

FINAL

**LEBANON PLANNING BOARD
CITY COUNCIL CHAMBERS, CITY HALL 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), Kellen 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

at 10 Spencer St., which just happens to be next door to another application that the Board recently decided for a multifamily development at 20 Spencer St., also for art studio use. He noted the use is allowed by conditional use permit, provided that the applicant demonstrates compliance with the applicable criteria. He read the criteria set forth in Section 302.d.4 of the zoning ordinance. He noted this Conditional Use Permit request does not automatically trigger a site plan review, but the Board could require it if it desires. Mr. Corwin said a site plan (with proposed improvements) had been submitted earlier in the day and had not been fully reviewed by Staff.

Mr. Frank J. Barrett (Jay) was present on behalf of the client. He said he is the architect on the project. Mr. Nicholas Russell, Ms. Jennifer Cane Russell, and Mr. Enrico Riley were also present as the applicants. Mr. Russell said Ms. Russell and Mr. Riley would occupy 50-60% of the building and rent the rest to two or three other tenants. He said their plan is to fully renovate and restore the building.

Mr. Ford Burley gave a brief history of the building at 10 Spencer Street. Mr. Barrett gave an overview of the design plans for the renovation. The group discussed landscaping and parking spaces planned as part of the project.

Ms. Romano said a roof overhang over the loading dock area, which was included in previous plan documents but not in the plans currently submitted for this meeting, will be included. Mr. Barrett said the overhang may not be included in the final plans.

Ms. Romano noted a down staircase which seems to lead to a basement and asked whether the floodplain impacted the project plans. Mr. Corwin said a Building Permit and a Flood Plain Permit will be required. Mr. Reichert gave an overview of the requirements for the building code for flood zone work. Mr. Barrett said flood vents may be added, if needed, or the owners may discontinue use of the basement, based on the decision of the Building Inspector.

Mr. Ford Burley asked if the building would have a storefront or a display in the front of the building. Mr. Russell said the building is not intended as a gallery space but for office use.

Chair Faunce opened the public comment portion of the hearing.

Mr. Reichert asked what type of art would be created in the building and asked about the processes and materials that might be used. Mr. Russell said drawing and painting are the types of art anticipated and that non-toxic paint would be utilized.

Chair Faunce asked Mr. Corwin what if the artistic use of the space changed over time. Mr. Corwin said the zoning administrator would determine whether the change in the use is consistent with the conditional use permit approval given by the Planning Board and can decide whether additional Planning Board review or a new conditional use permit may be required. He said the Planning Board could make it a condition of approval. The group discussed at length whether changes in artist activity would be governed by the Planning Board's condition of approval or if that is already regulated by the Building Code. Mr. Corwin suggested using 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 in 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 are 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 23rd day of September, 2024, hereby grants the request of Jennifer Caine Russell & Nick Russell for a Conditional Use Permit per Section 307.2 of the Zoning Ordinance to allow an art studio use within the existing building at 10 Spencer Street (Tax Map 92, Lot 33) as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

1. ***The applicant shall obtain a zoning permit and building permit from the Planning & Development Department.***
2. ***Prior to applying for a zoning permit and building permit, the applicant shall provide a site plan to the Planning & Development Department which shall be substantially similar to the site plan submitted by the applicant at the public hearing in order to determine compliance with the Zoning Ordinance and to make a site plan review jurisdictional determination per Section 3.1 of the Site Plan Review Regulations.***
3. ***Prior to application for a zoning permit and building permit, the applicant shall revise the floor plan for consistency with the site plan, as may be amended per condition of approval #2.***
4. ***The applicant shall apply for a floodplain permit at the time of application for a zoning permit and building permit.***
5. ***Prior to issuance of a Certificate of Occupancy, the applicant shall make the improvements as shown on the site plan submitted by the applicant at the public hearing, as may be amended per condition of approval #2.***
6. ***Impact fees calculated pursuant to Section 213 of the Zoning Ordinance shall be assessed prior to the issuance of a zoning permit and shall be paid prior to the issuance of a Certificate of Occupancy.***
7. ***The art studio use may occupy the entire building or any portion thereof.***
8. ***The art studio use shall not emit noise, odors, dust, and smoke that is obnoxious, harmful or a nuisance to abutting properties or the neighborhood.***

The Motion was seconded by Kathie Romano.

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

Chair Faunce introduced Kellen Appleton as a regular member of the Planning Board.

3. STUDY ITEMS

A. CIP Policies & Procedures Discussion

Chair Faunce said the Board had suggested a few changes to the CIP process:

- Have materials submitted to the Board in time enough for review & to identify questions / areas for discussion
- Board to schedule a second meeting with those departments with which the Board has those interests
- Encourage / require information of the ongoing expense of the improvement to help City Council better understand ongoing implications / costs carried by either taxes or fees
- Provide the Board with the “spend” over the last three years from the CIP to know how much of the activity actually happens
- Make the Board’s time for decision-making an opportunity for comment from the Board to the City Council

Chair Faunce suggested the group discuss the process step by step.

Step 1: January Planning Board Work Session – Prepare preliminary CIP project list

Chair Faunce noted this Planning Board has not been doing this step.

Step 2: End of March/early April – Delivery of CIP instructions to City Staff Department Heads

Departments provide all CIP projects and complete Forms 1&2

Step 3: Mid-May – Submission of CIP projects to City Manager/Planning & Development Department

The suggestion was made that the Planning Board could receive this information at this time as well. Mr. Corwin said it may not be helpful for the Board to review the projects at this point. He said the information may be subject to change over the next two months because the Planning Department provides comments and asks questions so the information changes as departments address Staff input. He suggested that a project list be provided to the Board to be discussed at the May Planning Board work session.

Step 4: Late June: Planning Director, City Manager, Finance Director meet to discuss CIP items

It was suggested that a member of the Planning Board could be included in that meeting. Mr. Corwin said he would present the idea to the City Manager’s office and get feedback and provide a response at the next Planning Board work session.

Mr. Ford Burley said he’s thinking of ways the Planning Board could follow the process more closely so as to understand what is happening as it is happening. He noted the Board did not realize how the process worked by the time it got involved in the process last year.

Mr. Corwin explained why the process had been streamlined in the past to the steps currently used. He said the Board 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 drive how the CIP list develops and changes because grant opportunities may arise. Mr. Reichert also noted that 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 departments complete and submit two forms with their draft proposals: Form 1 (description of project) and Form 2 (financial information – cost and how funded) by mid-May. 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 has circulated 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

Mr. Corwin gave an overview of the proposed zoning amendments which will be proposed to the City Council. He said this is an initial review for the Planning Board to give feedback before the amendments go to the City Council; he said the amendments will be officially presented to the Board in November.

He said there are three “buckets” of proposed zoning amendments:

1. Related to Route 120 Corridor study
 2. Related to Route 120 Corridor study
 3. Related to Pattern Zone project
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[Chair Faunce suggested that the Board discuss item **5A: OTHER BUSINESS: Mascoma River Local Advisory Committee Nominations** while the zoning amendment presentation was being accessed because there may not be time to discuss it after the presentation.

Ms. Romano said she had been the representative on the Committee in the past. She said it has been difficult to find members to participate and two active members had resigned. She said the Committee finally just stopped meeting. She spoke about the activities and aims of the Committee. Chair Faunce asked Board members to think of others who could be on the Committee.]

Mr. Reichert gave an overview of the Route 120 Corridor study. He said housing of all shapes and forms is needed to meet the demand in the community. He said the study involved public engagement with people who live in the area. He said consultants were hired to give feedback on zoning changes that could make the area more accessible:

- Rezone part of Northern Lebanon to CBD (Central Business District)
- Rezone the area around the central business district to GC1 (General Commercial 1)

He said rezoning the areas to General Commercial (as opposed to the current Light Industrial zones) will allow for more residential development. He said full General Commercial zoning allows for multi-family dwellings and dwelling units above the first floor. He said this change in zoning would also allow another fire station to be built in the area.

He said another major part of the study was related to the large Wildlife Corridor and how to make an interconnected animal passageway in the area.

Mr. Jay Champion said he wants to develop his own mixed-use park/development and rezoning the area to the General Commercial zone would enable him to do that. He discussed the challenges of development in the area under the current zones. He discussed the planning work that has been done on his project so far, including a “zone swap” for two areas that will enable his planned business park project to move forward.

Mr. Reichert said rezoning the area around the proposed Central Business District to GC1 will give the area more of a neighborhood feeling, as well as a centralized downtown. He said feedback from residents is that the area currently doesn't have a sense of place and allowing the Central Business District 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 conserved 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 the 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 models 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 and reduce setback requirements
- Change the width of driveway/street access

He said one question that remains unresolved 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.

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

The group discussed the other possible lot and parking requirements that could be made part of the Pattern Zoning requirements. Mr. Ford Burley asked Mr. Reichert to send all the proposed amendments to Board members for review and feedback.

D. Review of Draft Amendments to Planning Board Rules of Procedure

Postponed to the October 28 Planning Board Work Session

4. COMMITTEE REPORTS

None

5. OTHER BUSINESS

B. Planning Board Process Improvement / Implementation of Rules of Procedure

Postponed to the October 28 Planning Board Work Session

C. Planning Board Training – “Planning Board Basics”

Postponed to the October 28 Planning Board Work Session

6. APPROVAL OF MINUTES

None

The Board members agreed to meet at a special meeting on September 30 at 6:30 in City Council Chambers to review the application by LVM 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).

7. ADJOURNMENT

A MOTION was made by Richard Ford Burley to adjourn the meeting at 9:40pm. The motion was seconded by Brandon Hill.

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

The meeting was adjourned at 9:40pm.

Respectfully submitted,
Paula Roux
Recording Secretary