2	3	5	209	33	0	
	Phase 3	8	Garage 1 4	(585)*** 70	585 19	0 0	Garage #1 must be completed prior to Bldg 5 Certificate of Occupancy
	Phase 4	5	7	180	6	0	
	Phase 5	3	Garage 2 2	(808)*** 96	808 0	0 0	
	Phase 6	4	6	156	6	0	
				1276**	209 surface 1393 Garages 1+2	421	

*Assumes 125 units X 1.5 spaces per unit required X .070 (approved reduction factor)

** Proposed totals 1276 spaces required due to increase in apartment units from 80 to 125 (Existing totals 1233 spaces)

*** Garage 1 and 2 total 1393 spaces

**** Assumes Waiver Request is granted

From: [Chet Clem](#)
To: [Tim Corwin](#)
Cc: [David Clem](#); [Brian Vincent](#); [Nathan Reichert](#)
Subject: [EXTERNAL] Re: River Park Planning Board Conditions of Approval
Date: Tuesday, September 10, 2024 3:43:07 PM
Attachments: [20240910 XYZ Appeal of Administrative Decision.pdf](#)

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

Appeal attached.

Of note, the Note in Condition 14–4 establishes that this requirement has been satisfied, and the City has been included on all subsequent correspondence.

Chet Clem
President
Lyme Properties

chet@lymeproperties.com
(603) 676-7106 (direct)
(207) 576-1410 (mobile)

Calendly: book a Zoom with me

On Sep 10, 2024, at 11:28 AM, Tim Corwin <Tim.Corwin@lebanonnh.gov> wrote:

Chet –

Based on your comments at last night’s public hearing for your site plan extension request, I understand its your position that some or all of the site plan conditions of approval I identified in my June 10th and June 13th e-mails have been satisfied. However, I cannot currently verify these conditions have been satisfied and how. Please note that it’s incumbent on the applicant to demonstrate compliance with the applicable Planning Board conditions of approval and that it’s extremely common for staff to ask an applicant for a status update.

If it is your desire to move forward with construction, it is not clear why you have not responded to my requests for a status update on the River Park conditions of approval

since construction cannot proceed without Planning staff's verification that the applicable conditions of approval have been satisfied.

So that there's clarity, unless you provide satisfactory information to the contrary, **it is my determination that Conditions 1, 2, 4, 5, 7 and 14-4 from the 9/19/19 Notice of Action for PB2018-34-SPA have not yet been satisfied and, consequently, construction of Phase 1 may not commence.**

Again, if you believe these conditions have been satisfied, please simply let me know how. Or, if you choose not to respond, you may also appeal this determination to the Planning Board. **Such an appeal would need to be received within 30 days of this e-mail.**

I will plan to provide a copy of this e-mail with the 10/14 Planning Board agenda packet so that the Board is aware of the status of the outstanding conditions of approval for Phase 1. Alternatively, if you provide information confirming that the conditions referenced above have in fact been satisfied, I will so inform the Planning Board in the staff memo for the 10/14 continued hearing.

If you have any questions or would like to discuss, please let me know.

Thank you, Tim

TIM CORWIN, AICP
DEPUTY PLANNING AND DEVELOPMENT DIRECTOR
CITY OF LEBANON
51 NORTH PARK STREET
LEBANON, NH 03766
(603) 448-1524 (OFFICE)
(603) 442-6127 (DIRECT)
TIM.CORWIN@LEBANONNH.GOV
WWW.LEBANONNH.GOV
[BOOK A TIME TO MEET WITH ME](#)

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CITY HALL HOURS:
MONDAY-THURSDAY, 7AM — 5PM (NO FRIDAY HOURS)

NOTICE: THIS E-MAIL AND ANY REPLY TO THIS E-MAIL MAY BE CONSIDERED A "GOVERNMENTAL RECORD" PER NH RSA 91-A:1-A. THE CITY OF LEBANON IS REQUIRED TO MAKE GOVERNMENTAL RECORDS AVAILABLE TO THE PUBLIC UPON REQUEST, IN ACCORDANCE WITH NH RSA 91-A:4. THE CITY IS ALSO REQUIRED TO RETAIN GOVERNMENTAL RECORDS FOR MINIMUM PERIODS OF TIME AS SET FORTH IN NH RSA 33-A:3-A.

From: Tim Corwin
Sent: Friday, September 6, 2024 1:17 PM
To: 'Chet Clem' <chet@lymeproperties.com>
Cc: Brian Vincent <brian.vincent@lebanonnh.gov>
Subject: RE: River Park Planning Board Conditions of Approval

Chet –

Having heard third-hand that you were intending to commence construction of phase 1, on my own accord I reached out to you to ask about the status of the outstanding site plan conditions of approval (there are 5 in total), but I never received a reply. Regarding the hearing on Monday for the River Park site plan extension request (PB2024-34-EXT), I presume the Planning Board will also ask about the status of the conditions of approval. In speaking with the City Engineer, Brian Vincent, he confirmed he does not have any information relative to the status of conditions 1, 2, 5, and 7 (nor do I, which is why I had inquired). As a courtesy, I wanted to make you aware of this prior to Monday's meeting. (To be clear, condition 4 also remains outstanding as of today).

Thank you, Tim

From: Tim Corwin
Sent: Thursday, June 13, 2024 11:22 PM
To: 'Chet Clem' <chet@lymeproperties.com>
Cc: Brian Vincent <brian.vincent@lebanonnh.gov>
Subject: RE: River Park Planning Board Conditions of Approval

Chet –

Please also provide an update on Condition 14-4 (State Approvals) from the 9/19/19 Notice of Action for PB2018-34-SPA. The Notice of Action states that Condition 14-4 has been satisfied, but we need confirmation that the AOT and Sewage Discharge Permits approved in 2015 are still valid/active.

Thank you, Tim

From: Tim Corwin
Sent: Monday, June 10, 2024 1:41 PM
To: Chet Clem <chet@lymeproperties.com>
Cc: Brian Vincent <brian.vincent@lebanonnh.gov>
Subject: River Park Planning Board Conditions of Approval

Chet –

Brian Vincent has shared with me that, based on conversations you and your team have had with him, you are continuing preparations for re-starting construction at 1 River Park on or about July 1. Meanwhile, I'm sure you have heard from your attorney that the building inspector has appealed the BCBA's decision regarding the expiration of your building permit to the State Building Code Review Board. Without discussing the status

of your building permit #2016-00293 or waiving any arguments about this permit that may be raised before the state board, I wish to remind you of certain independent pre-conditions for commencement of construction that were imposed by your Planning Board approval.

With respect to the Planning Board's "general conditions-precedent to the issuance of a building permit for each phase" of construction, we are lacking confirmation of your compliance with pre-conditions 1, 2, 4, 5 and 7. Specific comments as to each condition:

- Condition 4 (Third Party Inspections): The City is responsible for hiring, and XYZ is responsible for paying for, a 3rd party inspector. Your construction may be delayed if a 3rd party inspector is not available to perform necessary inspections according to your schedule. If you haven't already, please send Brian Vincent your proposed construction schedule as soon as possible so we can obtain a quote from one of the City's vendors.
- Condition 7 (Temporary Parking Facilities): To my knowledge, the City does not have a temporary parking facility plan on file, nor an O&M plan for the facility. This must be addressed before construction commences.
- Condition 1 (Final Infrastructure Designs) & Condition 2 (Updated Site Plans, Etc.): I presume that the designs/plans required by these conditions were verified when the building permit was issued, and that they have not changed in the interim. Please confirm.
- Condition 5 (Edge-of-Disturbance Fencing): Just as a reminder, edge of disturbance fencing needs to be inspected by the City Engineer or third party inspector before undertaking any construction activities. Please confirm that you are coordinating the necessary inspection.

I look forward to hearing from you soon. Or, if you'd prefer to communicate about this project through Brian Vincent, we can try doing so. Brian is willing to serve as the point person for communication as much as possible and can coordinate with me as needed.

Thank you Chet. -Tim

GENERAL CONDITIONS-PRECEDENT TO THE ISSUANCE OF A BUILDING PERMIT FOR EACH PHASE:

1. The applicant shall submit final designs, including construction drawings, of all infrastructure features associated with each phase, including proposed on- and off-site roadway and parking areas,

sidewalks, water and sewer utilities, and storm drainage systems, to the City Engineer for approval, which shall not be unreasonably withheld.

2. The applicant has submitted sufficient site and building information to obtain Site Plan approval for development of the site. However, the applicant shall be required to submit updated site plans, building elevations, and phasing information sufficient to demonstrate compliance with the approval to the City for review and approval by the Planning Department, prior to the issuance of Building Permits for each phase and prior to the start of any construction activities for development shown or described in all remaining phases as depicted on the New Phasing Plan. For purposes of this decision, construction activities shall include any construction, excavation, or other site work associated with the construction or installation of buildings, roadways, parking, water, sewer, or storm drainage infrastructure. All such plans and information shall be in accordance with the Site Plan Review Regulations dated last revised November 9, 2009. Such Planning Department review shall be for the purpose of ensuring that the proposed building design and uses are in substantial conformance with the approved phased development project and with the Site Plan Review Regulations referenced above.

[...]

4. Prior to the start of any construction activities for which construction inspection is required pursuant to this decision or any applicable ordinance or code for each phase of the project, the City shall retain the services of an independent 3rd party inspector, for which the applicant shall be responsible for all inspection fees related to construction and installation of on- and off-site roadways, parking, sidewalks, water and sewer utilities, storm drainage, and erosion control, in accordance with Chapter 181 of the City Code and Section 14 of the Subdivision Regulations unless waivers have been granted. The applicant shall provide funding for inspection services in a form acceptable to the City. Third party engineer inspection reports and as-built drawings provided by the applicant (using NH State Plane Coordinate system), including tie sheets and Northing and Easting coordinates and elevations of underground utilities, shall be reviewed and approved by the City Engineer, prior to acceptance of any utility improvements by the City and all inspection reports shall be made available to the applicant.
5. Edge-of-Disturbance fencing shall be installed and maintained before and during any site work for each phase under construction, to be verified by the City Engineer or City's third-party inspector on site.

[...]

7. Temporary parking facilities.

- a. Temporary parking facilities are approved in accordance with the chart attached hereto as Exhibit "A".
- b. Prior to the issuance of a building permit for any phase involving the construction of a temporary parking facility, the applicant shall provide the Planning & Development Department with plans for the proposed temporary parking facility, together with an operation and maintenance plan.
- c. Each temporary parking facility shall be designed to ensure the safe movement of vehicles and pedestrians to the satisfaction of the Director of the Department of Public Works and the Director of the Planning Department, which shall not be unreasonably withheld. It shall be the responsibility of the applicant to maintain each temporary parking facility in accordance with the operation and maintenance plan.

[...]

TIM CORWIN, AICP
DEPUTY PLANNING AND DEVELOPMENT DIRECTOR
CITY OF LEBANON
51 NORTH PARK STREET
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(603) 448-1524 (OFFICE)
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TIM.CORWIN@LEBANONNH.GOV
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[BOOK A TIME TO MEET WITH ME](#)

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CITY HALL HOURS:
MONDAY-THURSDAY, 7AM — 5PM (NO FRIDAY HOURS)

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CITY OF LEBANON ~ PLANNING & DEVELOPMENT

PLANNING BOARD

October 14, 2024 Meeting

Staff Memorandum – PB2024-34-EXT – *con't from 9/9/24*

APPLICATION INFORMATION

Agenda Item: 3.D

Application ID#:
PB2024-34-EXT

Application Type:
Extension

Property Location:
North Main Street,
West Lebanon

Property Owner/Applicant:
XYZ Dairy, LLC

Property Size:
+/-38.18 Ac. (combined tract)

Zoning District(s):

- Central Business District (CBD)
- Light Industrial (IND-L)
- Residential Three (R-3)

Staff Attachments:

New:

- Staff memo to the Lebanon Building Code Board of Appeals re: BCBA2024-01
- 9/10/24 staff e-mail correspondence with NHDOT (2 pages)

Included with 9/9/24 Planning Board meeting agenda packet:

- 9/5/24 e-mail correspondence with applicant

Included with 8/12/24 Planning Board meeting agenda packet:

- Staff memo (7 pages)
- Notices of Action for PB2011-01-FMAJ, PB2018-34-EXT, PB2021-19-EXT

LEGAL NOTICE

XYZ Dairy, LLC, River Park Drive (Tax Map 44, Lots 21 - 30 & Tax Map 44, Lot 7), zoned CBD, IND-L and R-3: Applicant requests a 2-year extension of the River Park Subdivision approval (PB2011-01-FMAJ) and Site Plan approval (PB2010-25-SPR), as most recently amended on September 9, 2019 (PB2018-34-SPA) and extended on October 12, 2021 (PB2021-29-EXT). PB2024-34-EXT

APPLICATION MATERIALS

New:

- E-mail correspondence between applicant and NHDOT (18 pages)

Included with 9/9/24 Planning Board meeting agenda packet:

- Document titled, "Request for Extension of River Park Approvals Due to Circumstances Beyond the Control of the Applicant," dated August 12, 2024 (8 pages, including a redline of the Notice of Action for PB2021-19-EXT dated October 21, 2021)
- Proposed updated phasing schedule, dated September 5, 2024 (1 pg)

Included with 8/12/24 Planning Board meeting agenda packet:

- Application form
- Letter from Chet Clem, Lyme Properties, dated July 8, 2024
- Certified Notification List
- Fee Schedule

STAFF COMMENTS

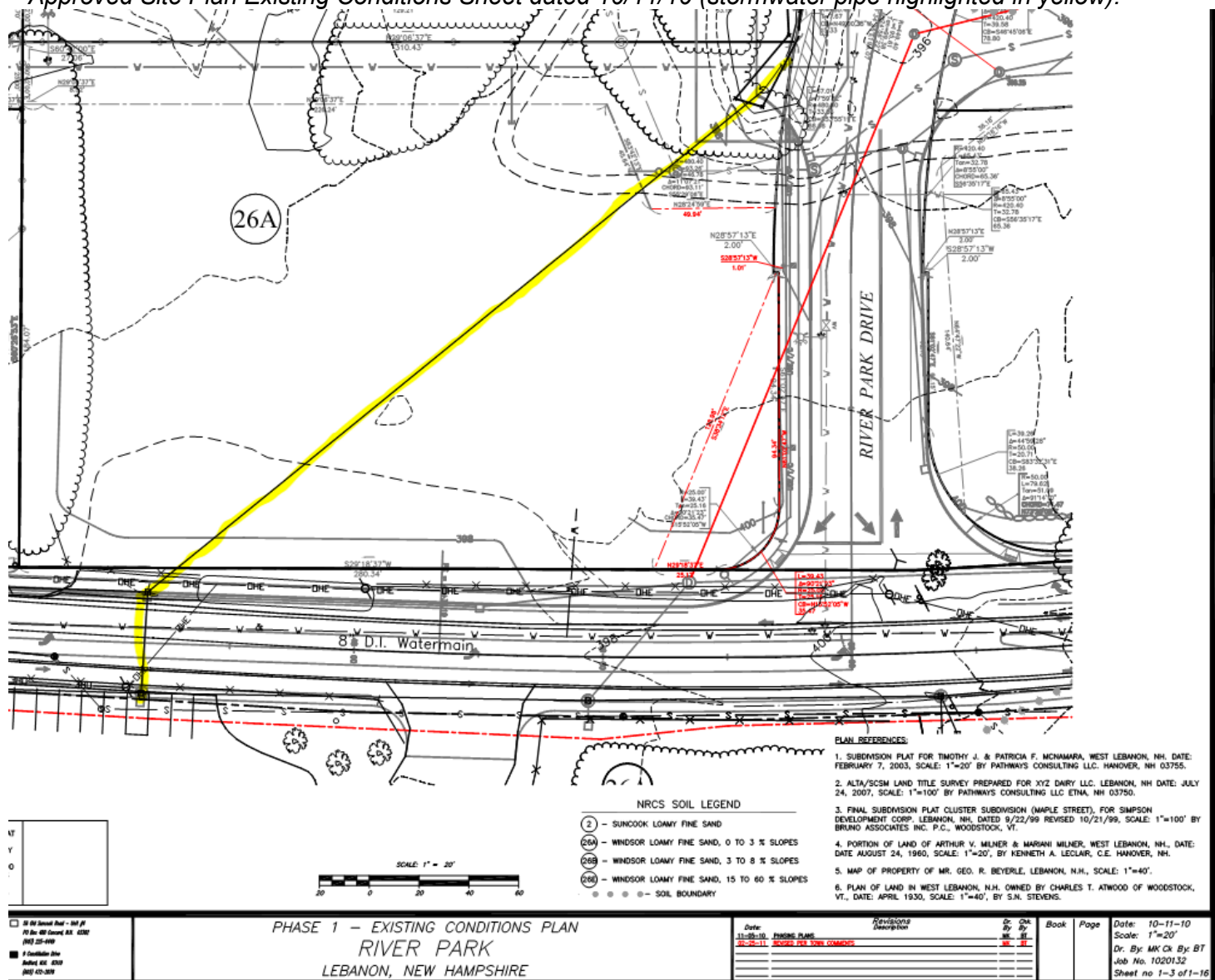
1. Should the Board grant the requested extension, staff strongly recommends that the Board require that all future determinations relative to the applicant's compliance with the Board's conditions of approval be made directly by the Planning Board (in lieu of staff making such determinations).

2. With respect to the building permit for 1 River Park Drive, the State Building Code Board of Appeals in a unanimous decision upheld the Building Inspector's determination that the building permit has expired. The State BCBA decision was not appealed. See attached staff memo to the Lebanon Building Code Board of Appeals. Consequently, the building permit has expired, and the applicant will need to apply for a new building permit. Note that although

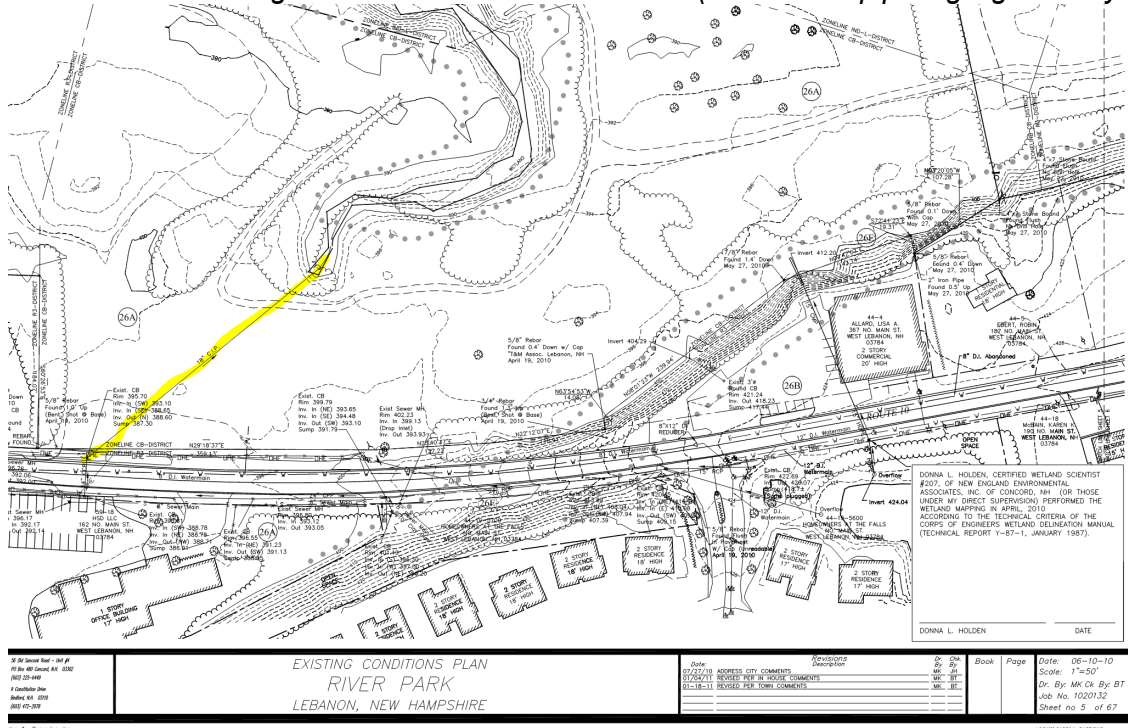
the applicant did not appeal the State Building Code Board of Appeals decision, they have now sued the former Building Inspector and the City of Lebanon to reinstate the building permit.

With respect to the stormwater pipe that the applicant raised at the September 9th hearing, staff notes that the applicant did not mention this in their written application materials. To wit, the stormwater pipe is not included on page 5 of the applicant's "Request for Extension of River Park Approvals" handout which identifies the 3 issues the applicant believes are "circumstances beyond [their] control". However, to the extent the applicant is now suggesting that the pipe is a circumstance beyond their control and justifies the granting of another extension, staff notes that the pipe has been shown on the River Park plans since the initial conceptual review with the Planning Board in 2009. For example, the pipe is shown on the existing conditions sheets for both the site plan and subdivision plan sets approved in 2011 (see below). Per the 2011 approved subdivision plan, the applicant was required to reroute the stormwater pipe within the Route 10 right-of-way to the north side of lot 1 (see below). The applicant has been aware of the stormwater pipe since 2009 and, per the approved 2011 plans, it is their responsibility to relocate the pipe.

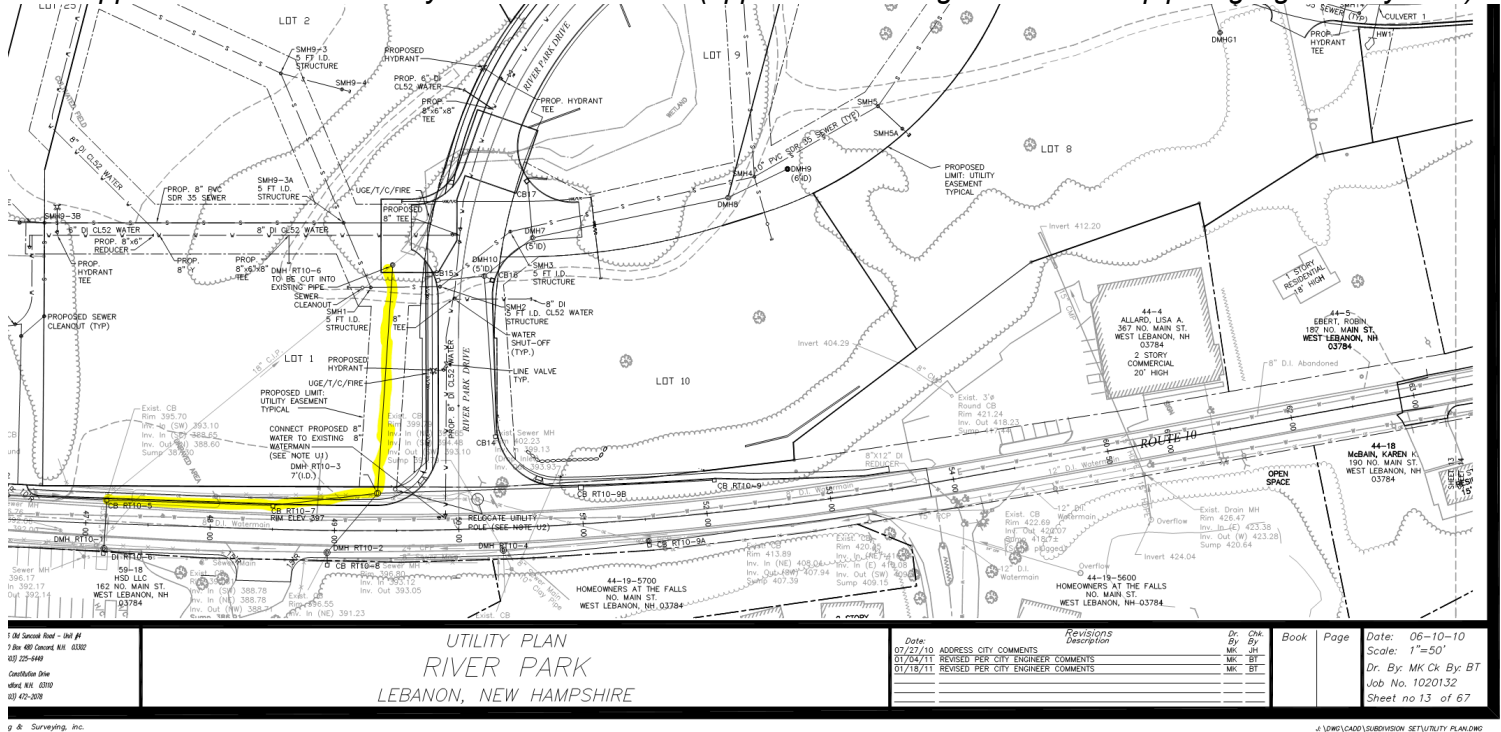
Approved Site Plan Existing Conditions Sheet dated 10/11/10 (stormwater pipe highlighted in yellow):



Approved Subdivision Existing Conditions Plan dated 6/10/10 (stormwater pipe highlighted in yellow):



Approved Subdivision Utility Plan dated 6/10/10 (approved rerouting of stormwater pipe highlighted in yellow):



Attachments

cc: Chet Clem, Lyme Properties (via e-mail)
David Clem, XYZ Dairy, LLC (via e-mail)
Christine Johnston, Esq. (via e-mail)



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

BUILDING CODE BOARD OF APPEALS

Appeal of Building Official

Staff Memorandum – BCBA2024-01

October 7th 2024 Regular Meeting

XYZ Dairy, LLC, 1 River Park Dr

(Tax Map 44, Lot 21), zoned CBD

APPLICATION INFORMATION

Agenda Item: 3.A

Application Type:

Appeal of Building Official's
Determination pursuant to City of
Lebanon Code §36-13.A.

Location:

1 River Park Dr
Tax Map 44, Lot 21

Zoning Board

Represented by
Attorney Cordell A. Johnston
603.748.4019
cordell@cajohnston.com

Building Official

Calvin Hunnewell / Leigh Hays
Represented by
Attorney Matthew C. Decker
603.792.7421
MDecker@dwmlaw.com

Applicant/Property Owner:

XYZ Dairy, LLC,
Represented by
Attorney Philip M. Hastings
603.229.1069
hastingsp@cwbpba.com

Attachments:

Transmission of Order

HEARING NOTICE

XYZ Dairy, LLC, 1 River Park Dr (Tax Map 44, Lots 21-30 & Map 44, Lot 7), zoned R-3, CBD & IND-L: Pursuant to City of Lebanon Code §36-13.A, Building Code Board of Appeals, an appeal of the Building Official's determination that Lebanon Building Permit #2016-00293 has expired and is deemed to be invalid. **BCBA2024-01**

BACKGROUND

- Building Permit 2016-00293
- Appeal BCBA2024-1 was filed, a public hearing conducted and a LBCBA decision made on May 6th 2024.
- The Decision of the LBCBA was appealed by the City of Lebanon Building Official to the State Building Code Board of Appeals.
- A final order in the State Building Code Board of Appeals (SBCBA) was made on 31 July 2024. (See attached order)
- On 30 August 2024 XYZ Dairy, LLC's 30-day appeal window for the SBCBA decision to New Hampshire Superior Court closed, thereby leaving the decision of the SBCBA as final.
- No Communication between XYZ Dairy, LLC or its Attorney has been received by the Chief Building Official, LBCBA Staff, the LBCBA's Attorney or the Chief Building Official's Attorney concerning this matter since the SBCBA's Order on 31 July 2024.
- XYZ Dairy, LLC has filed a lawsuit against the Lebanon Building Official in Grafton Superior Court seeking the re-instatement of the Building Permit. The City was served on 30 September 2024 of this action. The case and its travel is not a direct appeal of the LBCBA or SBCBA actions.

ORDER CLARIFICATION

- The final SBCBA made the following order as the conclusion of its proceedings on July 31st 2024:

"We note the issuance of permits and collection of fees under the state building code is expressly reserved for local municipalities. See RSA 155-A:2, III. We therefore remand this

matter to the City of Lebanon and its Building Code Board of Appeals for any additional and necessary proceedings to be held consistent with this Order.

Based upon the above, it is: ORDERED that the decision of the Lebanon Building Code Board of Appeals is REVERSED and this matter is REMANDED for further proceedings consistent with this Order."

- Lebanon Zoning Board Staff made a request of Attorney Cordell Johnson to review the order and recommend any necessary steps for the Lebanon BCBA to undertake in the wake of the Order from the SBCBA. The following email responses was made by the Lebanon Building Code and Appeals Attorney Cordell Johnson as advice to the Lebanon Building Code of Review:

"Good morning, Nate—

I am following up on our conversation from Friday afternoon. Having read the state Building Code Review Board's order, I do not believe there is anything further for the Lebanon Building Code Board of Appeals to do. The local board had reversed the building inspector's decision solely based on an interpretation of the word "work" in the building code, and that was the only issue appealed to the BCRB. The BCRB reversed the Lebanon board's decision on that sole basis, with the result that the building inspector's decision was reinstated. There were no other issues before the BCRB.

The building code board of appeals has no authority in the matter other than ruling on the building inspector's decision, and the state BCRB has disposed of that issue, leaving nothing for the local board to do.

The "remand" language in the BCRB's order is as follows:

We note the issuance of permits and collection of fees under the state building code is expressly reserved for local municipalities. We therefore remand this matter to the City of Lebanon and its Building Code Board of Appeals for any additional and necessary proceedings to be held consistent with this Order.

I can only conclude from this language that the BCRB meant to have the city's administration (not the BCRB) determine what further action—if any—it needs to take regarding "the issuance of permits and collection of fees." Those would be matters for the building inspector, not the building code board of appeals.

I hope this clarifies the matter. Please let me know if you have any questions.

Cordell

*Cordell A. Johnston
Attorney at Law
P.O. Box 252
Henniker, NH 03242
603-748-4019
cordell@cajohnston.com*

STAFF MEMORANDUM

BCBA2023-01
XYZ Dairy, LLC
1 River Park Dr (Tax Map 44, Lots 21-30 & Map 44, Lot 7)
7 Oct 2024 ZBA Meeting
Agenda Item Staff Comments
Page 3 of 3

STAFF COMMENTS

LBCBA Staff simply passes along the advice of Legal Counsel contained above.

Respectfully submitted,



Nathan Reichert, Director
Planning and Development Department
Zoning Administrator
Staff to the Building Code Board of Appeals

From: [Pomeroy, Desislava](#)
To: [Brian Vincent](#)
Cc: [Tim Corwin](#); [Turgeon, Christopher](#); [Wood, Ross](#)
Subject: [EXTERNAL] RE: Route 10 widening/River Park Project - Lebanon
Date: Tuesday, September 10, 2024 4:18:44 PM

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

Good afternoon.

DOT District 2 has requested a traffic summary memo from the applicant since the last traffic generation numbers we have on file are so old. To this day we have not received this memo.

Please note that we did not request a full new study just a summary memo.

Let me know if you want to discuss further or have any questions. I'll out of the office for most of tomorrow but I'll be back on Thursday: 603-448-8952.

Thanks.

Des Pomeroy, PE
Access & Utilities Supervisor, District 2
NH Department of Transportation
8 Eastman Hill Road
Enfield, NH 03748
Phone: (603) 448-2654
Cell: (603) 252-0885
Desislava.Z.Pomeroy@dot.nh.gov

From: Turgeon, Christopher <Christopher.L.Turgeon@dot.nh.gov>
Sent: Tuesday, September 10, 2024 10:51 AM
To: Brian Vincent <brian.vincent@lebanonnh.gov>; Pomeroy, Desislava <Desislava.Z.Pomeroy@dot.nh.gov>
Cc: Tim Corwin <Tim.Corwin@lebanonnh.gov>
Subject: RE: Route 10 widening/River Park Project - Lebanon

Hi Brian,

Des our Access and Utility Supervisor has been managing this permit for us. I will let her answer this question.

Thank you,

Chris

District 2 Engineer
Ph: (603) 448-2654
Cell: (603) 252-6415



From: Brian Vincent <brian.vincent@lebanonnh.gov>
Sent: Tuesday, September 10, 2024 9:44 AM
To: Turgeon, Christopher <Christopher.L.Turgeon@dot.nh.gov>
Cc: Tim Corwin <Tim.Corwin@lebanonnh.gov>
Subject: Route 10 widening/River Park Project - Lebanon

EXTERNAL: Do not open attachments or click on links unless you recognize and trust the sender.

Hi Chris,

Wondering if you can share with us the traffic study update requests you've made to the project developer for this project over the most recent past – say last 2 to 4 year?

I understand that you have articulated to the developer (sometime in the spring of 2024) that the NHDOT requires an update to the last traffic study done over a decade ago, for the Route 10 widening/development, in order to process an excavation permit application.

DPW also received an excavation permit application in June – but it was incomplete and has not been processed to completion/issuance of a permit.

Thanks,

Brian A. Vincent, PE
City Engineer

City of Lebanon
Department of Public Works
193 Dartmouth College Highway
Lebanon, NH 03766
603-448-3112 x 6252
brian.vincent@lebanonnh.gov



Fwd: River Park Development - Rt10 modifications (excavation permit application)

1 message

Chet Clem <chet@lymeproperties.com>
To: Angela McCanna <amccanna@lymeproperties.com>

Tue, Sep 10, 2024 at 2:23 PM

Begin forwarded message:

From: "Pomeroy, Desislava" <desislava.Z.Pomeroy@dot.nh.gov>
Date: July 15, 2024 at 4:03:22 PM EDT
To: Chet Clem <chet@lymeproperties.com>
Cc: Chris Yandow <chris.yandow@engelberth.com>, "Turgeon, Christopher" <Christopher.L.Turgeon@dot.nh.gov>, "Wood, Ross" <Ross.S.Wood@dot.nh.gov>
Subject: RE: River Park Development - Rt10 modifications (excavation permit application)

Hi, Chet.

Thank you for reaching back.

The traffic numbers for the apartment building from 2018 email correspondence provide up-dated traffic generation numbers for that building. However, none of the other buildings were discussed at that time.

After DOT internal discussion on this matter, the request for an up-dated traffic summary memo still stands.

Thank you.

Des

From: Chet Clem <chet@lymeproperties.com>
Sent: Monday, July 15, 2024 3:11 PM
To: Pomeroy, Desislava <desislava.Z.Pomeroy@dot.nh.gov>
Cc: Chris Yandow <chris.yandow@Engelberth.com>; Turgeon, Christopher <Christopher.L.Turgeon@dot.nh.gov>; Wood, Ross <Ross.S.Wood@dot.nh.gov>
Subject: Re: River Park Development - Rt10 modifications (excavation permit application)

EXTERNAL: Do not open attachments or click on links unless you recognize and trust the sender.

Hi Des,

Following up on this email from weeks back, specifically as it relates to the revised traffic memo requested and the previous communications on the matter included.

The remaining items are all in progress, so I'd like to confirm that we've put this issue to bed.

Thanks,

Chet

On Jun 26, 2024, at 2:47 PM, Chet Clem <chet@lymeproperties.com> wrote:

Hi Des,

Regarding your first bullet, this matter was addressed back in 2020 and I'm attaching the compendium of relevant communication between myself and Chris Turgeon at the time.

Having received no further response to my September 11, 2020 communication and attachments, nor subsequent request for further analysis, we assumed this matter was settled and have been proceeding accordingly.

And as a point of clarification, the multi-family building is Phase 1A and is not being built first.

Sincerely,

Chet Clem

President

Lyme Properties

chet@lymeproperties.com

(603) 676-7106 (direct)

(207) 576-1410 (mobile)

[Calendly: book a Zoom with me](#)

<20200911 XYZ NHDOT Traffic Exchange.pdf>

On Jun 26, 2024, at 2:01 PM, Pomeroy, Desislava
<desislava.Z.Pomeroy@dot.nh.gov> wrote:

Thank you for your patience on this so far. We are preparing a formal letter of response. But considering time is of the essence, here are some of the items that will be included in the formal letter:

- A revised traffic volumes (trip generation) summary memo is needed. The last discussed phasing from 2014 shows the 80-unit apartment building being the last one to be build. Now it's a 125-unit apartment building and it's being constructed first.
- Any easements required for the southern entrance need to be recorded in the registry of deeds, please let us know what book and page number they are.
- The bond amount for the excavation permit for the southern entrance is 110% of the construction cost: \$388,152.60. The bond needs to be good for 2 years from the project completion.
- A signed agreement from the City of Lebanon is required, accepting full maintenance of any sidewalks constructed within the Department's Right-of-way.
- A signed agreement from City of Lebanon is required, accepting the maintenance of the southern drive signal equipment, including loops and intersection striping.

Let me know if you have any questions.

Thanks.

Des Pomeroy, PE

Access & Utilities Supervisor, District 2

NH Department of Transportation

[8 Eastman Hill Road](#)

[Enfield, NH 03748](#)

Phone: (603) 448-2654

Cell: (603) 252-0885

Desislava.Z.Pomeroy@dot.nh.gov

From: Chris Yandow <chris.yandow@Engelberth.com>
Sent: Tuesday, June 25, 2024 3:41 PM
To: Pomeroy, Desislava <desislava.Z.Pomeroy@dot.nh.gov>
Cc: Chet Clem <chet@lymeproperties.com>; Turgeon, Christopher <Christopher.L.Turgeon@dot.nh.gov>; Wood, Ross <Ross.S.Wood@dot.nh.gov>
Subject: RE: River Park Development - Rt10 modifications (excavation permit application)

EXTERNAL: Do not open attachments or click on links unless you recognize and trust the sender.

Good afternoon Des: I wanted to follow up on our conversation this past Friday regarding the subject project and excavation permit application.

The Clems are preparing their bond submission to the City for the Rt10 work and would like to issue the State bond at the same time.

Do you have any more updated information and guidance on the processing and issuance of the DOT Excavation Permit.

Thank you,

Chris Yandow
Director of Preconstruction Services

<image001.jpg>

Engelberth Construction, Inc.
[150 Water Tower Circle](https://www.engelberth.com)
Colchester, VT 05446
DIRECT 802.846.2386
www.engelberth.com

<image002.png>

<image003.png>

From: Pomeroy, Desislava <desislava.Z.Pomeroy@dot.nh.gov>
Sent: Tuesday, June 18, 2024 4:10 PM
To: Chris Yandow <chris.yandow@Engelberth.com>
Cc: Chet Clem <chet@lymeproperties.com>; Turgeon, Christopher <Christopher.L.Turgeon@dot.nh.gov>; Wood, Ross <Ross.S.Wood@dot.nh.gov>
Subject: RE: River Park Development - Rt10 modifications (excavation permit application)

Thank you for reaching back. We have discussed internally, and I am awaiting comments from one more member of our team. I'll get back to you as soon as I hear back from them.

Thanks.

Des Pomeroy, PE

Access & Utilities Supervisor, District 2

NH Department of Transportation

[8 Eastman Hill Road](#)

[Enfield, NH 03748](#)

Phone: (603) 448-2654

Cell: (603) 252-0885

Desislava.Z.Pomeroy@dot.nh.gov

From: Chris Yandow <chris.yandow@Engelberth.com>

Sent: Tuesday, June 18, 2024 3:45 PM

To: Pomeroy, Desislava <desislava.Z.Pomeroy@dot.nh.gov>

Cc: Chet Clem <chet@lymeproperties.com>

Subject: RE: River Park Development - Rt10 modifications (excavation permit application)

EXTERNAL: Do not open attachments or click on links unless you recognize and trust the sender.

Good afternoon, Des – I was following up on our conversation last Friday regarding the subject project and whether a construction cost value has been determined by the state so our client can finish the process of acquiring the necessary bonding.

Regarding the easements you recently asked about – the owner's counsel has prepared easement documentation where necessary and finalizing property signatures.

Thank you for any update you can provide to Chet and I.

Chris Yandow
Director of Preconstruction Services

Engelberth Construction, Inc.
[150 Water Tower Circle](#)
Colchester, VT 05446
DIRECT 802.846.2386
www.engelberth.com

Colchester, VT | Concord, NH

From: Chris Yandow

Sent: Friday, June 7, 2024 8:31 AM

To: desislava.Z.Pomeroy@dot.nh.gov

Subject: River Park Development - Rt10 modifications (excavation permit application)

Desislava – we met on May 8 to review the project and our impending Excavation Permit Application. I wanted to let you know the attached cover letter and its referenced attachments are being delivered to your office this morning.

Please let me know when you receive the package and once you have had a chance to review if there are any questions. As noted, the property owner is awaiting the DOT's acceptable cost value for bonding purposes.

Thank you,

Chris Yandow

Director of Preconstruction Services

Engelberth Construction, Inc.
[150 Water Tower Circle](#)
Colchester, VT 05446
DIRECT 802.846.2386
www.engelberth.com

Colchester, VT | Concord, NH

September 11, 2020

Chris Turgeon, P.E.
Assistant Direct Engineer
NH DOT District 2 Maintenance
Exit 16, Interstate 89
8 Eastman Hill Road, Enfield, NH 03748

Re: River Park West Lebanon

Dear Mr. Turgeon,

I am writing in response to your email of August 14, 2020. We are happy to schedule a Zoom meeting to discuss the points raised in your letter. Alternatively, we can arrange a COVID-compliant meeting at your offices, or at the former Westboro Train Station located at 167 N. Main Street adjacent to River Park where we have a scale model of the project to aid in the discussion.

The current River Park development program has not changed since Site Plan and Major Subdivision was originally approved by the Lebanon Planning Board in 2011. This was and remains the program that the extensive traffic studies by Holden Engineering and subsequently, VHB, at the request of the former NHDOT Commissioner, addressed.

The River Park Driveway Permit Application was submitted on February 2, 2010. After almost five years of analysis and consideration the resultant agreement between XYZ Dairy, LLC and former NHDOT Commissioner Clement was memorialized in a January 30, 2015 letter from Douglas R. King, PE, Assistant District Engineer, District 2. That should all be on-file with the NHDOT.

In September 2019, the Lebanon Planning Board approved shifting of the multi-family residential component (River Park Lot 2, Building 8) from the last building to the second building. XYZ Dairy initiated that process in October of 2018 in response to the City, Regional, and State prioritization of new housing development to meet the ever-growing demand for more housing options.

During that approval process David Brooks, Director of Planning & Zoning for the City of Lebanon, communicated directly with Robin Bousa of VHB on December 27, 2018 regarding the proposed phasing adjustment: "The developer is currently proposing to rearrange the phasing sequence for the overall project and also to increase the number of apartments from 80 to 125 units.¹ Our City Engineer and I are trying to determine the impact, if any, of the proposed 56% increase in dwelling units and pulling that phase forward from Phase 7 to Phase 1-A (basically the second building instead of the last building)."

¹ NOTE: The River Park approvals included up to 125 units; traffic analysis by VHB had assumed 80 units.

VHB prepared an analysis of the impact of this amendment on traffic generation at the request of David Brooks and they concluded that there was no material impact given the change in Mid Rise apartment traffic rates in the 2017 ITE trip manual. The amended phasing, even at 125 units versus 80 units, showed AM trips at (12 in/33 out) compared to the previous (9 in/34 out), and PM trips at (34 in/21 out) PM compared to the previous (40 in/ 22 out). A copy of this exchange is attached.

David Brooks' communication to City Engineer Christina Hall and Senior Planner and Zoning Administrator Tim Corwin concluded that "it appears that the traffic impacts of going from 80 to 125 are minimal, at most." (It should be noted that VHB analyzed the S.F. of apartments of 125,125 S.F. in their original studies requested by NHDOT and while the unit count increased from a clerical mistake, the S.F. did not increase.)

Since the program for River Park has not changed there is no reason that trip generation forecasts would be any different today unless ITE rates have been modified, and we are not aware of any changes. We will investigate this further prior to our meeting.

As VHB opined in March 31, 2014 submission to the NHDOT, projected site generation volumes at the proposed site driveways were likely exaggerated in the earlier studies due to the assumptions mandated by the department in the scoping of the professional traffic studies. For instance, our traffic engineers were asked to analyze traffic volumes for a large number of intersections beyond West Lebanon based on the assumption that the proposed Twin State/Iron Horse and Upper Valley Industrial Park, Rock Ridge, and Nature's Walk developments were fully built out. The largest, Iron Horse, never commenced construction; as of October, 2019 Iron Horse permits have expired.

Moreover, in the original analysis NHDOT mandated a 2% annual growth rate on Route 10 which was consistent with Route 120, but not Route 10, at the time of the studies. In fact, traffic volumes on Route 10 in West Lebanon have declined every year since our approvals were secured.

We agree that paving limits and schedules are worthy of coordination, which prompted our letter to you on August 11, 2020.

We understand that a NHDOT excavation permit is required before work can commence on the southern entrance into River Park. While it is true that this intersection falls within Lebanon's urban compact jurisdiction, it was NHDOT that required the right turn lanes in and out of this entrance and VHB submitted plans that reflected your requirements in the drawings approved by NHDOT. These plans were approved by the City of Lebanon and included as part of our Site Plan and Subdivision Plan approvals.

We bid this work in 2019-2020, selected the approved contractor, and were about to release them to prepare and file the excavation permit when the Covid-19 emergency orders were issued. We had no choice other than putting the first building on hold. The Lebanon Planning Board approval requires the completion of the southern entrance as a condition of a certificate of occupancy for the first building, but not a building permit which we have already secured. Lyme is willing to



accelerate the filing of an excavation permit if that is useful for coordination between NHDOT, the City of Lebanon, and XYZ Dairy.

While we agree that the NHDOT will not issue a driveway permit for the northern entrance until XYZ Dairy has paid the mitigation fee agreed to, the necessity of completing this second entrance has always been tied to the completion of several buildings on site, and that has not changed. The timing of the northern entrance is tied to Phase 2 of the project, as confirmed by Condition 17-4. An excavation permit will also have to be filed in advance of construction. However, given the amount of time and effort expended to negotiate a final construction design for this intersection, not to mention the time and energy to rebut the department's initial three lane solicitation, a solution opposed by the abutters, the neighborhood, and the Lebanon Planning Board, we feel we have acted in good faith and expect the NHDOT to do the same.

For instance, we secured the 21 easements required by NHDOT staff for both the southern and northern entrances and these executed documents were given to VHB as requested. We also completed both signal warrant analyses ahead of the conditions imposed by the Lebanon Planning Board and these were submitted to the City and State on November 26, 2012. Additionally, and notwithstanding the determination of VHB that signalization may never be required at the northern entrance due to traffic volumes generated by River Park, we incorporated the below grade conduits and signal pad sites in the final design drawings prepared by VHB. It is our understanding that NHDOT approved the VHB drawings.

At a time when River Park has completed the water and sewer infrastructure to service the entire site, expanded this infrastructure to service 9-single family house lots, and are poised to commence construction on the first building, we do want to discuss how the NHDOT can facilitate this vitally needed economic development project for West Lebanon, the City of Lebanon and the State of New Hampshire in an era of unprecedented job losses and threats to the taxable base of the City. We are not interested in incurring any additional costs for repetitive traffic analysis related to the project, as it has not changed in any material way.

Sincerely,

A handwritten signature in black ink that reads "Chet Clem". The signature is fluid and cursive, with the first name "Chet" and last name "Clem" clearly distinguishable.

Chet Clem
Lyme Properties 2, LLC
57 Main Street
West Lebanon, NH 03784

Cc:

Victoria Sheehan, NHDOT



Douglas King, NHDOT
Deborah Louzier, NHDOT
Thinh Tran, NHDOT
Shaun Mulholland, City of Lebanon
David Brooks, City of Lebanon
Christina Hall, City of Lebanon
David Clem, Lyme Properties 2, LLC
Angela McCanna, Lyme Properties 2, LLC
Philip Hastings, Cleveland, Waters and Bass, P.A.

Corwin, Tim

From: Brooks, David
Sent: Friday, December 28, 2018 9:11 AM
To: Hall, Christina; Brittner, Erica; Corwin, Tim
Subject: FW: [External] River Park Development-Updated TIS
Attachments: Trip Gen-PhaseA+B+C .pdf

Christina and Tim

Here is Robin Bousa's response on the apartment trip generation rates. It appears that the traffic impacts of going from 80 to 125 are minimal, at most.

David

DAVID R. BROOKS

*DIRECTOR OF PLANNING & ZONING
CITY OF LEBANON*

From: Bousa, Robin <rbousa@VHB.com>
Sent: Friday, December 28, 2018 7:16 AM
To: Brooks, David <David.Brooks@lebanonnh.gov>
Subject: RE: [External] River Park Development-Updated TIS

Hello David – Good to hear from you. I hope you had a wonderful Christmas too!

Yes, I have confirmed that the 80 apartments were included in the trip generation estimate shown in the 2014 TIS memo. I have attached the spreadsheet from our files for your reference. The only piece missing from the spreadsheet is the internal capture (shared internal trips between the uses within the site) which were calculated separately using the NCHRP tool (131 trips in the AM and 145 trips in the PM). The last page is the trip generation for the apartments which you can use as a guide to see how this may influence the traffic flow at this given time. At 80 units, the trip generation was estimated to be 43 AM peak hour trips (9 in / 34 out) and 62 PM peak hour trips (40 in / 22 out).

Just a side note, the 10th Edition of the ITE Trip Generation manual (which came out in Sept 2017) now looks at apartments in three different codes (Low Rise 1-2 stories; Mid Rise 3-10 stories; and High Rise 10+ stories). I am not sure how many stories are proposed for the 125 units. However, I am working on another project in Merrimack, NH that is also going through an update since the new manual was published and I have found the Mid Rise rates to be quite a bit less than the previous apartment rates from the 9th Edition manual. I did a quick calculation for you using the new rates (assuming Mid Rise between 3 and 10 stories) for both 80 and 125 units.

80 Units = 29 trips (8 in/21 out) AM and 35 trips (21 in/14 out) PM
125 Units = 45 trips (12 in/33 out) AM and 55 trips (34 in/21 out) PM

As you can see, the trip generation for the AM is about the same for 125 units with the latest rates as the 80 units with the old rates. Trip generation for the PM is actually less for the 125 units than previously assumed.

I hope this information is helpful. Please feel free to call or reply to this email if you need any further information.

Thanks very much and have a very happy and safe New Year!

Sincerely,

Robin

Robin Bousa

Managing Director / Principal

P 603.391.3912

www.vhb.com

From: Brooks, David <david.brooks@lebanonnh.gov>

Sent: Thursday, December 27, 2018 11:10 AM

To: Bousa, Robin <rbousa@VHB.com>

Subject: [External] River Park Development-Updated TIS

Robin

I hope all is well these days and that you had a nice Christmas.

I'm reaching out to you with a question about an Updated Traffic Impact Study for the River Park Development here in Lebanon that you co-authored with Nick Sanders in 2014 (see attached). (Since it was only 4.5 years ago, I'm sure it's still fresh in your mind ☺).

The developer is currently proposing to rearrange the phasing sequence for the overall project and also to increase the number of apartments from 80 to 125 units. Our City Engineer and I are trying to determine the impact, if any, of the proposed 56% increase in dwelling units and pulling that phase forward from Phase 7 to Phase 1-A (basically the second building instead of the last building).

In reviewing your updated TIS memo, it does not explicitly reference the 80 apartment units in the Development Program summary on page 2. However, the Trip Generation Summary Table on page 3 does list Land Use Code 220 as one of the sources of information. If it helps jog your memory, I've also attached a Signal Warrant Analysis prepared by Nick Sanders in 2012, which did specifically reference the 80 apartments as part of Phase C.

Can you verify that the Trip Generation Summary does include the 80 apartment units?

David

DAVID R. BROOKS

DIRECTOR OF PLANNING & ZONING

CITY OF LEBANON

51 NO. PARK STREET

LEBANON, NH 03766

(PH.) 603.448.1457, EXT. 1472

(FAX) 603.442.6141

DAVID.BROOKS@LEBANONNH.GOV <----- NEW EMAIL ADDRESS

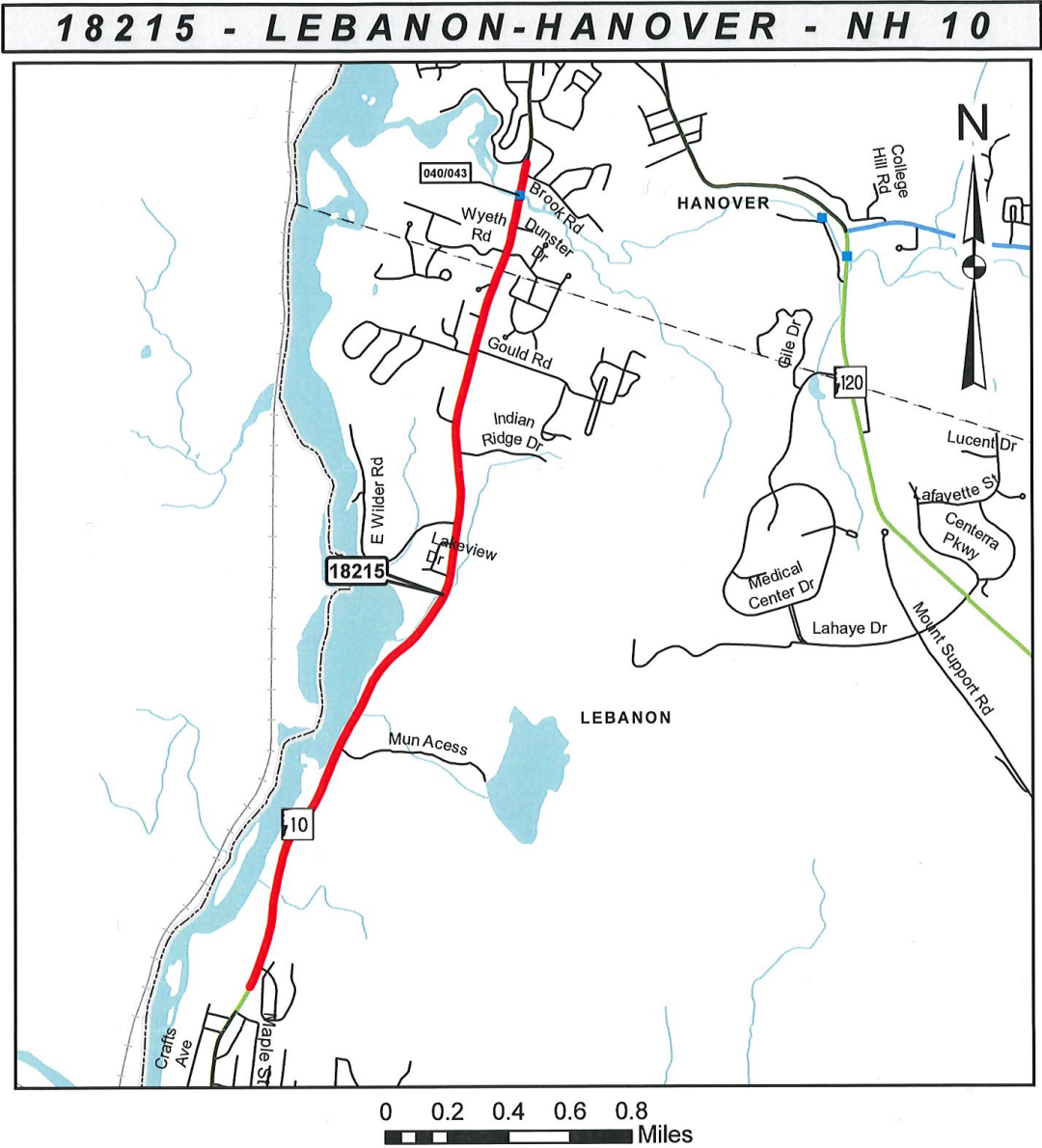
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To Whom It May Concern:

The NH Department of Transportation (NHDOT) is planning the subject project to resurface NH Route 10 beginning 0.1 miles south of Maple Street in the Town of Lebanon extending northerly 2.9 miles to just north of Brook Road in the Town of Hanover. The work will involve a ½” leveling course and 1” overlay, as well as guardrail replacement and ADA standard upgrades to currently substandard sidewalk end units. A location map is enclosed.



LEGEND

Statewide Central Tier 2 43060

State Routes

Unnumbered Routes

Urban Compacts

Local Roads

New Hampshire

DOT

Department of Transportation

State #: 43060

Federal #: X-A005(027)

LOCATION MAP



August 11, 2020

Christopher Turgeon
NH Department of Transportation
7 Hazen Drive
PO Box 483
Concord, NH 03302

Re: NH Route 10 Paving, West Lebanon, NH

Mr. Turgeon,

I am writing on behalf of XYZ Dairy, LLC (XYZ), the owner of record of the River Park West Lebanon development at 173 N. Main Street, West Lebanon, NH 03784. The project is being developed by Lyme Properties, a real estate development company based in West Lebanon.

We were recently informed by Christina Hall, City Engineer for the City of Lebanon, of the NH Department of Transportation's upcoming plans to resurface NH Route 10 beginning 0.1 miles south of Maple Street in the Town of Lebanon extending northerly 2.9 miles to just north of Brook Road in the Town of Hanover.

This segment of NH Route 10 runs in front of River Park West Lebanon, a fully approved development of over 850,000s.f. of mixed-use space that will be built over multiple phases. The NHDOT is aware of this project, having reached an agreement with XYZ regarding the two main driveway entrances to River Park and an associated traffic mitigation package. The details of this are reflected in a memo from former Commissioner Christopher D. Clement dated November 10, 2014, and memorialized in a letter from Douglas R. King, P.E., Assistant District Engineer, District 2, on January 30, 2015.

We attempted to commence work in 2016 and 2018 before being stymied by delays at the local level. We were in the process of mobilizing to commence for an April 6, 2020 start date, including work related to the Southern Entrance to River Park off of Route 10, when the Covid-19 pandemic changed our plans yet again. We were able to complete the on-site utility work and residential cul-de-sac as of July, 2020, but the Southern Entrance work was suspended alongside construction of the first commercial building, 100 River Park Drive.

Receipt of this notice of paving is timely as we are actively working with our contractor to adjust plans for the Southern Entrance along this same segment of Route 10. It is my hope that we can coordinate efforts with NHDOT so as to avoid conflicts and any unnecessary or redundant efforts, and more importantly determine if any efficiencies or savings can be found. The Southern Entrance itself is located in the Lebanon Urban Compact, but the associated road widening will impact the State portion of Route 10. The Northern Entrance falls entirely within the NHDOT segment but, in

accordance with the Conditions of our Subdivision and Site Plan approvals, does not have to be completed until Phase 2 of River Park.

XYZ's scope of work for the Southern Entrance includes relocating a City of Lebanon stormwater overflow line that currently runs, without any easement, diagonally through the footprint of 100 River Park drive. As currently approved, this will require excavation work within Route 10. Additionally, the construction of the Southern driveway will establish the Southern Entrance as approved off Route 10, and include a widening of Route 10 to allow for a southbound right turn lane. XYZ has successfully secured the necessary temporary/construction and permanent easements to facilitate this work requested by NHDOT and these have been provided to the department by Vanasse Hangen Brustlin, Inc., our traffic consultant.

To date, our contractors have been coordinating with the City of Lebanon. We have also been communicating with VHB, who has managed the civil engineering for this scope of work.

XYZ anticipates re-initiating work related to Route 10 later this year and/or early 2021 depending on scheduling, approvals, and the evolving pandemic and associated regulations. Perhaps we can arrange a phone call to better understand the NHDOT's scope of work and anticipated schedule and identify any potential conflicts and/or opportunities to prevent a duplication of effort, wasted time and money, and unnecessary disruption of Route 10 caused by lack of coordination.

Sincerely,



Chet Clem
President
Lyme Properties
57 Main Street
West Lebanon, NH 03784

Cc:

Victoria F. Sheehan, NHDOT Commissioner, *by mail*
Christina Hall, City of Lebanon
Shaun Mulholland, City of Lebanon
David Brooks, City of Lebanon
David Clem, Lyme Properties
Angela McCanna, Lyme Properties

From: Turgeon, Christopher Christopher.Turgeon@dot.nh.gov

Subject: RE: Resurfacing project -fyi

Date: August 14, 2020 at 12:26 PM

To: Chet Clem chet@lymeproperties.com

Cc: Christina Hall Christina.Hall@lebanonnh.gov, Shaun Mulholland mulholland@lebanonnh.gov, Brooks, David Brooks@lebanonnh.gov, David Clem dclem@lymeproperties.com, Angela McCanna angela@lymeproperties.com, Sheehan, Victoria Victoria.Sheehan@dot.nh.gov, King, Douglas Douglas.King@dot.nh.gov, Louzier, Deborah Deborah.Louzier@dot.nh.gov, Tran, Thinh Thinh.Tran@dot.nh.gov

CT

Good Morning Chet,

Thank you for reaching out to us concerning proposed paving along NH 10 in the vicinity of your planned development. From reading your letter, there are a few items I would like to discuss and start moving forward on so River Park can proceed.

It has been a decade since traffic data has been submitted and reviewed. We request some updated information so we can assess whether the current design is sufficient. The following is a list of information we would want before we move forward on any permits;

- Detailed summary of the currently proposed development program and how it compares to the previous development proposal.
- Trip generation summary for the currently proposed development program with a comparison to the previous study.
- The expected site generated traffic volume networks at the proposed site driveways.

First item is the proposed paving limits. It does not make financial sense for us to pave an area only to have it immediately demolished. We will shorten the paving limits so it will end just outside your phase 1 work limits. Once the work is complete, your final paving course will meet at this joint so the section is monolithic. Please send us an electronic and hard copy of the most current plans so this can be coordinated.

Second item is the status of your required NHDOT excavation permit. We have agreed on the access points and associated work within the State's right-of-way for the project and acknowledge that the southern entrance is located within the City of Lebanon compact with associated work along the State's portion of NH 10. We highly recommend that you contact us immediately to get this process started so as not to delay construction.

Third item is the status of your required NHDOT driveway permit relative to the northern access point. There is not an approved driveway permit for this and as this will be constructed as part of phase 2, there is more time to obtain. We want to move forward so it is ready when phase 2 is ready to begin.

Do not hesitate to contact us if you have any questions.

Thank you,

Chris

Chris Turgeon, P.E.
Assistant District Engineer
NHDOT District 2 Maintenance
Exit 16 Interstate 89

Exit 10, Interstate 89
8 Eastman Hill Road, Enfield, NH 03748
Ph: (603) 448-2654
Cell: (603) 252-6415
Fax: (603) 448-2059
Christopher.Turgeon@dot.nh.gov



From: Chet Clem <chet@lymeproperties.com>
Sent: Tuesday, August 11, 2020 2:32 PM
To: Turgeon, Christopher <Christopher.Turgeon@dot.nh.gov>
Cc: Christina Hall <Christina.Hall@lebanonnh.gov>; Shaun Mulholland <mulholland@lebanonnh.gov>; Brooks, David <Brooks@lebanonnh.gov>; David Clem <dclem@lymeproperties.com>; Angela McCanna <angela@lymeproperties.com>
Subject: Fwd: Resurfacing project -fyi

EXTERNAL: Do not open attachments or click on links unless you recognize and trust the sender.

Mr. Turgeon,

Attached please find some additional information regarding River Park and our infrastructure work related to the segment of Route 10 that Christina Hall brought to our attention. The timing of the River Park work is still being determined, but it would be beneficial to all parties if we are able to coordinate to avoid any conflicts.

All the best,

Chet Clem
President
Lyme Properties

chet@lymeproperties.com
(603) 676-7106 (direct)
(207) 576-1410 (mobile)
www.lymeproperties.com
www.riverparkwestlebanon.com
it's easy being green

Begin forwarded message:

From: "Hall, Christina" <hall@lebanonnh.gov>
Subject: Resurfacing project -fyi
Date: Julv 28. 2020 at 2:36:30 PM EDT

DRAFT

LEBANON PLANNING BOARD
COMMUNITY ROOM, KILTON LIBRARY OR
REMOTE VIA MICROSOFT TEAMS
LEBANONNH.GOV/LIVE
MONDAY, SEPTEMBER 09, 2024 6:30 PM

- MEMBERS PRESENT:** Andrew Faunce (Chair), Richard Ford Burley (Vice Chair), Kathie Romano, Patrick Kennelly, Karen Zook (City Council Rep), Brandon Hill, Jeremy Rutter (REMOTE)
- MEMBERS ABSENT:** NONE
- STAFF PRESENT:** Nathan Reichert (Planning & Development Director), Tim Corwin (Deputy Planning Director), Brian Vincent (City Engineer)
- OTHERS PRESENT:** Christine Johnston, Esq. (Legal Counsel for the Planning Board)

1. CALL TO ORDER

- Chair Faunce called the meeting to order at 6:30pm.
- Mr. Corwin reviewed the City’s meeting in-person and REMOTE attendance policies and procedures.
- Mr. Rutter explained he was attending remotely because he is recuperating from knee replacement surgery. He said no one was in the room with him at the time of the meeting.

2. NOTICE OF REGIONAL IMPACT

- The following application was received by the Planning and Development Department on or before March 11, 2024:
- **Mark & Susan Rose Sr. and Lebanon Housing Authority, 4 Waterman Avenue & 31 Romano Circle (Tax Map 101, Lot 17, and Tax Map 101, Lot 20), zoned R-2: Request for approval of a Boundary Line Adjustment. PB2024-39-BL**
- Mr. Corwin said staff recommends the application does not have the potential for regional impact.

A MOTION was made by Richard Ford Burley that the application of Mark & Susan Rose Sr. and Lebanon Housing Authority, 4 Waterman Avenue & 31 Romano Circle (Tax Map 101, Lot 17, and Tax Map 101, Lot 20, zoned R-2 does not have the potential for regional impact. The motion was seconded by Kathie Romano.

Roll Call Vote:

Voting For – Mr. Rutter, Mr. Kennelly, Ms. Romano, Mr. Faunce, Mr. Ford Burley, Mr. Hill, Ms. Zook

Voting Against – None

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

3. PUBLIC HEARING ITEMS

A. XYZ Dairy, LLC, River Park Drive (Tax Map 44, Lots 21 - 30 & Tax Map 44, Lot 7), zoned CBD, IND-L and R-3: Applicant requests a 2-year extension of the River Park Subdivision approval (PB2011-01-FMAJ) and Site Plan approval (PB2010-25-SPR), as most recently amended on September 9, 2019 (PB2018-34-SPA) and extended on October 12, 2021 (PB2021-29-EXT). PB2024-34-EXT

Ms. Romano recused herself from the discussion.

A MOTION was made by Richard Ford Burley that the application of XYZ Dairy, LLC, River Park Drive (Tax Map 44, Lots 21 - 30 & Tax Map 44, Lot 7), zoned CBD, IND-L and R-3: Applicant requests a 2-year extension of the River Park Subdivision approval (PB2011-01-FMAJ) and Site Plan approval (PB2010-25-SPR), as most recently amended on September 9, 2019 (PB2018-34-SPA) and extended on October 12, 2021 (PB2021-29-EXT). PB2024-34-EXT is complete enough for the Planning Board to accept jurisdiction and commence review.

The motion was seconded by Patrick Kennelly.

Roll Call Vote:

Voting For – Mr. Rutter, Mr. Kennelly, Mr. Faunce, Mr. Ford Burley, Mr. Hill, Ms. Zook

Voting Against – None

****The MOTION was approved (6-0).***

Chair Faunce read the following opening statement:

“Good evening. Before we invite the customary opening statement from the Staff and the Applicant I would like to offer some framing for tonight’s conversation.

River Park is a complex phased development project for which the final subdivision plat was approved and recorded on January 2, 2018 - which is the reference date for completing each phase.

1 *The question before the Board tonight is whether to grant the applicant's request for a second*
2 *extension of the phasing deadlines in the Board's 2019 notice of action, with the potential to*
3 *increase the time for completing the first phase to nine years.*

4
5 *We'll ask questions of the applicant, seek clarification and corroboration from the staff, and*
6 *request guidance from legal counsel as necessary to arrive at a decision as framed by section 4.10*
7 *of the site plan review regulations which read:*

8
9 *"The Board shall consider the totality of the circumstances, including the extent and complexity*
10 *of the conditions-precedent, the extent of the progress made by the Applicant toward satisfying the*
11 *conditions-precedent and/or starting construction, and whether the need for more time is*
12 *attributable to unusual circumstances beyond the control of the Applicant, rather than to the*
13 *Applicant's neglect or failure to proceed with reasonable promptness. The Board shall indicate*
14 *in its minutes the reason(s) for its decision on an extension request under this Section.*

15
16 *Toward those ends I invite the Applicant, the Board, and the Staff to focus on the state of the*
17 *deliverables for Phase I and on the conditions and activity related to those deliverables.*

18
19 *I will also beg the indulgence of the Applicant and the Board to permit my leading off with a series*
20 *of questions intended to arrive at a shared context ahead of a more fulsome conversation between*
21 *the Applicant and the Board.*

22
23 *Seeing no objections, I will invite the Applicant Chet Clem to offer a brief opening statement after*
24 *which I will lead off with my questions to establish common context."*

25
26 Mr. Chet Clem (CEO of Lyme Properties) and Mr. David Clem were present on behalf of the
27 applicant. Mr. Chet Clem said that the project has been delayed over the last several years. He
28 said the setbacks were beyond his project team's control. He said the team cannot meet the
29 current January 2, 2025 deadline and said he is requesting a 2-year extension in order to
30 complete the project.

31
32 He said the Board has the ability to grant the extension (as it did in 2021) due to matters that
33 were beyond his control. He gave an overview of the project timeline, and cited reasons for the
34 delays (which included delays caused by the pandemic). He said, after communicating with
35 DPW in August 2023, they planned to begin construction in Spring 2024.

36
37 He said he communicated the plans to the City in January of 2024 and received no response for a
38 month. He said he then received notice from the City that their building permit had been deemed
39 invalid and suspended. He said they appealed this decision to the Lebanon Building Code Board
40 of Appeals, and he said the decision was overturned. He said the City appealed that decision,
41 disputing the definition of "work." He said the State Board overturned the Lebanon Board appeal
42 ruling that their definition of "work" is wrong and that the City's definition of "work" is
43 wrong. He said the matter is ongoing.

44
45 He thanked the DPW, who he said helped him obtain excavation permits for June after his
46 successful appeal of the City's decision with the intent to proceed in July when they had their

1 contractors lined up, all in pursuit of an anchor tenant for the first phase. He said he was not able
2 to get the excavation permit to complete the remaining Phase I infrastructure work.

3
4 He said he contacted the State two years ago to coordinate Route 10 paving with the project, and
5 he said the NHDOT asked for a new traffic study. He said he explained they had already done
6 two traffic studies, and he said the NHDOT seemed to accept that. He said then in July 2024,
7 they would not grant the excavation permit until he did new traffic analysis.

8
9 Chair Faunce asked what the impact of the delays has been since the 2021 extension was
10 granted. Mr. Clem said he has served as Chair of the West Lebanon Revitalization Advisory
11 Committee, he said he worked to try to get trail access to River Park, and he said he got
12 estimates to facilitate the moving of the City's pipeline. He said he continued to try to work on
13 the project through the pandemic.

14
15 He noted that the infrastructure for Phase I included:

- 16 • Crafts Ave and Crafts Ave Ext and cross-country connector
- 17 • Route 10 / Southern entrance
- 18 • Service Building 1
- 19 • Building 8
- 20 • Parking Lot 3 (temporary parking)

21
22 He said the Phase I infrastructure work that remains does not have to be completed until the
23 Certificate of Occupancy is granted.

24
25 He said he intended to continue infrastructure work last year but when the building permit was
26 revoked, it made him question why he would invest \$4-5 million in infrastructure when the
27 building permit is continually being jeopardized by the City's Planning Department.

28
29 Chair Faunce said the conditions of approval require that applicant will submit final designs,
30 which include infrastructure work. Mr. Clem said all the drawings for the infrastructure have
31 been submitted and approved by the City and NHDOT. He said the plans were resubmitted in
32 early June with updates.

33
34 Mr. Corwin noted that he had heard from sources other than the applicant that Phase I
35 infrastructure work was going to commence, and so he requested confirmation (via email) from
36 the applicant that certain conditions of approval have been met. He said Staff has received no
37 response from the applicant, and, therefore, he cannot confirm the conditions of approval have
38 been met.

39
40 Mr. Clem said he would provide materials to Staff after the meeting. Mr. David Clem noted that
41 the original mylars have been recorded with the City, which means they had been approved at
42 that time. He said it is frustrating to have to resubmit documents and to hear current staff say
43 these items have not been received. He said it is unfair for current staff to blame prior Planning
44 Department staff for approving the plans.

1 Chair Faunce asked if the installation of utilities has been done and is ready for inspection. Mr.
2 Chet Clem said for the entrance off Route 10 and River Park Drive, all utilities are underground,
3 and the intention is to extend those utilities for Crafts Ave and Crafts Ave extension. Mr. Corwin
4 said the City inspected the installation of the water and sewer cross-county lines from the end of
5 Crafts Ave to Lot 1.

6
7 Chair Faunce asked if all remaining work for Phase I is ready to commence immediately. Mr.
8 Clem said the delays in obtaining the permits have caused the project's construction manager to
9 move on to other projects, so he would not be able to start work again right away. He said, if
10 given the green light to begin work, work would restart.

11
12 Chair Faunce asked if the permit would not have been questioned if work on site showed the
13 advance of deliverables. He said the requirements to demonstrate substantial completion and
14 active development for Phase 1 involved infrastructure work. Mr. Clem said in September of
15 2019, the project started reconstruction toward an April 1 construction start date. He said the
16 challenges finding subcontractors and the escalating costs of construction were substantial. Mr.
17 Clem said he was not willing to put \$4 million in the ground if the building may not get built.
18 Chair Faunce said those actions meet the requirements of the order of operations for the project.

19
20 City Engineer Brian Vincent said DPW met with the project team about constructing a temporary
21 bypass line. Mr. Clem said when it became clear that the construction of the temporary bypass
22 line would be contingent on the City's water line being moved from its location, he said the
23 decision was made to not proceed with the temporary bypass line. Mr. Vincent said there were
24 other stormwater issues on the project.

25
26 Mr. Ford Burley asked for more details regarding the timeline of the conflicts with the
27 intersection of Route 10 and the southern River Park entrance, and when the original traffic study
28 was done, and when NHDOT wanted the new traffic study. Mr. Clem said the southern entrance
29 falls on the line of Route 10 (owned by the State of NH) and the border of the City. He said, after
30 the City approved the plans in 2010-2011, he submitted the plans to the State of NH for its
31 approval. He said two traffic studies were done for the submittal to NHDOT at that time. He said
32 he found out in 2021 that the state planned to pave Route 10 and was asked if any changes had
33 happened to the project since 2011. He said he told NHDOT in 2022 that no substantial changes
34 had been made to the project. He said he did not receive a response from NHDOT, so he
35 submitted the application for the work in 2022. He said that's when NHDOT said it required the
36 additional traffic study.

37
38 Mr. Hill asked if any reasons for the denial of the permit were given, and Mr. Clem said the
39 reason for the denial was that the time (deadline) had passed.

40
41 Mr. Kennelly asked why a traffic study was not completed when it was requested by the
42 NHDOT in 2022. Mr. Clem said he didn't do it because he did not think he should have to. Mr.
43 David Clem noted that the team was focused on the issues obtaining the building permit and not
44 as much on NHDOT requests.

1 Chair Faunce asked if the NHDOT asked offered written documentation as to why it made its
2 decision. Mr. Chet Clem said he has an email from NHDOT with its reasons. He said he would
3 provide the email documentation from NHDOT to the Board.
4

5 The group discussed the possibility of reconvening at a future meeting to further deliberate the
6 extension request. Mr. Chet Clem noted that he has a tenant who is awaiting the outcome of this
7 decision and asked that the Board make a decision tonight.
8

9 At 7:41pm, Chair Faunce called for a 15-minute recess so the Board could discuss the request
10 with the Board's legal counsel.
11

12 At 7:56pm, the meeting resumed. Mr. Corwin noted that the public hearing was still open.
13

14 ***A MOTION by Richard Ford Burley that discussion of the application of XYZ Dairy, LLC,***
15 ***River Park Drive (Tax Map 44, Lots 21 - 30 & Tax Map 44, Lot 7), zoned CBD, IND-L and R-***
16 ***3 for a 2-year extension of the River Park Subdivision approval (PB2011-01-FMAJ) and Site***
17 ***Plan approval (PB2010-25-SPR), be continued until the October 14, 2024 Planning Board***
18 ***meeting at 6:30pm in City Council Chambers.***
19

20 ***The motion was seconded by Patrick Kennelly.***
21

22 ***Roll Call Vote:***

23 ***Voting For – Mr. Kennelly, Mr. Faunce, Mr. Ford Burley, Mr. Hill, Ms. Zook***

24 ***Voting Against – Mr. Rutter***
25

26 ****The MOTION was approved (5-1).***
27

28 **B. Brickyard One Nominee Trust, 174 Hanover Street (Tax Map 48, Lot 4), 0 Hanover**
29 **Street (Tax Map 48, Lot 2), 0 Hanover Street (Tax Map 48, Lot 1), and 238 Hanover**
30 **Street (Tax Map 63, Lot 1), zoned R-1, R-O-1, R-3 & RL-3: Request for Site Plan**
31 **Review and a Conditional Use Permit pursuant to Sections 308.2, 310.2, 311A.2, and**
32 **501.2 of the Zoning Ordinance for a proposed 474-unit multi-family Planned Unit**
33 **Residential Development (PURD) totaling +/- 731,600 sq. ft. in size, consisting of 11**
34 **buildings together with parking, utilities, landscaping, access, and other related site**
35 **improvements. Applicant also requests a Conditional Use Permit pursuant to**
36 **Section 308.4 of the Zoning Ordinance to allow an increase in the maximum**
37 **permitted building height from 45 ft. to 55 ft. PB2024-22-CUPSPR**
38

39 Ms. Romano rejoined the meeting.
40

41 SAU88 Superintendent Amy Allen spoke about the impact that the project would have on the
42 school system. She said the 470+ unit housing project would add an estimated 200+ students to
43 the district (elementary, middle, and high school), which the schools may not have the room to
44 absorb.
45

1 She said expressed concerns about student safety related to increased traffic on Evans Drive from
2 the development, which would impact walkers and bikers around the school grounds.

3
4 Chair Faunce allowed members of the public to ask questions of Superintendent Allen.

5
6 A resident of Ward 3 said she is a former City Council member and teacher at Hanover Street
7 School. She said she understands the project will focus on three-bedroom units, which will
8 probably result in a lot more kids in the school system. She said the project is a disaster waiting
9 to happen and that children walking to school will not be safe. She said she drove around 20
10 miles and did not see any other buildings that resemble the proposed buildings. She said they do
11 not fit in Lebanon.

12
13 A resident of Ward 3 asked if a traffic study had been done and what are the results. Chair
14 Faunce said the results would be discussed in a subsequent hearing, but the result and the City's
15 response to the results were included in the August 12 Planning Board meeting agenda packet,
16 which is available via the City's website.

17
18 Mr. Eric Stacey (Ward 3) asked Superintendent Allen how the projected number of students had
19 been calculated based on the number of apartment units in the proposed project. Ms. Allen
20 explained how the figures were calculated, and said the ECM study information and report were
21 available on the City's website.

22
23 A resident of Ward 3 asked how many students currently receive free or reduced lunch. Ms.
24 Allen said just under 30% of the student population in the district receive free or reduced lunch.

25
26 A resident of Ward 3 asked how many students are currently enrolled in the Hanover Street
27 School. Ms. Allen said 320 students are currently enrolled at Hanover Street School. Mr. Ford
28 Burley clarified that the estimates are that 200+ would be added to the entire district, not just
29 Hanover Street School. Ms. Allen said roughly 24 students are projected to be added to Hanover
30 Street School as a result of the project.

31
32 A resident of Ward 3 expressed concern that the proposed project is within walking distance of
33 Hanover Street School and the Lebanon High School, and therefore quite a few more kids (who
34 live in the project) may be in the street once it has been built.

35
36 Chair Faunce said he has concerns that there is very little space between the buildings and how
37 that impacts congregation of residents. He said he also has concerns about the density of the
38 proposed project.

39
40 Mr. Dave Fenstermacher of VBH was present on behalf of the applicant. He gave an overview of
41 the project.

42
43 Ms. Romano said it is a complicated site and noted that the location of the project is convenient
44 to schools and downtown Lebanon. She said she had concerns about the following:

- 45 • Stormwater runoff and potential flooding – she said this would be discussed in detail at
46 another meeting

- 1 • The idea that three-bedroom-unit design attracts families is not necessarily so – she said
- 2 many three-bedroom units in the area are currently being rented to three or more Dartmouth
- 3 students
- 4 • Safety concerns about the outdoor congregation space and the safety of the pond
- 5

6 The group discussed the space and distribution of the units in the building structures, and
7 whether fire safety equipment would be able to navigate in and out of the site in the event of an
8 emergency.

9
10 Mr. Rutter said he is put off by the large rectangular blocks of the building structures and said he
11 thought earlier plans included horizontal rooflines that broke up the vertical facades, which are
12 not present in the current plans. He also said if a lot of water comes rushing down onto the
13 property, the pond water will rise and likely flood the east side of the property.

14
15 Chair Faunce opened the public comment portion of the public hearing.

16
17 A resident of Ward 2 asked the Planning Board to review the 1991 CIP, which he said included a
18 design for a Hanover Street bridge which was supposed to replace the footbridge. He asked the
19 Board to review the requirements of geography and alignment possibility for the bridge not be
20 impacted. He asked the Board to preserve the possibility of building the Hanover Street bridge.
21 He said he has concerns about fire safety and said he has no idea how emergency vehicles will be
22 able to access the property in the current configuration. He said the City needs a plan to make
23 this where the City locates the new fire station.

24
25 A resident of Ward 1 said she is a member of the Granite State Organizer Project. She read a
26 statement about affordable housing in the area.

27
28 Ms. Jennifer Lamb said she had a 2-page prepared statement, which she gave to the Board. She
29 said a recent Valley News article quoted Mr. Corwin as saying that the applicant's background is
30 irrelevant to an application and cannot factor into the Planning Board's consideration of an
31 application. She said she disagreed and discussed how a developer in Peabody, Mass., with the
32 same last name as the developer of this project, was ultimately shut down and bankrupted
33 because it did not have the funding to complete a residential project it had started. She said if the
34 developer is not the same person/LLC as the Peabody developer, he could let the City know. She
35 said either way, knowing something about the LLC of the developer is relevant.

36
37 She said she was an attorney in Annapolis who enforced controls on redevelopments and
38 pursuing violations. She said she does not recall a single project where buildings were placed at
39 the edge of a resource like the Densmore Brickyard.

40
41 Mr. Bill Lamb said he had previously developed properties in Baltimore. He said he always had
42 to get residents' approval before a development would be approved and suggested that Lebanon
43 do the same. He discussed the meaning of "conditions of approval" and said a lot of things
44 needed to be taken into consideration before approval should be granted.

1 A resident of Ward 2 said he lives in a Densmore House. He said he is concerned about the size
2 of the boulders on the property that will probably require blasting. He said he is concerned that
3 the school buildings will be impacted by the force of the blasting. He also noted that the
4 additional residential units will have a huge impact on the City's population.

5
6 A resident of Ward 3 asked that project developers consider aesthetics when designing the
7 project and noted that Mount Support Road is referred to as "Ugly Alley" by some residents.

8
9 Ms. Amy Stebbins (Ward 1) noted that, in the past, there had been a moratorium on water
10 consumption in order to limit water consumption. She said she wants to make sure the project
11 does not overstress the sewer treatment plant. She also noted that the project is close to the
12 airport and consideration should be given to the height of the buildings.

13
14 A resident of Ward 2 expressed her concerns about the impact on City services that adding an
15 additional 1,000 people to a City with a population of 15,000 will have.

16
17 Mr. Colin Smith (Ward 3), Chair of the Lebanon Pedestrian and Bicycle Committee, shared
18 concerns/comments related to sidewalk development and biker/walker safety considerations
19 from that committee about the project.

20
21 A resident of Ward 1 said the project looks like luxury apartments and he said the City doesn't
22 need that kind of housing. He said a lot of the people are struggling and he said he doesn't see
23 how this development will help our community.

24
25 Chair Faunce closed the public comment portion of the of the public hearing.

26
27 The group discussed what the rents might be for the proposed units.

28
29 Mr. Corwin suggested that discussion of this project could continue at another meeting.

30
31 ***A MOTION by Richard Ford Burley that discussion of the application of Brickyard One***
32 ***Nominee Trust, 174 Hanover Street (Tax Map 48, Lot 4), 0 Hanover Street (Tax Map 48, Lot***
33 ***2), 0 Hanover Street (Tax Map 48, Lot 1), and 238 Hanover Street (Tax Map 63, Lot 1), zoned***
34 ***R-1, R-O-1, R-3 & RL-3 be continued until the October 14, 2024 Planning Board meeting at***
35 ***6:30pm in City Council Chambers.***

36
37 ***The motion was seconded by Brandon Hill.***

38
39 ***Roll Call Vote:***

40 ***Voting For – Mr. Rutter, Mr. Kennelly, Ms. Romano, Mr. Faunce, Mr. Ford Burley, Mr. Hill,***
41 ***Ms. Zook***

42 ***Voting Against – None***

43
44 ****The MOTION was approved (7-0).***

45 Chair Faunce said Agenda Items 3D and 3E will be postponed to the October 14, 2024 Planning
46 Board meeting.

1
2 ***A MOTION was made by Richard Ford Burley to extend the meeting to 10:00pm.***

3 ***The Motion was seconded by Kathie Romano.***

4 ***Roll Call Vote:***

5 ***Voting For – Mr. Rutter, Mr. Kennelly, Ms. Romano, Mr. Faunce, Mr. Ford Burley, Mr. Hill,***
6 ***Ms. Zook***

7 ***Voting Against – None***

8
9 ****The MOTION was approved (7-0).***

10
11 **C. Edwards Properties, LLC, 135 Heater Road (Tax Map 78, Lot 41), zoned IND-L: To**
12 **allow the conversion of a dwelling unit to an office use, applicant requests (i) a**
13 **Conditional Use Permit pursuant to Section 303.2 of the Zoning Ordinance to**
14 **expand the office use approved by Conditional Use Permit on April 15, 2024**
15 **(PB2024-02-CUP), and (ii) pursuant to Section 9.1 of the Site Plan Review**
16 **Regulations, a modification to the site plan approved on April 15, 2024 (PB2024-14-**
17 **SPR). PB2024-27-CUPSPA**

18
19 Mr. Corwin stated that Staff recommends that the application is complete enough for the
20 Planning Board to accept jurisdiction and commence review.

21
22 ***A MOTION was made by Richard Ford Burley Edwards Properties, LLC, 135 Heater Road***
23 ***(Tax Map 78, Lot 41) is complete enough for the Planning Board to accept jurisdiction and***
24 ***commence review.***

25
26 ***The motion was seconded by Kathie Romano.***

27
28 ***Roll Call Vote:***

29 ***Voting For – Mr. Rutter, Mr. Kennelly, Ms. Romano, Mr. Faunce, Mr. Ford Burley, Mr. Hill,***
30 ***Ms. Zook***

31 ***Voting Against – None***

32
33 ****The MOTION was approved (7-0).***

34 Mr. Dan Nash (Advanced Geomatics & Design) and Ms. Amy Stebbins (Aslan Maintenance)
35 were present on behalf of the applicant. Mr. Corwin gave an overview of the review and
36 approval process for this project since April 2024. He said the applicant is requesting a change
37 from the original plan to convert a second dwelling unit to accessory storage space.

38
39 Mr. Ford Burley asked if the change would result in a change in the required parking spaces and
40 Mr. Corwin confirmed it did not. Ms. Romao asked about the elevator and circuit system and Mr.
41 Nash said both have been installed.

42
43 Chair Faunce opened the public comment portion of the public hearing.

Chair Faunce closed the public comment portion of the of the public hearing.

Mr. Rutter said the June 10 plans for the property and building are inadequate. He said there is a tree marked in the northeast end but there is no other information about the tree in the plans. Mr. Corwin said these details are part of the original conditions of approval and will be addressed.

A MOTION was made by Richard Ford Burley that, on September 9, 2024, at a duly-noticed meeting of the Lebanon Planning Board, there appeared representatives of property owner Edwards Properties, LLC, regarding 135 Heater Road (Tax Map 78, Lot 41), zoned IND-L, regarding a requested Conditional Use Permit pursuant to §303.2 of the Zoning Ordinance to allow the conversion of a dwelling unit to accessory storage space for the previously approved office use (PB2024-04-CUP). PB2024-27-SPACUP

I. FINDINGS OF FACT

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

- 1. The property is located within the IND-L District on the south side of Heater Road and abuts the Hypertherm facility to the rear. The property is currently improved with a two (2)-story, two-family dwelling constructed in 1950 and containing 1,700 sq. ft. of net living area (per the City's Assessing records). The two-family dwelling is not an allowed use in the IND-L District and, therefore, is considered "legal non-conforming."***
- 2. On April 15, 2024, the Planning Board granted a Conditional Use Permit (PB2024-04-CUP) and Site Plan approval (PB2024-14-SPR) to convert the two-family dwelling to a mixed-use building containing (i) a one-bedroom apartment and (ii) an office use with accessory warehouse space in the garage. Approved exterior improvements include a parking area to the rear, stormwater treatment features, lighting, and landscaping. The Notices of Action for PB2024-02-CUP & PB2024-14-SPR are attached for reference.***
- 3. The applicant now proposes to convert the second dwelling unit to an office use – specifically, to accessory storage space for the previously approved office use and accessory office warehouse conversion of the first dwelling unit.***
- 4. The applicant proposes to convert the existing two-family dwelling to a mixed-use building containing (i) a dwelling unit and (ii) an office use with accessory warehouse space in the basement and attached garage. Site improvements include a proposed parking lot to the rear.***
- 5. "Office," which is allowed in the IND-L District by Conditional Use Permit from the Planning Board. Per Section 302.2 of the Zoning Ordinance, uses that are accessory to uses allowed by conditional use (including the proposed office storage use of what is currently a dwelling unit) shall also require a conditional use permit. Per Section 302.4.B of the Zoning Ordinance, the Planning Board may grant a Conditional Use***

1 *Permit if it finds that the proposal meets the Enhanced Performance Standards set*
2 *forth in Section 302.4.D.*

- 3
4 6. *The applicant has submitted testimony addressing the Section 302.4.D criteria in their*
5 *Application for Conditional Use Permit Support Statement.*

6
7 **II. CONCLUSIONS OF LAW**

8
9 *As a result of the above findings of fact and based on testimony given, application materials*
10 *presented, and supporting documents submitted, the Planning Board concludes the following*
11 *with respect to the Enhanced Performance Standards set forth in §302.4.D of the Zoning*
12 *Ordinance:*

- 13
14 1. *The site is suitable for the proposal. (§302.4.D.1)*
15
16 2. *The external impacts of the proposed use on abutting properties and the neighborhood*
17 *is commensurate with the impacts of adjacent existing uses or other uses permitted in*
18 *the zoning district. (§302.4.D.2)*
19
20 3. *The criteria set forth in Section 302.4.D.3, 4 and 5 relate to new building construction*
21 *and, since no new building construction is proposed, is inapplicable to the subject*
22 *application.*

23
24 **III. DECISION**

25
26 *Now therefore be it resolved, the Planning Board, on this 9th day of September, 2024, hereby*
27 *grants the request of Edwards Properties, LLC, for a Conditional Use Permit per Section*
28 *303.2 of the Zoning Ordinance to convert the remaining dwelling unit at 135 Heater Road*
29 *(Tax Map 78, Lot 41) to accessory storage space for the previously approved office use*
30 *(PB2024-04-CUP) as set forth above and per testimony, plans, and materials submitted.*

31
32 *The Motion was seconded by Brandon Hill.*

33 *Roll Call Vote:*

34 *Voting For – Mr. Rutter, Mr. Kennelly, Ms. Romano, Mr. Faunce, Mr. Ford Burley, Mr. Hill,*
35 *Ms. Zook*

36 *Voting Against – None*

37
38 **The MOTION was approved (7-0).*

39
40
41 *A MOTION was made by Richard Ford Burley that the Lebanon Planning Board approves*
42 *the Site Plan Amendment application of Edwards Properties, LLC, regarding 135 Heater*
43 *Road (Tax Map 78, Lot 41), zoned IND-L, PB2024-27-SPACUP, for a conversion of the*
44 *remaining dwelling unit the conversion of a dwelling unit to accessory storage space for the*
45 *previously approved office use (PB2024-14-SPR), as shown on the cover sheet and site plan*

1 *sheet from a plan set titled, “135 Heater Road,” prepared by Advanced Geomatics and Design,*
2 *dated January 30, 2024, last revised July 1, 2024, including any and all submissions and*
3 *testimony provided for and during the public hearing.*

4
5 *In support of its decision, the Board finds that the applicant has submitted plans, testimony,*
6 *and information that together satisfactorily demonstrate compliance with the applicable*
7 *requirements of the Site Plan Review Regulations, except as may reasonably be addressed*
8 *through the imposition of certain conditions of approval, set forth below.*

9
10 *This approval is subject to the following conditions:*

11
12 **General Conditions**

- 13
14 1. *It shall be the applicant’s responsibility to be familiar with and aware of these*
15 *conditions of approval, and it shall be the applicant’s responsibility to satisfy these*
16 *conditions of approval and to satisfy them within the relevant timeframes outlined*
17 *below.*
18
19 2. *The applicant shall satisfy and comply with the Planning Board Notice of Action for*
20 *PB2024-14-SPR, dated April 14, 2024, and all conditions of approval thereof except as*
21 *may be superseded by the conditions herein.*
22
23 3. *The conversion of the 2nd dwelling unit is approved for use as accessory storage space*
24 *to the office use conversion of the 1st dwelling unit approved by Conditional Use Permit*
25 *on April 15, 2024 (PB2024-02-CUP), subject to the following:*
26
27 a) *An expansion of the principal office use into the accessory storage space shall*
28 *require a Conditional Use Permit from the Planning Board for so long as the*
29 *property continues to be subject to zoning regulations that require a*
30 *Conditional Use Permit for an “office” use in the zoning district in which the*
31 *property is located.*
32
33 b) *Other changes of use shall be allowed pursuant to all applicable land use*
34 *regulations and procedures. Any such future change to a “permitted use” (as*
35 *identified in the Zoning Ordinance) shall not require Planning Board site plan*
36 *approval unless the proposed use or any related proposed site improvements or*
37 *changes requires site plan approval pursuant to the jurisdictional thresholds set*
38 *forth in the Site Plan Review Regulations as determined by Planning &*
39 *Development Department staff.*
40
41 4. *Within 30 days of the Planning Board’s approval, the applicant shall make the*
42 *following revisions to the plan set to the satisfaction of the Planning and Development*
43 *Department:*
44
45 a) *Update the plan set cover sheet “Zoning Comparison” table to change the*
46 *“warehouse” use to “accessory warehouse space for office use”, and to add a*

1 *note indicating that the total required 7.4 parking spaces is rounded down to 7*
2 *pursuant to the Table of Minimum Off-Street Parking Requirements; and*
3

4 *b) All other changes required pursuant to Conditions of Approval #10 of the April*
5 *15, 2024 Notice of Action for PB2024-14-SPR;*
6

7 *and shall provide the Planning and Development Department with a digital copy of the*
8 *revised plan set saved in a PDF-A format for archival purposes.*
9

10 *5. Impact fees calculated pursuant to Section 213 of the Zoning Ordinance shall be*
11 *assessed prior to the issuance of a building permit and shall be paid prior to the*
12 *issuance of a Certificate of Occupancy.*
13

14 *The Motion was seconded by Brandon Hill.*

15 *Roll Call Vote:*

16 *Voting For –Mr. Kennelly, Ms. Romano, Mr. Faunce, Mr. Ford Burley, Mr. Hill, Ms. Zook*

17 *Voting Against – None*
18

19 **The MOTION was approved (6-0, with Mr. Rutter abstaining).*
20

21
22 **F. The Muse Lebanon, LLC (applicant), City of Lebanon (property owner), 20**
23 **Spencer Street (Tax Map 92, Lot 31), zoned LD: Request for Site Plan Review for a**
24 **proposed +/-76,064 sq. ft. multi-family building with 80 affordable housing units,**
25 **together with parking, utilities, landscaping, access, and other related site**
26 **improvements. Applicant also requests a Conditional Use Permit pursuant to**
27 **Article III, Section 307.6.B.2 of the Zoning Ordinance to waive the requirement to**
28 **reserve space within the street level story of the building for non-residential**
29 **uses. PB2024-36-SPR**
30

31 Ms. Zook said she represents the City as a member of the City Council, and asked if any
32 members of the group had an objection to her participation in the discussion. No one had an
33 objection.
34

35 Mr. Corwin stated that Staff recommends that the application is complete enough for the
36 Planning Board to accept jurisdiction and commence review.
37

38 *A MOTION was made by Richard Ford Burley that the application of The Muse Lebanon,*
39 *LLC (applicant), City of Lebanon (property owner), 20 Spencer Street (Tax Map 92, Lot 31),*
40 *zoned LD is complete enough for the Planning Board to accept jurisdiction and commence*
41 *review.*
42

43 *The Motion was seconded by Kathie Romano.*

44 *Roll Call Vote:*

1 ***Voting For –Mr. Kennelly, Ms. Romano, Mr. Faunce, Mr. Ford Burley, Mr. Hill, Ms. Zook***
2 ***Voting Against – None***

3
4 ****The MOTION was approved (6-0, with Mr. Rutter abstaining).***

5 Deputy City Manager David Brooks said the City is the property owner for this project. Mr. Jake
6 Tamposi (Muse Lebanon, LLC), speaking on behalf of the applicant, and his project team gave
7 an overview of the project, the goals of which are:

- 8
9
 - Provide affordable housing
 - Create spaces for artists
 - Develop a site that is connects with the Spencer Street streetscape and the Rail Trail
 - Construct a building that is sustainable and lasting

13
14 Chair Faunce asked that the Board submit questions it may have to Mr. Tamposi via email and
15 suggested that the discussion of this project continue at a meeting on September 14, 2024 in City
16 Council Chambers at 6:30pm.

17
18 **4. OTHER BUSINESS**

19 None

20
21 **5. APPROVAL OF MINUTES**

22 None

23
24 **6. ADJOURNMENT**

25
26 The meeting adjourned at 10:00pm.

DRAFT

**LEBANON PLANNING BOARD
COMMUNITY ROOM, KILTON LIBRARY OR
REMOTE VIA MICROSOFT TEAMS
LEBANONNH.GOV/LIVE
MONDAY, SEPTEMBER 16, 2024 6:30 PM**

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

MEMBERS ABSENT: NONE

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

1. CALL TO ORDER

Chair Faunce called the meeting to order at 6:30pm.

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

Mr. Rutter explained he was attending remotely because he is recuperating from knee replacement surgery. He said he was attending as an observer only and would not participate in any votes at this meeting.

2. NOTICE OF REGIONAL IMPACT

The following additional application was received by the Planning and Development Department on September 10, 2024:

- **XYZ Dairy, LLC, River Park Drive (Tax Map 44, Lots 21 - 30, and Tax Map 44, Lot 7), zoned CB, IND-L and R-3: Appeal of administrative decision made on September 10, 2024, that conditions 1, 2, 4, 5, 7 and 14-4 of the River Park development Site Plan approval as set forth in the Notice of Action dated September 9, 2019, for PB2018-34-SPA, have not yet been satisfied and, consequently, that construction of Phase 1 may not commence. PB2024-40-AAD**

Mr. Corwin said staff recommends the application does not have the potential for regional impact.

A MOTION was made by Richard Ford Burley that the application of XYZ Dairy, LLC, River Park Drive (Tax Map 44, Lots 21 - 30, and Tax Map 44, Lot 7), zoned CB, IND-L and R-3: Appeal of administrative decision made on September 10, 2024, that conditions 1, 2, 4, 5, 7 and 14-4 of the River Park development Site Plan approval as set forth in the Notice of Action dated September 9, 2019, for PB2018-34-SPA, have not yet been satisfied and, consequently, that construction of Phase 1 may not commence does not have the potential for regional impact.

The motion was seconded by Patrick Kennelly.

****The MOTION was approved (5-0, with Romano abstaining).***

3. PUBLIC HEARING ITEMS

A. The Muse Lebanon, LLC (applicant), City of Lebanon (property owner), 20 Spencer Street (Tax Map 92, Lot 31), zoned LD: Request for Site Plan Review for a proposed +/-76,064 sq. ft. multi-family building with 80 affordable housing units, together with parking, utilities, landscaping, access, and other related site improvements. Applicant also requests a Conditional Use Permit pursuant to Article III, Section 307.6.B.2 of the Zoning Ordinance to waive the requirement to reserve space within the street level story of the building for non-residential uses. PB2024-36-SPR

Mr. Corwin noted this is a continuation of the discussion that began at the September 09, 2024 Planning Board meeting.

Deputy City Manager David Brooks introduced the team: Mr. Steve Tamposi, Mr. Daniel Riggs, Mr. Nick Olen, and Mr. Jake Tamposi, who were present on behalf of the applicant.

Mr. Olen outlined the benefits of the project and reviewed the goals:

- Provide affordable housing
- Create spaces for artists
- Develop a site that is connects with the Spencer Street streetscape and the Rail Trail
- Construct a building that is sustainable and lasting

He said the building would be renovated into an apartment building with live/work units on the upper floors and an artist gallery space on the ground floor. He explained that live/work units would be larger than typical apartments to accommodate a dedicated artist workspace.

Ms. Romano asked what research had been done to decide one-, two-, or three-bedroom units. Mr. Jake Tamposi said the breakdown of units is driven by both the market need and by certain scoring categories for the financing application with New Hampshire housing, where the state of New Hampshire has a demonstrated need for certain types of units.

1 Mr. Olen said the building has to be located above the floodplain. He said the east side of the
2 building is most closely located to the floodplain on the property. The group discussed the
3 stormwater requirements of the property, given that it is a brownfield site, and how water
4 treatment may be provided.

5
6 Ms. Romano asked about the security at the gallery entrance, where public bench seating is
7 planned. Mr. Steve Tamposi said an onsite manager will be present and a fob system will be
8 installed for secure entry.

9
10 Mr. Ford Burley asked where the accessible parking spots will be located, noting some southern
11 facing areas of parking lots can get quite hot in the sun which is challenging for persons with
12 certain disabilities. He asked if these parking spots could be shaded or located in shaded areas.
13 Mr. Olen noted that EV spaces have been added to the plans.

14
15 Mr. Hill asked if the fire department has reviewed the parking and turnaround plans to ensure
16 emergency vehicles are able to navigate those spaces. Mr. Steve Tamposi confirmed the plans
17 had been reviewed by the fire department.

18
19 The group discussed the height of the first floor, and Mr. Corwin stated that, for this application,
20 the first floor height must meet the 12-foot minimum height and 10-foot minimum height for the
21 other floors. He said if the floor heights change during the evolution of the design, the project
22 team can amend the application by requesting a conditional use permit.

23
24 The group discussed the type of artistry work that might be conducted by the residents, and if
25 special conditioning might be required to accommodate these activities. Mr. Jake Tamposi said
26 the types of artistic endeavors that could take place in those units will be restricted by the
27 building code for residential use and good housekeeping in terms of property management. He
28 said it would be unlikely that a sculptor with a kiln would reside here because the leases wouldn't
29 allow that type of use. He said the space would have acoustical standards to ensure that sound
30 pollution will not transfer from one unit to another. Mr. Corwin discussed how art studio use can
31 be quantified as a permissible accessory use to multi-family dwelling use, but he said specific
32 uses may have to be reviewed by the zoning administrator to ensure compliance with zoning
33 ordinances. He said the studio would also qualify for a home business permit in a residential
34 zone, and he noted that Downtown Lebanon is not purely residential zoning.

35
36 Mr. Corwin said fire safety and ventilation needs that resulted from specific art activities would
37 be addressed in the building permit application. Mr. Tamposi noted that the interior design plans
38 have not been finalized yet.

39
40 Mr. Kennelly noted that sound proofing is not easy and can be expensive. Ms. Romano noted
41 that these kinds of elements may greatly increase the cost of the renovation and reminded the
42 group that these are intended to be affordable residential units. Mr. Tamposi said the rent and
43 total housing cost should be no greater than 30% of the resident's income, which he said, based
44 on their estimates, would fall in the \$600-\$2,000 per month (average \$1,300 or \$1,400 per
45 month).

1 Mr. Olen gave an overview of the traffic research they conducted and submitted with the plan.
2 The group discussed how traffic peaks on Bank Street between 9:00am and 10:00am (618 trips)
3 on Saturdays, which is higher than the determined peak hours 3:00pm-5:00pm (427). He said this
4 volume of traffic does not approach the highest use and therefore they are requesting a waiver of
5 the traffic study requirement. The group discussed things that may impact traffic during the
6 different seasons of the year, and other plans that the City already has for changes to the signage
7 an traffic flow in and around the Colburn Park area.

8
9 Mr. Corwin noted that the Lebanon Pedestrian & Bicycle Committee reviewed the plans and
10 submitted some recommendations:

- 11 1. Install a rapid flashing beacon at the crosswalk
- 12 2. Bring back Spencer Street stop sign at the CCBA curve
- 13 3. Make Parkhurst, Spencer, and Campbell Streets a three-way stop.
- 14 4. Make the Rail Trail Crossing safer by adding speed tables to Spencer Street, extend
15 blinking light signage, or raise the Northern Rail Trail crossing.

16
17 Mr. Corwin said these suggestions would have to be reviewed by DPW and some or all of these
18 suggestions could be made conditions of approval if the Board desires.

19
20 Mr. Olen said the team wants to ask for a three-year extension to align the timing for the project
21 deadlines better with the overall development agreement. Mr. Corwin said the Board does have
22 the ability under City regulations and state statute to extend the two-year active and substantial
23 development timeline up to five years. He said it can also change the definition of what
24 constitutes active and substantial development.

25
26 Mr. Brooks said under the development agreement that was negotiated and approved by the City
27 Council, the team must get all of its entitlements and funding lined up before closing on the
28 property. He said a funding application deadline is approaching in the next few weeks, and if
29 funding isn't secured in this round the team may have to wait a full 12 months to be able to apply
30 for the funding again (Fall of 2025). He said that may mean construction would not start until the
31 spring of 26, which leaves very little time to get the full understand what how active and
32 substantial is defined today.

33
34 Mr. Jake Tamposi said competition for these funds is very strong and typically New Hampshire
35 housing has only been doing one funding round for each type of project per year, so it is
36 beneficial to have a little bit more time because some projects apply several times before being
37 funded. He said having that flexibility and having certainty around entitlements is very important
38 to keep the project on track and make sure it continues to be competitive in both the current
39 round and any potential future rounds.

40
41 The group agreed to extend the two-year timeframe for obtaining a building permit to five years.

42
43 The group discussed the landscaping and stormwater management waivers that are being
44 requested. They also discussed the playground area that would be adjacent to the Rail Trail
45 corridor space. Mr. Brooks confirmed this proposal is not prohibited by the terms of the 2003
46 agreement that the City has with the state regarding the Rail Trail.

1 Chair Faunce opened the public comment portion of the meeting.

2
3 Ms. Meg Carlton (Hanover) said she is the owner of an abutting property to 20 Spencer Street.
4 She said there is nothing in the City codes that addresses the issue of hydrostatic pressure and
5 what it does to the floodplain. She said this is a very large building that will add hydrostatic
6 pressure on the groundwater. She said, after the Spencer Street improvements were made last
7 year, the area had its first flood in a very long time when water came up through the drain and
8 the road had to be closed. She said she did not know how the additional flows from this project
9 may affect that.

10
11 She also said the images of the renovated mill building look to her like a really attractive
12 concrete prison building and it doesn't appear to be a place where creative endeavors will take
13 place.

14
15 Mr. Brian Vincent said he believed the foundation will be a shallow spread footing foundation
16 for this project, and said he advised the project team to limit the foundation depth to five feet
17 because the water table is so shallow in the area. He recommended that the Board see a
18 geotechnical review of the hydrostatic pressure and the water table. He noted that the flooding
19 last year was from the Mascoma River and not from stormwater. He said the stormwater
20 management plan for this project was designed to minimize the risk of stormwater flow
21 coinciding with peak water surface elevation to prevent the rise in water through the drains.

22
23 Mr. Kennelly asked if any plans were being made for embodied energy in the materials for the
24 project. Mr. Olen said the primary focus was on affordability and keeping energy, heating, and
25 cooling costs low for residents.

26
27 Ms. Chris Hidari (Ward 3) noted that, currently, bikers on the Rail Trail often do not follow
28 speed limits or even good biking practices. She said if this project is going to add even more
29 traffic to the Rail Trail, some consideration should be made to address speed and unsafe biking
30 activities.

31
32 Chair Faunce closed the public comment portion of the meeting.

33
34 The group discussed the waiver requests that are part of the application. The group agreed to
35 waive the traffic study requirement in favor of adding some of the suggestions of the Ped & Bike
36 committee.

37
38 ***A MOTION was made by Richard Ford Burley that, for the application of The Muse Lebanon,***
39 ***LLC, PB2024-36-SPR, the Lebanon Planning Board approves partial waiver for Section***
40 ***5.1.G.2 in light of the discussion at the meeting.***

41
42 ***The motion was seconded by Kathie Romano.***

43
44 ****The MOTION was approved (6-0).***

1 *A MOTION was made by Richard Ford Burley that, for the application of The Muse Lebanon,*
2 *LLC, PB2024-36-SPR, the Lebanon Planning Board approves partial waivers for the*
3 *following Sections of the Site Plan Regulations:*

- 4
- 5 *· Section 6.2.B.1.a – perimeter landscaping requirements*
- 6 *· Section 6.2.B.4 – requiring all trees to be planted a minimum of 8 ft. from any property line*
- 7 *· Section 6.2.B.6 – additional buffer requirements*
- 8 *· Section 6.2.D.1 – landscaping around buildings requirements*
- 9 *· Section 6.6.C.1.2.K – requiring test pit data for stormwater management design*
- 10 *· Section 6.6.G – stormwater management design standards for redevelopment*
- 11

12 *The motion was seconded by Kathie Romano.*

13

14 **The MOTION was approved (6-0).*

15

16

17 At 8:44pm, Mr. Hill left the meeting.

18

19

20 *A MOTION was made by Richard Ford Burley:*

21 *At duly-noticed meetings of the Lebanon Planning Board held on September 9, 2024 and*
22 *September 16, 2024, there appeared representatives on behalf of The Muse Lebanon, LLC*
23 *(applicant) and the City of Lebanon (property owner) regarding 20 Spencer Street (Tax Map*
24 *92, Lot 31), zoned LD, requesting a Conditional Use Permit per Section 307.6.B.2 of the Zoning*
25 *Ordinance to waive the requirement that a portion of the street level story of the proposed multi-*
26 *family building is reserved for a non-residential use. PB2024-36-SPR,*

27

28 ***I. FINDINGS OF FACT***

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

- 31 *1. The Muse Lebanon, LLC proposes to redevelop the subject property with a +/-76,064 sq.*
32 *ft. multi-family building containing 80 affordable dwelling units.*
- 33
- 34 *2. Pursuant to Section 307.6.B.1, a portion of the street level story of the new building at*
35 *the subject property is required to be reserved for non-residential uses.*
- 36
- 37 *3. Pursuant to Section 307.6.B.2, the applicant requests a Conditional Use Permit to waive*
38 *the requirements of Section 307.6.B.1.*
- 39
- 40 *4. In order to grant the requested Conditional Use Permit, the Board must find the*
41 *applicant's proposal satisfies the Enhanced Performance Standards set forth in Section*
42 *302.4.D as well as the specific requirements of Section 307.6.B.2.*
- 43

44 ***II. CONCLUSIONS OF LAW***

45 *As a result of the above findings of fact and based on testimony given, application materials*
46 *presented, and supporting documents submitted, the Planning Board concludes the following*

1 *with respect to the Enhanced Performance Standards set forth in Section 302.4.D and the*
2 *criteria set forth in Section 307.6.B.2 of the Zoning Ordinance:*

- 3 1. *The site is suitable for the proposal. (§302.4.D.1)*
- 4 2. *The external impacts of the proposed use on abutting properties and the neighborhood*
5 *are commensurate with the impacts of adjacent existing uses or other uses permitted in*
6 *the zoning district. (§302.4.D.2)*
- 7 3. *The proposal does satisfy the criteria of Section 302.4.D.3*
- 8 4. *The proposal does satisfy the criteria of Section 302.4.D.4*
- 9 5. *The proposal does satisfy the criteria of Section 302.4.D.5*
- 10 6. *Non-residential uses on the street level story are not inappropriate given the unique*
11 *characteristics of the subject property. (Section 307.6.B.2.a)*
- 12 7. *The proposal does provide improvements to streetscapes, public ways, or public spaces*
13 *that implement recommendations for downtown Lebanon in current plans, policies, or*
14 *programs adopted by the City of Lebanon including but not limited to the Master Plan,*
15 *Downtown Visioning Study, and the Capital Improvement Program. (Section*
16 *307.6.B.2.b)*
- 17 8. *The proposal does include a high-quality design with attention to architectural quality*
18 *and detail, universal accessibility, and/or environmental sustainability. (Section*
19 *307.6.B.2.c)*

20 21 **III. DECISION**

22 *Now therefore be it resolved that the Planning Board, on this 16th day of September, 2024,*
23 *hereby grants the request of The Muse Lebanon, LLC for a Conditional Use Permit per Section*
24 *307.6.B.2, as set forth above and per testimony, plans, and materials submitted.*

25 *The motion was seconded by Kathie Romano.*

26
27 **The MOTION was approved (6-0).*

28 29 30 **MOTION ON THE SITE PLAN APPLICATION**

31 *A MOTION made by Richard Ford Burley that the Lebanon Planning Board approve the*
32 *application of The Muse Lebanon, LLC (applicant) and the City of Lebanon (property owner),*
33 *regarding 20 Spencer Street (Tax Map 92, Lot 31), zoned LD, PB2024-36-SPR, for Site Plan*
34 *approval to construct a +/-76,064 sq. ft. multi-family building with 80 affordable housing units,*
35 *together with parking, utilities, landscaping, access, and other related site improvements as*
36 *shown on a plan set titled "Muse Apartments," prepared by TFMoran, Inc., dated August 12,*
37 *2024, last revised August 26, 2024, File 96202.01, including any and all submissions and*
38 *testimony provided for and during the public hearing.*

39 *In support of its decision, the Board finds that the applicant has submitted plans, testimony,*
40 *technical data, information, reports, and studies that together satisfactorily demonstrate*
41 *compliance with the applicable requirements of the Site Plan Review Regulations, except as may*
42 *reasonably be addressed through the imposition of certain conditions of approval, set forth*
43 *below, and except as may have been waived pursuant to Section 7.1.*

44 *This approval is subject to the following conditions:*

General Conditions

- 1. It shall be the applicant's responsibility to be familiar with and aware of these conditions of approval, and it shall be the applicant's responsibility to satisfy these conditions of approval and to satisfy them within the relevant timeframes outlined below.**
- 2. The development is subject to the Site Plan Review Regulations adopted May 13, 1991, last revised January 23, 2023, and the Zoning Ordinance adopted January 16, 2013, last amended April 3, 2024, which are the regulations in effect at the time the application was submitted.**
- 3. A building permit must be applied for and issued within three and a half (3.5) years of the date of this approval (4.10.A), subject to an extension if applied for by the applicant and if approved by the Planning Board per Section 4.10.B. This extension of 1.5 years from the usual two is granted by the Board due to the nature and timeline of the funding cycle for affordable housing grants from the New Hampshire Housing Finance Authority.**
- 4. "Active and substantial development," as defined in Section 8.4.A.1 of the Site Plan Review Regulations, shall be achieved within five (5) years of the date of this approval (8.4.A.2). If active and substantial development is not achieved within five (5) years of the date of the Planning Board's approval, the development shall be subject to any changes in the City's land use regulations. This extension of three years from the usual two is granted by the Board due to the nature and timeline of the funding cycle for affordable housing grants for the New Hampshire Housing Finance Authority.**
- 5. "Substantial completion," as defined in Section 8.4.B.1 of the Site Plan Review Regulations, shall be achieved within five (5) years of the date of this approval. If substantial completion is not achieved within five (5) years of the date of the Planning Board's approval, the development shall be subject to any changes in the City's land use regulations.**
- 6. All required landscape plantings shall meet the minimum size requirements for such plantings set forth in Section 6.2.B of the Site Plan Review Regulations at the time of installation.**
- 7. The applicant shall implement and maintain NHDES Site Specific Best Management Practices before, during, and after construction.**
- 8. Prior to the start of any construction activities on the property, erosion control measures, including edge-of-disturbance fencing if applicable, shall be installed and maintained before and during any site work, to be verified by the City Engineer or City's third-party inspector on site.**
- 9. The property owner is responsible for the maintenance and operation of the stormwater management system in accord with the O&M plan, and such responsibility shall run with the land. (Section 6.6.H.2.b of the Site Plan Review Regulations).**
- 10. All service areas and facilities, including garbage and waste disposal containers, recycling bins, electrical and mechanical equipment such as transformers and compressors, meter clusters, and other utility elements must be screened in accordance with Section 6.2.B.8 and Section 6.10.B.5 of the Site Plan Review Regulations.**

Conditions to be Satisfied Prior to Application for a Building Permit and Prior to the Start of Any Construction Activities

- 1 **11. Within 45 days of the Planning Board's approval, the applicant shall address comments**
2 **set forth in the memo dated September 9, 2024, from Duane Egner, Lebanon Fire**
3 **Inspector, to the satisfaction of the Fire Department.**
- 4 **12. Within 45 days of the Planning Board's approval, the applicant shall make the following**
5 **revisions to the plan set to the satisfaction of the Planning and Development Department**
6 **and the City Engineer:**
- 7 a) **Any changes made pursuant to Condition of Approval #11 above.**
 - 8 b) **Depict all off-site information required by Sections 5.1.E.7, 9, and 17, within 200**
9 **ft of the site.**
 - 10 c) **Provide that all curbing shall be granite as required by Section 6.5.F.1.**
 - 11 d) **Add plan note regarding the groundwater management permit for the property**
12 **and any ongoing monitoring and reporting requirements.**
 - 13 e) **On the cover sheet:**
 - 14 i. **Identify the proposed use and the maximum number of permitted parking**
15 **spaces per Section 607 of the Zoning Ordinance.**
 - 16 ii. **Add sheet numbers to Table of Contents and add sheet numbers in the**
17 **lower right-hand corner of all plan sheets with a prominent font size.**
 - 18 f) **On the existing conditions plan, confirm/clarify use of "floodway" terminology**
19 **and associated elevations.**
 - 20 g) **On Sheet C-05 (or additional plan sheet):**
 - 21 i. **Remove snow storage areas that overlap with handicap accessible**
22 **signage.**
 - 23 ii. **Add dashed line on the inside of the curb to the legend.**
 - 24 iii. **Add note indicating that on-site hydrant(s) will be dedicated to the City**
25 **for ownership and maintenance.**
 - 26 h) **On Sheets C-05 through C-10, depict outline of entrance features.**
 - 27 i) **On Sheet C-05 or additional plan sheet, delineate easement area to be conveyed**
28 **to the City for the purpose of maintaining the sidewalk (if deemed necessary by**
29 **the City's legal counsel) and the on-site hydrant(s), and for the purpose of**
30 **accessing the water shut-off valve.**
 - 31 j) **On Sheet C-06, amend Note 2 to provide that replacement of pipe shall require**
32 **coordination with and approval by the City Engineer.**
 - 33 k) **On Sheet C-10:**
 - 34 i. **Provide landscaping for the freestanding sign as required by Section**
35 **608.4.A.4.b.i of the Zoning Ordinance.**
 - 36 l) **On Sheet A-200:**
 - 37 ▪ **Amend to demonstrate compliance with the minimum story height**
38 **requirements of Section 307.8.C of the Zoning Ordinance.**
 - 39 ▪ **Identify length/width measurements for each elevation.**
 - 40 m) **Amend the cover sheet to provide description of plan revisions (5.1.E.4.d).**
- 41 **The applicant shall provide the Planning and Development Department with one (1) full**
42 **size copy of the revised plan set, and a digital copy of the revised plan set saved in a PDF-**
43 **A format for archival purposes.**
44

- 1 **13. The applicant shall obtain a Floodplain Permit from the Floodplain Administrator and**
- 2 **shall verify with the Building Inspector that development complies with the applicable**
- 3 **floodplain-related requirements of the Building Code.**
- 4 **14. The applicant shall provide a letter or certification from the engineer or record or other**
- 5 **qualified design professional confirming that the approved plan set meets the**
- 6 **accessibility standards of the State of New Hampshire Building Code.**
- 7 **15. The applicant shall schedule and hold a pre-building permit application meeting with**
- 8 **the Planning and Development Department, City Building Inspectors, City**
- 9 **Engineer/Department of Public Works, and Fire Department, in order to help streamline**
- 10 **the building permit review process and to review applicable code requirements.**
- 11 **16. The applicant shall obtain approval from the City Council or the City Manager's office**
- 12 **for any additional water and/or sewer flows in accordance with the applicable Chapter**
- 13 **136 and 182 of the City Code.**
- 14 **17. All engineering review fees shall be paid in full as required by Section 4.7.E.1 of the Site**
- 15 **Plan Review Regulations.**
- 16
- 17 **18. The applicant shall apply to the Department of Public Works for an Excavation Permit,**
- 18 **Driveway Permit, and Stormwater Permit.**
- 19

20 **Conditions to be Satisfied Prior to the Issuance of a Building Permit**

- 21 **19. Prior to the start of any construction activities on the property, the applicant shall record**
- 22 **in the Grafton County Registry of Deeds notice of the stormwater management and**
- 23 **erosion and sediment control plans as required per Section 6.6.H.2.d of the Site Plan**
- 24 **Review Regulations. Such notice shall be reviewed by the Planning & Development**
- 25 **Department prior to recording.**
- 26 **20. Prior to the start of any construction activities on the property for which construction**
- 27 **inspection is required pursuant to this decision or any applicable ordinance or code, the**
- 28 **City shall retain the services of an independent third-party inspector, for which the**
- 29 **applicant shall be responsible for all inspection fees related to (a) on-site work related to**
- 30 **sewer, water, temporary sedimentation and erosion control, and drainage improvements,**
- 31 **and (b) all off-site work within the City's right-of-way (including but not limited to water,**
- 32 **sewer, driveways, drainage), in accordance with Section 8.2 of the Site Plan Review**
- 33 **Regulations. The applicant shall provide funding for inspection services in a form and**
- 34 **amount acceptable to the City and shall sign an Infrastructure Inspection Agreement.**
- 35 **21. The development shall be subject to City of Lebanon Impact Fees, pursuant to Section**
- 36 **213 of the Zoning Ordinance. The Impact Fee shall be calculated at the time of Building**
- 37 **Permit issuance based on the Impact Fee Schedule adopted on May 20, 2024. In**
- 38 **accordance with RSA 674:39, the approved site plan shall be exempt from any future**
- 39 **changes in impact fees and methodology for five years from the date of approval;**
- 40 **however, any building permits which are issued after the end of that five-year period**
- 41 **shall be fully subject to whatever impact fees and methodology are in effect at the time**
- 42 **of building permit issuance.**
- 43 **22. All water and sewer fees shall be paid as set forth in City Code Chapter 68.**
- 44

- 1 **23. The applicant shall obtain from the Department of Public Works an Excavation Permit,**
2 **Driveway Permit, and Stormwater Permit.**
3 **24. Prior to the start of any construction activities on the property, the applicant shall obtain**
4 **or update (if appropriate) any required Federal or State approvals, including but not**
5 **limited to:**
6 **a) EPA Stormwater Pollution Prevention Plan (SWPPP)**
7 **b) NHDES Sewer Connection Permit**
8

9 **Conditions to be Satisfied Prior to the Issuance of a Certificate of Occupancy**

- 10 **25. The applicant shall enter into an agreement with the City of Lebanon and the State of**
11 **New Hampshire for the construction of the proposed 2,560 sq. ft. playground depicted**
12 **on the Site Layout Plan sheet, dated August 12, 2024, last revised August 26, 2024,**
13 **prepared by TFMoran, Inc., File 96202.01.**
14 **26. The applicant shall grant an easement or other authorization to the City in a form**
15 **acceptable to the Department of Public Works to access the on-site water shut-off valves**
16 **and, if deemed necessary by the City's legal counsel, to maintain the sidewalk along the**
17 **property frontage.**
18 **27. The applicant shall dedicate the on-site hydrant(s) to the City for ownership and**
19 **maintenance, subject to appropriate easements. Said conveyance and easements shall be**
20 **approved by the City Attorney and the Department of Public Works and recorded in the**
21 **Grafton County Registry of Deeds. The applicant shall also dedicate the sidewalk along**
22 **the property frontage for ownership and maintenance if deemed necessary by the City's**
23 **legal counsel.**
24 **28. The impact fee calculated pursuant to Condition of Approval #21 shall be paid.**
25 **29. Third-party engineer or design engineer inspection reports and contractor as-built**
26 **drawings provided by the applicants (PDF format and CAD .dwg format, using the NH**
27 **State Plane Coordinate System), including tie sheets, shall be reviewed and approved by**
28 **the City Engineer.**
29 **30. All improvements depicted on the plan shall be completed, and shall be constructed as**
30 **depicted on the approved plan, including any modifications to the plan as may be**
31 **approved by the Planning Board in accordance with the Site Plan Review Regulations.**
32 **31. The applicant shall work with the Department of Public Works to evaluate the feasibility**
33 **and desirability of implementing Recommendation 2A or 2B from the Pedestrian and**
34 **Bicyclist Advisory Committee included in the staff memo prepared for the 9/16/24**
35 **meeting and shall be responsible for implementing any such recommendations in**
36 **accordance with required city procedures.**
37

38 **The motion was seconded by Patrick Kennelly.**

39
40 ***The MOTION was approved (5-0).**
41

42 At 8:56pm, Chair Faunce called a three-minute recess.

43 At 9:05pm, the meeting resumed.

44 **9. OTHER BUSINESS**

A. Review of DRAFT Housing Opportunity Planning (HOP) Grant Support Letter

Chair Faunce shared a draft of the HOP Grant Support letter. Mr. Corwin said this grant is being sought to fund a consultant to help the Lebanon Housing Task Force update the Housing Chapter of the Master Plan.

*A MOTION was made by Richard Ford Burley to authorize Andrew Faunce as the Chair of the Lebanon Planning Board to sign the Housing Opportunity Planning (HOP) Grant Support Letter on behalf of the Lebanon Planning Board.
The motion was seconded by Kathie Romano.*

**The MOTION was approved (5-0).*

B. Planning Board Representative to the Lebanon Housing Task Force

Chair Faunce said he has an interest in the goals of the committee, but he would support another member who may also have an interest in working on the committee.

A MOTION was made by Richard Ford Burley to nominate Andrew Faunce as the Planning Board Representative to the Lebanon Housing Task Force.

The motion was seconded by Kathie Romano.

**The MOTION was approved (5-0).*

10. APPROVAL OF MINUTES

August 6, 2024 Site Walk

August 7, 2024 Site Walk

August 12, 2024 Meeting

*A MOTION was made by Richard Ford Burley to approve the August 6, 2024 and August 7, 2024 Site Walk Minutes, and the August 12, 2024 Meeting Minutes as amended.
The motion was seconded by Patrick Kennelly.*

**The MOTION was approved (5-0).*

Mr. Corwin shared these reminders:

- At the City Council meeting on Wednesday, September 18, 2024 the results of the Route 120 Corridor study and findings of the Pattern Zone project will be presented. Mr. Corwin encouraged members of the Board to attend
- The Planning Board agenda for the September 23, 2024 work session will include zoning amendments related to the outcomes of the Route 120 Corridor Study and the Pattern Zoning project
- The Housing and Economy Conference will be held on October 23, 2024 by the New Hampshire Housing Authority. He said the Planning Department will cover the registration fee for an Planning Board member who would like to attend

Mr. Corwin asked if the Board would be willing to meet at a special meeting on September 30, 2024 to discuss the application for One Foundry Street, Applicant LWM Residential LLC, which

1 was supposed to be heard at the September 09, 2024 meeting but could not because there was not
2 enough time. The group agreed to hold the September 30, 2024 meeting at 6:30pm in Council
3 Chambers.

4
5 At 9:22pm, Mr. Hill rejoined the meeting.

6
7 **11. ADJOURNMENT**

8
9 *A MOTION was made by Richard Ford Burley to adjourn the meeting at 9:23pm.*
10 *The motion was seconded by Brandon Hill.*

11
12 **The MOTION was approved (6-0).*

13 The meeting was adjourned at 9:23pm.

14
15 Respectfully submitted,
16 Paula Roux
17 Recording Secretary
18

DRAFT

**LEBANON PLANNING BOARD
CITY COUNCIL CHAMBERS OR
REMOTE VIA MICROSOFT TEAMS
LEBANONNH.GOV/LIVE
MONDAY, SEPTEMBER 23, 2024 6:30 PM**

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

MEMBERS ABSENT: NONE

STAFF PRESENT: Tim Corwin (Deputy Planning Director), Nate Reichert (Director of Planning & Development / Zoning Administrator), Catheryn Hembree (Associate Planner)

1. CALL TO ORDER

Chair Faunce called the meeting to order at 6:30pm.

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

Mr. Rutter and Ms. Zook said they were attending as members of the public and would not participate in any votes.

2. PUBLIC HEARING ITEMS

- **Jennifer Caine Russell & Nick Russell (applicants), Spencer Street Storage, LLC (property owner), 10 Spencer Street (Tax Map 92, Lot 33), zoned LD: Applicants request a Conditional Use Permit pursuant to Article III, Section 307.2 of the Zoning Ordinance to allow an art studio use within the existing building. PB2024-37-CUP**

A MOTION was made by Richard Ford Burley that the application of Jennifer Caine Russell & Nick Russell (applicants), Spencer Street Storage, LLC (property owner), 10 Spencer Street (Tax Map 92, Lot 33), zoned LD is complete enough for the Planning Board to accept jurisdiction and commence review. The Motion was seconded by Kathie Romano.

**The MOTION was approved (6-0).*

Mr. Corwin said the applicant is requesting a conditional use permit for a proposed art studio use

1 at 10 Spencer St., which just happens to be next door to another application that the Board
2 recently decided for a multifamily development at 20 Spencer St., also for art studio use. He
3 noted the use is allowed by conditional use permit, provided that the applicant demonstrates
4 compliance with the applicable criteria. He read the criteria set forth in Section 302.d.4 of the
5 zoning ordinance. He noted this Conditional Use Permit request does not automatically trigger a
6 site plan review, but the Board could require it if it desires. Mr. Corwin said a site plan (with
7 proposed improvements) had been submitted earlier in the day and had not been fully reviewed
8 by Staff.

9
10 Mr. Frank J. Barrett (Jay) was present on behalf of the client. He said he is the architect on the
11 project. Mr. Nicholas Russell, Ms. Jennifer Cane Russell, and Mr. Enrico Riley were also present
12 as the applicants. Mr. Russell said Ms. Russell and Mr. Riley would occupy 50-60% of the
13 building and rent the rest to two or three other tenants. He said their plan is to fully renovate and
14 restore the building.

15
16 Mr. Ford Burley gave a brief history of the building at 10 Spencer Street. Mr. Barrett gave an
17 overview of the design plans for the renovation. The group discussed landscaping and parking
18 spaces planned as part of the project.

19
20 Ms. Romano said a roof overhang over the loading dock area, which was included in previous
21 plan documents but not in the plans currently submitted for this meeting, will be included. Mr.
22 Barrett said the overhang may not be included in the final plans.

23
24 Ms. Romano noted a down staircase which seems to lead to a basement and asked whether the
25 floodplain impacted the project plans. Mr. Corwin said a Building Permit and a Flood Plain
26 Permit will be required. Mr. Reichert gave an overview of the requirements for the building code
27 for flood zone work. Mr. Barrett said flood vents may be added, if needed, or the owners may
28 discontinue use of the basement, based on the decision of the Building Inspector.

29
30 Mr. Ford Burley asked if the building would have a storefront or a display in the front of the
31 building. Mr. Russell said the building is not intended as a gallery space but for office use.

32
33 Chair Faunce opened the public comment portion of the hearing.

34
35 Mr. Reichert asked what type of art would be created in the building and asked about the
36 processes and materials that might be used. Mr. Russell said drawing and painting are the types
37 of art anticipated and that non-toxic paint would be utilized.

38
39 Chair Faunce asked Mr. Corwin what if the artistic use of the space changed over time. Mr.
40 Corwin said the zoning administrator would determine whether the change in the use is
41 consistent with the conditional use permit approval given by the Planning Board and can decide
42 that additional Planning Board review is required, or a new conditional use permit is required. He
43 said the Planning Board could make it a condition of approval. The group discussed at length
44 whether changes in artist activity would be governed by the Planning Board's condition of
45 approval or if that is already regulated by the Building Code. Mr. Corwin suggested using
46 language from the anti-nuisance provisions in Section 212.1 of the Zoning Ordinance.

The following MOTION was made by Richard Ford Burley:

On September 23, 2024, at a duly-noticed meeting of the Lebanon Planning Board, there appeared applicants Jennifer Caine Russell & Nick Russell and their representative, Jay Barrett, AIA, of Barrett Architecture, regarding 10 Spencer Street (Tax Map 92, Lot 33), zoned LD, requesting a Conditional Use Permit pursuant to §307.2 of the Zoning Ordinance to allow an art studio use within the existing building. PB2024-37-CUP

I. FINDINGS OF FACT

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

- 1. The subject property is +/-0.31 acres and is improved with a 13,503 sq. ft. (gross) one-story commercial building to the City's assessing records. According to the applicant, the building is currently vacant.*
- 2. The prior use of the building was a "rug cleaning" business which was approved by Special Exception from the Zoning Board of Adjustment on January 17, 1996 (ZB92-33-96).*
- 3. The applicant now proposes to utilize the building for a proposed "art studio" use.*
- 4. "Art studio" – an undefined use - is allowed in the Lebanon Downtown (LD) District by Conditional Use Permit from the Planning Board pursuant to Section 307.2 of the Zoning Ordinance.*
- 5. Per Section 302.4.B of the Zoning Ordinance, the Planning Board may grant a Conditional Use Permit if it finds that the proposal meets the Enhanced Performance Standards set forth in Section 302.4.D.*
- 6. The applicant submitted testimony addressing the Section 302.4.D criteria in a letter from Frank J. Barrett, AIA, of Barrett Architecture, dated August 11, 2024.*

II. CONCLUSIONS OF LAW

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

- 1. The site is suitable for the proposal. (§302.4.D.1)*
- 2. The external impacts of the proposed use on abutting properties and the neighborhood is commensurate with the impacts of adjacent existing uses or other uses permitted in the zoning district. (§302.4.D.2)*

- 1
2 **3. The criteria set forth in Section 302.4.D.3, 4 and 5 relate to new building construction and,**
3 **since no new building construction is proposed, is inapplicable to the subject application.**
4
5

6 **III. DECISION**
7

8 **Now therefore be it resolved, the Planning Board, on this 23rd day of September, 2024, hereby**
9 **grants the request of Jennifer Caine Russell & Nick Russell for a Conditional Use Permit per**
10 **Section 307.2 of the Zoning Ordinance to allow an art studio use within the existing building**
11 **at 10 Spencer Street (Tax Map 92, Lot 33) as set forth above and per testimony, plans, and**
12 **materials submitted, and per the following conditions:**
13

- 14 **1. The applicant shall obtain a zoning permit and building permit from the Planning &**
15 **Development Department.**
16
17 **2. Prior to applying for a zoning permit and building permit, the applicant shall provide a**
18 **site plan to the Planning & Development Department which shall be substantially**
19 **similar to the site plan submitted by the applicant at the public hearing in order to**
20 **determine compliance with the Zoning Ordinance and to make a site plan review**
21 **jurisdictional determination per Section 3.1 of the Site Plan Review Regulations.**
22
23 **3. Prior to application for a zoning permit and building permit, the applicant shall revise**
24 **the floor plan for consistency with the site plan, as may be amended per condition of**
25 **approval #2.**
26
27 **4. The applicant shall apply for a floodplain permit at the time of application for a zoning**
28 **permit and building permit.**
29
30 **5. Prior to issuance of a Certificate of Occupancy, the applicant shall make the**
31 **improvements as shown on the site plan submitted by the applicant at the public**
32 **hearing, as may be amended per condition of approval #2.**
33
34 **6. Impact fees calculated pursuant to Section 213 of the Zoning Ordinance shall be**
35 **assessed prior to the issuance of a zoning permit and shall be paid prior to the issuance**
36 **of a Certificate of Occupancy.**
37
38 **7. The art studio use may occupy the entire building or any portion thereof.**
39
40 **8. The art studio use shall not emit noise, odors, dust, and smoke that is obnoxious,**
41 **harmful or a nuisance to abutting properties or the neighborhood.**
42

43 **The Motion was seconded by Kathie Romano.**
44

45 ***The MOTION was approved (6-0).**
46

1 Chair Faunce introduced Kellan Appleton as a regular member of the Planning Board.

2
3 **3. STUDY ITEMS**

4 **A. CIP Policies & Proc Discussion**

5
6 Chair Faunce said the Board had suggested a few changes to the CIP process:

- 7 • Have materials submitted to the Board in time enough for review & to identify questions /
8 areas for discussion
9 • Board to schedule a second meeting with those departments with which the Board has those
10 interests
11 • Encourage / require information of the ongoing expense of the improvement to help City
12 Council better understand ongoing implications / costs carried by either taxes or fees
13 • Provide the Board with the “spend” over the last three years from the CIP to know how much
14 of the activity actually happens
15 • Make the Board’s time for decision making an opportunity for comment from the Board to
16 the City Council
17

18 Chair Faunce suggested the group discuss the process step by step.

19
20 **Step 1: January Planning Board Work Session – Prepare preliminary CIP project list**

21 Chair Faunce noted this Planning Board has not been doing this step.

22
23 **Step 2: End of March/early April – Delivery of CIP instructions to City Staff Department Heads**

24
25 Departments provide all CIP projects and complete Forms 1&2
26

27 **Step 3: Mid-May – Submission of CIP projects to City Manager/Planning & Development Department**

28
29 The suggestion was made that the Planning Board could receive this information at this time as
30 well. Mr. Corwin said it may not be helpful for the Board to review the projects at this point
31 because the information may be subject to change over the next two months because the
32 Planning Department provides comments and asks questions so the information changes as
33 departments address Staff input. He suggested that a project list be provided to the Board to be
34 discussed at the May Planning Board work session.
35

36 **Step 4: Late June: Planning Director, City Manager, Finance Director meet to discuss CIP items**

37
38 It was suggested that a member of the Planning Board could be included in that meeting. Mr.
39 Corwin said he would present the idea to the City Manager’s office and get feedback and provide
40 a response at the next Planning Board work session.
41

42 Mr. Ford Burley said he’s thinking of ways the Planning Board could follow the process more
43 closely so understand what is happening as it is happening and said the Board did not realize
44 how the process worked by the time it got involved in the process last year.
45

Mr. Corwin explained why the process had been streamlined in the past to the steps currently used. He said they could review the way the rules and procedures were written prior to the revisions in April 2023. He expressed concern over balancing the work the Board must do at its regular meeting with the additional time it will need to be more involved in the CIP process.

Ms. Romano asked how many new items appear on the list that were not on previous lists. Mr. Corwin said he could analyze the past lists, but he said there are maybe four or five new projects each year. The group discussed how funding CIP projects is not in the purview of the Planning Board but is often what may drives how the CIP list develops and changes because grant opportunities may arise. Mr. Reichert also said what the City really wants to get done will get prioritized on the list.

Mr. Hill asked if the Planning Board could be asked if it has something to add to the CIP list for consideration. Mr. Corwin said there is an opportunity to do that when the capital budget (as adopted by the City Council) is presented to the Planning Board in January/February.

Mr. Ford Burley asked when the Board gets the longer-term costs of projects. Mr. Corwin said it is a recommendation that Form 1 (description of project) and Form 2 (financial information – cost and how funded). He suggested that perhaps the Board can add a step to the procedures to officially adopt the forms as part of the discussion in January/February when it reviews the previous year's CIP and adopted capital budget.

Mr. Corwin said he will edit the existing policies and procedures to include the Board's suggestions and make them available for review/adoption by the Board in January/February.

B. Review of updated Conditional Use Permit Application

Mr. Corwin said he sent a draft of the updated CUP Application. He reviewed the edits that had been made to the existing form. The group discussed what information/documentation should be required to apply for a Conditional Use Permit.

The suggestion was made to make the following edit to the first page of the draft application that was included in the meeting agenda packet (see highlighted portion of image):

The image shows a screenshot of a Conditional Use Permit Application form. It contains a checklist with the following items:

- ☐ Filing fee
- ☐ This form, fully completed
- ☐ A written narrative providing responses to the information required per sections II, III.A, and III.B below
- ☐ A scaled site plan identifying existing and proposed conditions and improvements including but not limited to buildings, structures, relevant setbacks and measurements, natural features, utilities, parking, access drives, landscaping, and lighting

Below the checklist, there is a note: "Note: existing and proposed conditions shall normally be shown on separate plan sheets unless otherwise approved by Planning & Development Department staff, with the same orientation and scale (i.e. sheets should appear as if layered upon the same base drawing)." The text "with the same orientation and scale (i.e. sheets should appear as if layered upon the same base drawing)" is highlighted in yellow.

At the bottom, there is an optional item: ☐ Optional: photos and any other materials in support of the application

A MOTION was made by Richard Ford Burley to adopt the updated Conditional Use Permit Application as amended. The Motion was seconded by Brandon Hill.

****The MOTION was approved (6-0).***

C. Review of Proposed Amendments to Zoning Ordinance RE: Rte 120 Corridor Study & Pattern Zone Project

1 Mr. Corwin gave an overview of the proposed zoning amendments which will be proposed to the
2 City Council. He said this is an initial review for the Planning Board to give feedback before the
3 amendments go to the City Council; he said the amendments will be officially presented to the
4 Board in November.

5
6 He said there are three “buckets” of proposed zoning amendments:

- 7 1. Related to Route 120 Corridor study
- 8 2. Related to Route 120 Corridor study
- 9 3. Related to Pattern Zone project

10
11
12 [Chair Faunce suggested that the Board discuss item **5A: OTHER BUSINESS: Mascoma**
13 **River Local Advisory Committee Nominations** while the zoning amendment presentation was
14 being accessed because there may not be time to discuss it after the presentation.

15
16 Ms. Romano said he was the representative on the Committee in the past. She said it has been
17 difficult to find members to participate and two active members resigned. She said the committee
18 just stopped meeting. She spoke about the activities and aims of the committee. Chair Faunce
19 asked Board members to think of others who could be on the committee.]

20
21
22 Mr. Reichert gave an overview of the Route 120 Corridor study. He said housing of all shapes
23 and forms is needed to meet the demand in the community. He said the study involved public
24 engagement with people who live in the area. He said consultants were hired to give feedback on
25 zoning changes that could make the area more accessible:

- 26
- 27 • Rezone part of Northern Lebanon to CBD (Central Business District)
- 28 • Rezone the area around the central business district to GC1

29
30 He said rezoning the areas to general commercial (as opposed to the current light industrial
31 zones) will allow for more residential development. He said full general commercial zoning
32 allows for multi-family dwellings and dwelling units above the first floor. He said this change in
33 zoning would also allow another fire station to be built in the area.

34
35 He said another major part of the study was related to the large Wildlife Corridor and how to
36 make an interconnected animal passageway in the area.

37 Mr. Jay Campion said he wants to develop his own mixed-use park/development and rezoning
38 the area to the general commercial zone would enable him to do that. He discussed the
39 challenges of development in the area under the current zones. He discussed the planning work
40 that has been done on his project so far, including a “zone swap” for two areas that will enable
41 his planned business park project to move forward.

42
43 Mr. Reichert said rezoning the area around the proposed Central Business District at GC1 give
44 the area a more neighborhood feel and a centralized downtown. He said feedback from residents
45 is that the area currently doesn’t have a sense of place and allowing the central business district
46 zoning should promote that type of development (similar to Downtown Lebanon).

Ms. Hembree shared the following recommendations:

Recommendation 1.1: Formalize and map a 100-ft wide Wildlife Corridor Passage Overlay District that connects the three existing wildlife corridors, preserving the existing natural features and landscape to allow for the safe passage of wildlife...

Recommendation 1.4: If a parcel of developable land borders conservation lands, consider requiring a 100-foot wooded or landscaped buffer between the property line and any new development to maintain a natural buffered area between existing preserved lands and any new development.

Recommendation 1.8: Require that any future development within 250 feet of wetlands include a certain percentage of total site land cover as permeable surfaces.

Recommendation 1.9: Expand the coverage area of the Steep Slopes District to cover entirety of the Study Area where slopes greater than or equal to 25 percent are located in order to preserve the natural character of neighboring conservation lands, ridgelines, and rock formations. Consider special exceptions...

Recommendation 3.4: Upon the completion of the City's public residential single and multi-family construction projects on City-owned land at Barrows Street, Hanover Street Extension, Seminary Hill, and South Main Street, consider using these projects as a model to guide future development in the Study Area....

Ms. Hembree explained that the consultants recommended a Pattern Zones Overlay District and shared the following recommendation:

Recommendation 3.6: As recommended in the Lebanon Open Space Plan (2021), consider implementing the following measures:

- Develop an incorporate a maximum lot coverage limitation to ensure that a portion of all lots remains as greenspace
- Allow for reductions in parking provided on site
- In addition to encouraging adjoining properties to share parking to reduce the creation of new or expanded impervious surfaces, amend Section 607.5...

Mr. Reichert said some recommendations related to the Pattern Zoning concept are basically legalizing what is already being done:

- Reduce the size required for a lot & Reduce setback requirements
- Change the width of driveway/street access

He said one question is whether the City should require owners to use designs that have been approved for Pattern Zoning or let owners create their own designs.

A MOTION was made by Richard Ford Burley to extend the meeting to 9:45pm. The Motion was seconded by Kathie Romano.

1
2 **The MOTION was approved (6-0).*

3
4 The group discussed the other possible lot and parking requirements that could be made part of
5 the Pattern Zoning requirements. Mr. Ford Burley asked Mr. Reichert to send all the proposed
6 amendments to Board members for review and feedback.

7
8 **D. Review of Draft Amendments to Planning Board Rules of Procedure**

9 Postponed to the October 28 Planning Board Work Session

10
11 **4. COMMITTEE REPORTS**

12 None

13
14 **5. OTHER BUSINESS**

15
16 **B. Planning Board Process Improvement / Implementation of Rules of Procedure**

17 Postponed to the October 28 Planning Board Work Session

18 **C. Planning Board Training – “Planning Board Basics”**

19 Postponed to the October 28 Planning Board Work Session

20
21 **6. APPROVAL OF MINUTES**

22 None

23
24 The Board members agreed to meet at a special meeting on September 30 at 6:30 in City Council
25 Chambers to review the application by LVM Residential, LLC 1 Foundry Street (Tax Map 91,
26 Lot 263) and 43 Mechanic Street (Tax Map 106, Lot 34), zoned LD: Pursuant to Section 9.1 of
27 the Site Plan Review Regulations, applicant requests modifications to a previously approved Site
28 Plan (PB2022-36-SPR & PB2023-38-SPA).

29
30 **7. ADJOURNMENT**

31
32 *A MOTION was made by Richard Ford Burley to adjourn the meeting at 9:40pm.*
33 *The motion was seconded by Brandon Hill.*

34
35 **The MOTION was approved (6-0).*

36 The meeting was adjourned at 9:40pm.

37
38 Respectfully submitted,

39 Paula Roux

40 Recording Secretary

DRAFT

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

MEMBERS PRESENT: Andrew Faunce (Chair), Kathie Romano, Patrick Kennelly, Karen Zook (City Council Rep), Jeremy Rutter (REMOTE), Kellan Appleton

MEMBERS ABSENT: Richard Ford Burley (Vice Chair), Brandon Hill

STAFF PRESENT: Tim Corwin (Deputy Planning Director), Nate Reichert (Director of Planning & Development / Zoning Administrator), Catheryn Hembree (Associate Planner)

1. CALL TO ORDER

Chair Faunce called the meeting to order at 6:32pm.

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

2. PUBLIC HEARING ITEMS

A. REVISED NOTICE - LWM Residential, LLC, 1 Foundry Street (Tax Map 91, Lot 263) and 43 Mechanic Street (Tax Map 106, Lot 34), zoned LD: Pursuant to Section 9.1 of the Site Plan Review Regulations, applicant requests modifications to a previously approved Site Plan (PB2022-36-SPR & PB2023-38-SPA) for a proposed multi-family housing development. Applicant proposes to reduce the number of dwelling units from 183 to 155 and to eliminate construction of 2 of the 4 proposed residential buildings, together with related modifications to parking, utilities, landscaping, access, and other site improvements. Applicant also requests (i) a Conditional Use Permit pursuant to Article III, Section 307.9 of the Zoning Ordinance to allow a parking area in the front yard of the lot, and (ii) a Conditional Use Permit pursuant to Article III, Section 307.7.C of the Zoning Ordinance to waive the maximum 15 ft. front yard requirement for residential buildings in the LD District. PB2024-35-

A MOTION was made by Patrick Kennelly that the application of LWM Residential, LLC, 1 Foundry Street (Tax Map 91, Lot 263) and 43 Mechanic Street (Tax Map 106, Lot 34,

PB2024-35-SPA is complete enough for the Planning Board to accept jurisdiction and commence review. The Motion was seconded by Kellan Appleton.

Mr. Rutter, who is attending remotely, confirmed he is attending as a member of the public and would not participate in any votes.

****The MOTION was approved (5-0).***

Mr. Jon Livadas and Mr. Nik Fiore (Engineering Ventures) were present on behalf of the applicant.

Mr. Fiore gave an overview of the changes that have been made to the project plans, and the group discussed the following:

- Removal of the new building at 25 Mechanic St.
- Building 2 (two-story brick building) at One Foundry no longer being renovated into apartments – will be demolished and made into parking/landscaping
- The reduction in unit counts from 184 to 155 (He noted the Staff memo included in the agenda packet incorrectly stated the number was reduced to 148 units)
- Parking spaces increased from 213 to 239 spaces

The group discussed the Fire Department's request for an updated plan to provide enough space for fire trucks to navigate through the site. He said the new plan shows how the fire trucks can move through the parking lot. He said, when needed, collapsable bollards will be used in the pedestrian plaza to provide access for fire trucks.

Mr. Kennelly asked why the number of units was reduced but the number of parking spaces increased in the new plan. Mr. Livadas said they do not want to have insufficient parking.

The group discussed how parking spots would be assigned and if signage will discourage people other than residents from parking in the lots. Mr. Livadas said a property manager will be onsite to ensure assigned spaces are adhered to. He said residents may have to pay for additional spaces if needed. It was noted that the current number of spaces allotted for each unit is 1.6/unit.

The group discussed the number transformers on the site and the applicant's request for a waiver from screening around the transformers.

The group discussed how the new floodplain designation may impact the project. Mr. Fiore said they have not received any information that the new designation would change the site.

The group discussed the landscaping plan and the location of the parking lots that now will basically be in the "front yard" of the site. Chair Faunce said, while parking lots located close to the street is not unprecedented in the area, the regulations now call for a different configuration. Mr. Fiore noted the landscaping would provide a greenspace buffer between the parking lots and the street.

Mr. Corwin reviewed the parts of the Staff memo, noting that the Board did not have a chance to

1 review it prior to the meeting. He said Staff had provided the applicant with a list of comments in
2 a September 8, 2024 document, and the applicant provided detailed responses and an updated
3 site plan.

4
5 Chair Faunce opened the public comment portion of the meeting.

6 Chair Faunce closed the public comment portion of the meeting.
7

8 Ms. Romano asked if the gathering space that was on previous plans was removed and suggested
9 incorporating benches or a seating wall in the design for the public to use and to encourage
10 public gathering to enjoy downtown Lebanon and the river.

11
12 Mr. Livadas said the timeline for the project is that demolition work would be done first and
13 construction could possibly begin a year from now.
14

15
16 ***A MOTION was made by Andrew Faunce that for the application of LWM Residential, LLC,***
17 ***PB2024-35-SPA, the Lebanon Planning Board approves partial waivers from the following***
18 ***sections of the Site Plan Review Regulations:***

- 19 • ***Section 6.2.B.8 – requirement to screen electrical transformers***
20 • ***Section 6.2 and 6.10.C.3 – perimeter landscaping requirements***
21

22 ***The Motion was seconded by Kellan Appleton.***

23
24 ****The MOTION was approved (5-0).***
25
26

27
28 ***A MOTION was made by Patrick Kennelly:***
29

30 ***At a duly noticed meeting of the Lebanon Planning Board held on September 30, 2024, there***
31 ***appeared representatives on behalf of LWM Residential, LLC, regarding 1 Foundry Street***
32 ***(Tax Map 91, Lot 263), zoned LD, requesting a Conditional Use Permit per Section 307.7.C of***
33 ***the Zoning Ordinance to waive the maximum 15 ft. front yard requirement for buildings in the***
34 ***LD District. PB2024-35-SPA***
35

36 ***Based on the Planning Board concludes the following with respect to the Enhanced***
37 ***Performance Standards set forth in Section 302.4.D and the criteria set forth in Section***
38 ***307.7.C of the Zoning Ordinance:***
39

40 ***1. The proposed front yard area will provide an adequate buffer to abutting residential***
41 ***properties through site layout, landscaping, or fencing. (§307.7.C.1)***
42

43 ***2. The site is suitable for the proposal. (§302.4.D.1)***
44

45 ***3. The external impacts of the proposed use on abutting properties and the neighborhood are***
46 ***commensurate with the impacts of adjacent existing uses or other uses permitted in the zoning***

1 *district. (§302.4.D.2)*

2
3 *4. The proposal does satisfy the criteria of Section 302.4.D.3.*

4
5 *5. The proposal does satisfy the criteria of Section 302.4.D.4.*

6
7 *6. The proposal does satisfy the criteria of Section 302.4.D.5.*

8
9 *Now therefore be it resolved that the Planning Board, on this 30th day of September 2024,*
10 *hereby grants the request of LWM Residential, LLC for a Conditional Use Permit per Section*
11 *307.7.C, as set forth above and per testimony, plans, and materials submitted.*

12
13 *The Motion was seconded by Kathie Romano.*

14
15 **The MOTION was approved (5-0).*

16
17
18
19 *A MOTION was made by Patrick Kennelly:*

20
21 *At a duly noticed meeting of the Lebanon Planning Board held on September 30, 2024, there*
22 *appeared representatives on behalf of LWM Residential, LLC, regarding 1 Foundry Street*
23 *(Tax Map 91, Lot 263), zoned LD, requesting a Conditional Use Permit per Section 307.9.B of*
24 *the Zoning Ordinance to allow a parking area in the front yard of the lot. PB2024-35-SPA*

25
26 *Based on the Planning Board concludes the following with respect to the Enhanced*
27 *Performance Standards set forth in Section 302.4.D and the criteria set forth in Section*
28 *307.9.B of the Zoning Ordinance:*

29
30 *1. The proposed parking lot at the front of the property along Mechanic Street is an improved*
31 *surface in existence as of January 20, 2021, and there is no other location on the lot to provide*
32 *parking. (§307.9.B)*

33
34 *2. The site is suitable for the proposal. (§302.4.D.1)*

35
36 *3. The external impacts of the proposed use on abutting properties and the neighborhood are*
37 *commensurate with the impacts of adjacent existing uses or other uses permitted in the zoning*
38 *district. (§302.4.D.2)*

39
40 *4. The proposal does satisfy the criteria of Section 302.4.D.3.*

41
42 *5. The proposal does satisfy the criteria of Section 302.4.D.4.*

43
44 *6. The proposal does satisfy the criteria of Section 302.4.D.5.*

45
46 *Now therefore be it resolved that the Planning Board, on this 30th day of September 2024,*

1 *hereby grants the request of LWM Residential, LLC for a Conditional Use Permit per Section*
2 *307.9.B, as set forth above and per testimony, plans, and materials submitted.*

3
4 *The Motion was seconded by Kellan Appleton.*

5
6 **The MOTION was approved (5-0).*
7
8

9 *A MOTION was made by Kellan Appleton that the Lebanon Planning Board approve the*
10 *application of LWM Residential, LLC, PB2024-35-SPA, for a modification pursuant to*
11 *Section 9.1 of the Site Plan Review Regulations to a previously approved Site Plan (PB2022-*
12 *36-SPR & PB2023-38-SPA) for a phased, 183-unit multi-family complex at 1 Foundry Street*
13 *(Tax Map 91, Lot 263) and 43 Mechanic Street (Tax Map 106, Lot 34), zoned LD. Applicant*
14 *proposes to reduce the number of dwelling units to 148 and to eliminate construction of 2 of*
15 *the 4 proposed residential buildings, together with related modifications to parking, utilities,*
16 *landscaping, access, and other site improvements, as set forth on a plan set titled, "Lebanon*
17 *Woolen Mill," prepared by RODE Architects, dated August 12, 2024, last revised September*
18 *16, 2024, EV Project: 22122, and including any and all submissions and testimony provided*
19 *for and during the public hearing.*
20

21 *In support of its decision, the Board finds that the applicant has submitted plans, testimony,*
22 *technical data, information, reports, and studies that together satisfactorily demonstrate*
23 *compliance with the applicable requirements of the Site Plan Review Regulations, except as*
24 *may reasonably be addressed through the imposition of certain conditions of approval, set*
25 *forth below, and except as may have been waived pursuant to Section 7.1.*
26

27 *This approval is subject to the following conditions:*
28

- 29 *1. The applicant shall comply with the Planning Board Notices of Action for PB2022-36-*
30 *SPR dated October 24, 2022, and for PB2023-38-SPA dated December 11, 2023, and*
31 *shall satisfy and comply with all conditions of approval thereof except as may be*
32 *superseded by the conditions below.*
33
- 34 *2. Within 45 days of the Planning Board's approval, the applicant shall address the*
35 *comments set forth in the letter dated September 23, 2024, from Steve Keach, PE, of*
36 *Keach-Nordstrom Associates, Inc., to the satisfaction of the City Engineer.*
37
- 38 *3. Within 45 days of the Planning Board's approval, the applicant shall, to the*
39 *satisfaction of the Planning & Development Department, address the comments set*
40 *forth in the e-mail sent September 8, 2024, from the Deputy Planning and*
41 *Development Director to the applicant.*
42
- 43 *4. Within 45 days of the Planning Board's approval, the applicant shall address the*
44 *comments set forth in the memo dated September 9, 2024, from Duane Egner, Fire*
45 *Inspector, to the satisfaction of the Fire Department.*
46

1 5. *Prior to any construction activities and prior to the application for a Building Permit,*
2 *the applicant shall make the following revisions to the plan set to the satisfaction of the*
3 *Planning and Development Department and the City Engineer:*

- 4 a. *Any changes made pursuant to Conditions of Approval #2, #3 and #4 above.*
5 b. *Amend the cover sheet to provide description of plan revisions (Section*
6 *5.1.E.4.d).*

7
8 *The applicant shall provide the Planning and Development Department with one (1)*
9 *full size copy of the revised plan set, and a digital copy of the revised plan set saved in a*
10 *PDF-A format for archival purposes.*

11
12 6. *Prior to the start of any construction activities on the property and prior to the issuance*
13 *of a building permit, the applicant shall record in the Grafton County Registry of*
14 *Deeds notice of the stormwater management and erosion and sediment control plans as*
15 *required per Section 6.6.H.2.d of the Site Plan Review Regulations. Such notice shall*
16 *be reviewed by the Planning & Development Department prior to recording.*

17
18 7. *Condition #6 set forth in the Planning Board Notice of Action for PB2023-38-SPA,*
19 *dated December 11, 2023, is hereby stricken and replaced with the following:*

20
21 *Pursuant to Section 4.9 of the Site Plan Review Regulations, the project may be*
22 *constructed in phases per the phasing plan submitted for PB2024-35-SPA and per*
23 *the conditions of approval set forth in the Planning Board Notices of Action for*
24 *PB2022-36-SPR dated October 24, 2022, and for PB2023-38-SPA dated December*
25 *11, 2023, and as set forth above.*

26
27 *The Motion was seconded by Patrick Kennelly.*

28
29 It was noted that the number of units in paragraph one of the Motion should be 155 and not 148.

30
31 *A MOTION was made by Kellan Appleton to amend the previous Motion to correct the*
32 *number of units from 148 to 155.*

33
34 *The Motion was seconded by Patrick Kennelly.*

35
36 **The AMENDED MOTION was approved (5-0).*

37
38 **3. STUDY ITEMS**

39
40 **A. Review of Proposed Amendments to Zoning Ordinance RE: Rte 120 Corridor Study**
41 **& Pattern Zone Project (Continued from 09-23-24 meeting)**

42
43 Mr. Reichert gave an overview of the goals of the proposed amendments to the zoning ordinance
44 related to Pattern Zone Project.

45
46 The group discussed the following recommendations / ideas at length:

- Reduce Minimum Lot Sizes & Widths
- Reduce Setbacks
- Review Current Parking Requirements
- Increase Maximum Building Coverage
- Allow More Homes Per Lot
- Eliminate Lot Area Per Unit
- Cottage Court Style Land Division
- Eliminate Lot Frontage
- Allow Small Multi-Dwellings
- Dense Housing (Roommates)
- Create a Medical Center Two Zoning District

In addition to the general discussion about the proposed zoning ideas to facilitate the development of pattern zone projects, Mr. Reichert asked the Board to consider the following:

- Change the zoning for Romano Circle (owned by the Lebanon Housing Authority) from R2 to RO to allow them to make changes without having to seek an expansion of non-conforming use from the Zoning Board.
- A resident request to rezone a property in RL1 to General Commercial to allow the resident to build a storage unit facility in a primarily residential area

4. ADJOURNMENT

*A MOTION was made by Kathie Romano to adjourn the meeting at 9:28pm.
The motion was seconded by Patrick Kennelly.*

**The MOTION was approved (5-0).*

The meeting was adjourned at 9:28pm.

Respectfully submitted,
Paula Roux
Recording Secretary