FINAL

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)

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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.

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

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

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

Toward those ends I invite the Applicant, the Board, and the Staff to focus on the state of the deliverables for Phase 1 and on the conditions and activity related to those deliverables.

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

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

Mr. Chet Clem summarized efforts to date: XYZ had set out at the end of 2022 to do the engineering work for Phase 1. They spent seven months dealing with regulatory challenges before getting a building permit. They sought to recommence that work in August of 2023 and got clearance from DPW on August 17, noting an issue with relocating a City pipe. He noted a March 2023 decision of the building inspector. XYZ had made plans to begin construction in the spring of 2024 and communicated this to the City on January 5th. That February they were alerted that the building permit was deemed invalid and was suspended.

XYZ appealed the permit decision to the Zoning Board on the basis of some assumed earlier assurances from the Planning Department. XYZ won the case and the City successfully appealed to the State and the permit revocation was upheld. This matter is ongoing and unsettled. As such, XYZ was unable to obtain an excavation permit to complete the remaining work.

Two years ago Mr. Clem contacted NH DOT to initiate work on the southern entrance. He was initially advised this would need a new traffic study. On his citing two earlier studies, he perceived he had received NH DOT assurance no further study would be needed. On reconnecting in July 2024, NH DOT advised they would require a new traffic study.

Chair Faunce thanked Mr. Clem for sharing this context. He then asked Mr. Clem to think back to the extension granted in October 2021 to identify the "make or break" things needing early attention.

Mr. Clem replied that, as chair of the West Lebanon Revitalization Advisory Committee, he worked on a plan to bring the West Leb Advance Transit hub to River Park. He worked on trail access to the parcel of land transferred in 2020. He sent a memo and introduced to City officials

a public/private partnership proposal to offset costs for providing access via River Park Drive. He also attempted to revitalize a 2020 failed effort to cost-share relocating a City pipe. In 2021 and 2022 he proposed additional ways to offset higher post-Covid construction costs, including a TIF. Mr. Clem noted these efforts to encourage cost sharing were not successful.

Chair Faunce asked Mr. Clem to list the deliverables for phase 1.

Mr. Clem responded: phase 1 infrastructure related to the subdivision approval includes the Crafts Ave extension, the cross-country connector, the southern entrance, River Park Drive from Route 10 to buildings 1 and 8, and lot 3 which will serve as temporary parking for building 8. Mr. Clem noted an earlier unsuccessful attempt to get the Board's approval to change the work sequencing.

Given no uptake on these proposals, earlier this year Mr. Clem shared that a decision was made to "grit our teeth and bear it", to do the work that was already approved and to deliver the phase 1 infrastructure this year and to deal with that cost ahead of the building. He then noted that when the permit was then revoked in February, it cast doubt on when/whether to invest in infrastructure given ongoing uncertainty.

The Chair asked about construction documentation, which was a general condition of approval for phase 1.

Mr. Clem presented that all documentation had been provided. As invited by the Chair, Staff could not confirm that all materials had been provided and cited some outreach to the project principals to confirm. Mr. Clem disagreed with the Staff's position and offered to provide any/all of the submittals he felt had been previously provided. Mr. David Clem noted that the mylars were filed and that a subdivision and site plan level of documentation is on record.

Chair Faunce noted that underground utilities are also a specific condition included in Phase 1 and asked about their status. Mr. Chet Clem noted that all utilities have been run underground to the site from Crafts Avenue.

Chair Faunce asked the Staff to comment on inspection or other forms of acceptance of the completed work. Staff confirmed the City had inspected the water and sewer cross-country lines from Crafts Ave. Mr. Clem also testified this work was signed off.

Chair Faunce asked Mr. Clem if the remaining work to complete phase 1 was in a ready state for beginning work. Mr. Clem advised that the ongoing permit uncertainty complicates having resources (partners) ready to begin. Their attorney has submitted a proposed performance bond security agreement for the permit activation for the City to complete that portion of the infrastructure. They are prepared to regroup/restart as soon as given the green light to do so. Mr. David Clem reminded the board of the timeline between 9/9/24 and the current phase 1 deadline, citing seasonal shifts in the availability of materials (asphalt.)

Chair Faunce invited Mr. Clem's comment on how effectively the initial project period and its first two-year extension were used. He noted that the 180 days prior to the February 2024 permit

revocation were not used for work on site. Mr. Clem suggested the Chair's reasoning more appropriately applied to lesser projects, not to a 64,000 sq. ft. Life Sciences Laboratory complex. The Chair noted that the bar to clear for phase 1 was infrastructure only and not a building. Mr. Clem advised that he would not put $4M into the ground prior to investing in a building that they're trying to lease up.

At the Chair's invitation, Mr. Clem recapped actions taken from 2019 forward which included: Vetting and hiring the consultants and architects in fall 2019, bidding contracts to MEP and other professionals. He cited exceptional cost escalation through to the present, and that any delay in the project makes it harder to justify speculative investment. The Chair interjected to speculate that the costs for completing the infrastructure necessary to complete phase 1 relative to the overall investment and stake XYZ has in the project seemed relatively minor. Mr. Clem responded: "Four million dollars, for work that doesn't pay rent, that's the difference, that's—enables the building to pay rent and justifies investment, the roads stand alone, do not, so that's my argument about order of operations. Why would I bury four million dollars in the ground, if I'm not going to have a building happening, ideally before it." The Chair responded because the notice of action requires those things to be completed within the phase 1 period.

Mr. Clem advised that they set out in 2023 with that intention. He then returned to the issue of moving the City's pipe: that they had clearance from the state but were held up by the City. The Chair invited Staff to comment. City Engineer Brian Vincent testified to at least two meetings on site and that a temporary bypass solution had been arrived at, and that the work had previously been completed by XYZ's contractor. Mr. Vincent advised that DPW did not oversee the work and would accept an "as built" drawing in place of that as assurance.

The Chair then invited questions from the Board, noting that members may individually consult with the City's legal counsel if there were any concerns about a particular line of questioning.

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

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

Mr. Kennelly asked why a traffic study was not completed when it was requested by the NHDOT in 2022. Mr. Clem said he didn't do it because he did not think he should have to. Mr.

David Clem noted that the team was focused on the issues obtaining the building permit and not as much on NHDOT requests.

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

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

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

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

A MOTION by Richard Ford Burley that discussion of 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 for a 2-year extension of the River Park Subdivision approval (PB2011-01-FMAJ) and Site Plan approval (PB2010-25-SPR), be continued until the October 14, 2024 Planning Board meeting at 6:30pm in City Council Chambers.

The motion was seconded by Patrick Kennelly.

Roll Call Vote:
Voting For – Mr. Kennelly, Mr. Faunce, Mr. Ford Burley, Mr. Hill, Ms. Zook
Voting Against – Mr. Rutter

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

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

Ms. Romano rejoined the meeting.

SAU88 Superintendent Amy Allen spoke about the impact that the project would have on the school system. She said the 470+ unit housing project would add an estimated 200+ students to

the district (elementary, middle, and high school), which the schools may not have the room to absorb.

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

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

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

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

Mr. Eric Stacy (Ward 3) asked Superintendent Allen how the projected number of students had been calculated based on the number of apartment units in the proposed project. Ms. Allen explained how the figures were calculated, and said the BCM impact fee study information and report were available on the City's website.

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

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

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

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

Mr. Dave Fenstermacher of VHB was present on behalf of the applicant. He gave an overview of the project.

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

- Stormwater runoff and potential flooding – she said this would be discussed in detail at another meeting
- The idea that three-bedroom-unit design attracts families is not necessarily so – she said many three-bedroom units in the area are currently being rented to three or more Dartmouth students
- Safety concerns about the outdoor congregation space and the safety of the pond

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

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

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

Mark Farnham of Ward 2 asked the Planning Board to review the 1991 CIP, which he said included a design for a Hanover Street bridge which was supposed to replace the footbridge. He asked the Board to preserve the possibility of building the Hanover Street bridge. He said he has concerns about fire safety and said he has no idea how emergency vehicles will be able to access the property in the current configuration. He said the City needs a plan to make this where the City locates the new fire station.

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

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

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

Mr. Bill Lamb said he had previously developed properties in Baltimore. He said he always had to get residents' approval before a development would be approved and suggested that Lebanon

do the same. He discussed the meaning of "conditions of approval" and said a lot of things needed to be taken into consideration before approval should be granted.

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

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

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

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

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

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

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

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

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

A MOTION by Richard Ford Burley that discussion of the application of 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 be continued until the October 14, 2024 Planning Board meeting at 6:30pm in City Council Chambers.

The motion was seconded by Brandon Hill.

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).

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

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

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

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

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

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).

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

Mr. Ford Burley asked if the change would result in a change in the required parking spaces and Mr. Corwin confirmed it did not. Ms. Romano asked if the elevator has been installed. Mr. Nash said it has.

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. <u>FINDINGS OF FACT</u>
Based on testimony given, application materials presented, and supporting documents submitted, the Planning Board makes the following findings of fact:

1. ***The property is 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. ***"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***

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

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

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)***

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

III. DECISION

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

The Motion was seconded by Brandon Hill.

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).***

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

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

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

This approval is subject to the following conditions:

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 applicant shall satisfy and comply with the Planning Board Notice of Action for PB2024-14-SPR, dated April 14, 2024, and all conditions of approval thereof except as may be superseded by the conditions herein.***

3. ***The conversion of the 2nd dwelling unit is approved for use as accessory storage space to the office use conversion of the 1st dwelling unit approved by Conditional Use Permit on April 15, 2024 (PB2024-02-CUP), subject to the following:***

    a) ***An expansion of the principal office use into the accessory storage space shall require a Conditional Use Permit from the Planning Board for so long as the property continues to be subject to zoning regulations that require a Conditional Use Permit for an "office" use in the zoning district in which the property is located.***

    b) ***Other changes of use shall be allowed pursuant to all applicable land use regulations and procedures. Any such future change to a "permitted use" (as identified in the Zoning Ordinance) shall not require Planning Board site plan approval unless the proposed use or any related proposed site improvements or changes requires site plan approval pursuant to the jurisdictional thresholds set forth in the Site Plan Review Regulations as determined by Planning & Development Department staff.***

4. ***Within 30 days of the Planning Board's approval, the applicant shall make the following revisions to the plan set to the satisfaction of the Planning and Development Department:***

    a) ***Update the plan set cover sheet "Zoning Comparison" table to change the "warehouse" use to "accessory warehouse space for office use", and to add a***

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

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

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

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

The Motion was seconded by Brandon Hill.

Roll Call Vote:
Voting For –Mr. Kennelly, Ms. Romano, Mr. Faunce, Mr. Ford Burley, Mr. Hill, Ms. Zook
Voting Against – None

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

F. 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

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

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

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

Roll Call Vote:
Voting For –Mr. Kennelly, Ms. Romano, Mr. Faunce, Mr. Ford Burley, Mr. Hill, Ms. Zook
Voting Against – None
****The MOTION was approved (6-0, with Mr. Rutter abstaining).***

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

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

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

4. OTHER BUSINESS

None

5. APPROVAL OF MINUTES

None

6. ADJOURNMENT

The meeting adjourned at 10:00pm.

Respectfully submitted,
Paula Roux
Recording Secretary