

FINAL

**LEBANON PLANNING BOARD
COUNCIL CHAMBERS, CITY HALL OR
REMOTE VIA MICROSOFT TEAMS
LEBANONNH.GOV/LIVE
TUESDAY, DECEMBER 17, 2024 7:00 PM**

MEMBERS PRESENT: Andrew Faunce (Chair), Richard Ford Burley (Vice Chair), Patrick Kennelly, Jeremy Rutter, Eric Stacy (alt), Brian Ceglarski (alt)

MEMBERS ABSENT: Karen Zook (City Council Rep), Kathie Romano, Kellen Appleton

STAFF PRESENT: Tim Corwin (Deputy Planning Director), Nate Reichert (Director of Planning & Development / Zoning Administrator), Brian Vincent (City Engineer)

1. CALL TO ORDER

Chair Faunce called the meeting to order at 7:02pm. Mr. Corwin reviewed the City's meeting in-person and REMOTE attendance policies and procedures.

2. PUBLIC HEARING ITEMS

- A. 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 December 9, 2024**

Mr. Dave Fenstermacher (VHB) and Mr. Gil Aleixo (Brickyard One Nominee Trust), were present on behalf of the applicant. Mr. Fenstermacher noted that the most significant change to the site plans since the last meeting was the addition of signage and delineation of the site's Open Spaces. He also noted that the team did receive the peer review of the December 05, 2024 plan.

Conditions of Approval

Mr. Corwin stated that draft conditions of approval had been sent to the Board members two hours prior to the meeting. Chair Faunce suggested a recess to give the Board members time to review the document.

At 7:12pm, Chair Faunce called for a recess.

At 7:30pm, the meeting resumed.

The Board reviewed each draft Condition of Approval. They discussed each and made edits as needed. Chair Faunce noted that, in the absence of Board Members Zook and Romano, Mr. Stacy and Mr. Ceglarski would participate as voting members for any decisions at this meeting.

Mr. Corwin said the first two conditions were related to the PURD:

1. Prior to application for a Building Permit and prior to the start of any construction activities:

- a. In order to better aesthetically harmonize the development with the surrounding area and historical character of the site, no less than 20% of the buildings' cladding will have the appearance of red brick; or in the alternative the applicant shall provide final architectural renderings and designs for review by the Planning Board and Heritage Commission to ensure that the legacy of the Densmore Brickyard is appropriately honored.
- b. The applicant shall construct and maintain in perpetuity to a reasonable standard of access the trail listed on Sheet C2.3 "Layout and Materials Plan 3" as "Approx. Upper Valley Bike Association Trail Connection" and shall work with the City and relevant
- c. The applicant shall work with the City and, as needed, the NH Department of Transportation, to design and implement landscaping and other aesthetic changes to the pedestrian access from the southern access road, due south along Hanover Street, to the pedestrian bridge over I-89, in order to better integrate the development into the surrounding neighborhood per Section 501.1.G.1 of the Zoning Ordinance, as well as to create a visual sense of connection with the Lebanon downtown.
- d. The applicant shall provide satisfactory responses to any/all outstanding Planning & Development Department Staff comments or requests conveyed by Staff memo, email, or other documentation, including but not limited to the applicable PURD comments made via e-mail sent on November 11, 2024, and comments made regarding the project's compliance with the PURD open space regulations as set forth in an e-mail sent on December 8, 2024 from the Planning & Development Department to the applicant.
- e. Per Section 501.1.F.7.b of the Lebanon Zoning Ordinance, the applicant shall, in the absence of lot lines delineating the open space as depicted on Sheet C1.2 "Open Space Plan," amend Sheet C1.2 to show the means of physical delineation and distinguishing of the open space from the other areas of the development.

Mr. Fenstermacher said brick will be used for the buildings, perhaps in the lobbies and accent walls in the interior of the buildings. Resident Margie Godfrey (Dartmouth Ave) said she was glad to see the use of brick for the project, which honors the former Brickyard. She said the trails and wildlife patterns in the area have been adversely impacted in recent years. She said maintenance of the trails has been less than conducive to nurturing. She suggested the Board ensure that the Conservation Commission and NH Fish & Game are aware of the activity related to this project.

Mr. Corwin noted that Condition #2 (below) was suggested by the Heritage Commission and has been discussed with Staff and the applicant prior to this meeting:

2. Prior to issuance of a Certificate of Occupancy:

- a. The applicant shall prepare and record an open space covenant or deed restriction for the open space as depicted on the approved plan set. The open space covenant or restriction shall satisfy the requirements of Section 501.1.F of the Zoning Ordinance and shall be in a form and content acceptable to the Planning and Development Department and the City Attorney. The open space boundaries shall be described in metes and bounds.

- b. The applicant shall adequately document the structure and current condition of the kilns. The applicant (and any subsequent property owner) shall make reasonable efforts to maintain the structural integrity of the kilns (labeled “Existing Kilns” in the PURD approved plan set) in perpetuity. The applicant and any subsequent property owner shall allow and maintain pedestrian access to the kiln area, and such access shall be open to the public. In collaboration with the city, the applicant shall produce interpretive materials to document the history of the site and to educate the public.

Resident Jenny Lamb asked what the commitment of the applicant is to ensure the safety and integrity of the kilns. She asked what happens if they do not uphold their commitment. Chair Faunce said interior access to the kilns by the public has been requested but is not a Condition of Approval. Mr. Corwin said penalties/fees would be enforced if the applicant violates any conditions of approval. Mr. Fenstermacher said it has been a desire of the applicant to preserve the kilns and make them accessible to the public.

The group reviewed the proposed General Conditions of Approval.

General Conditions

1. This approval is based on all plans and materials provided by the applicant and included in the July 8, 2024, August 12, 2024, September 9, 2024, October 14, 2024, November 12, 2024, December 9, 2024 Planning Board meeting agenda packets. The materials included with the agenda packet for the December 17, 2024 special meeting of the Planning Board will be reviewed by staff to verify the project's compliance with the conditions below, in addition to any other revised materials submitted by the applicant following the issuance of this decision in response to the conditions of approval set forth below.
2. This approval shall automatically expire and be deemed void upon failure to meet any of the conditions of approval set forth herein within the timeframes specified. 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.
3. 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.
4. Pursuant to Section 4.10.A of the Site Plan Review Regulations which permits the Board, for good cause, to specify an alternative timeframe for obtaining a Building Permit, a building permit must be applied for *and issued* for each building by the following dates, subject to an extension if applied for by the applicant and if approved by the Planning Board per Section 4.10.B:

- a) Maintenance Building: February 1, 2026
 - b) Building 1: March 1, 2026
 - c) Building 2: March 1, 2027
 - d) Building 3: March 1, 2028
 - e) Building 4: March 1, 2029
 - f) Building 5: March 1, 2030
 - g) Townhouse Cluster 8: March 1, 2027
 - h) Townhouse Cluster 7: September 1, 2027
 - i) Townhouse Cluster 6: March 1, 2028
 - j) Townhouse Cluster 5: September 1, 2028
 - k) Townhouse Cluster 4: March 1, 2029
 - l) Townhouse Cluster 3: September 1, 2029
 - m) Townhouse Cluster 2: March 1, 2030
 - n) Townhouse Cluster 1: September 1, 2030
5. "Active and substantial development," as defined in Section 8.4.A.1 of the Site Plan Review Regulations, shall be achieved within two (2) years of the date of this approval (8.4.A.2), subject to an extension if applied for by the applicant and if approved by the Planning Board per Section 8.4.A.3. If active and substantial development is not achieved within two (2) 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. "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.
 7. 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.
 8. The applicant shall implement and maintain NHDES Site Specific Best Management Practices before, during, and after construction.
 9. 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.
 10. 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).
 11. 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 of the Site Plan Review Regulations.
 12. Changes to underground utilities that do not impact surface conditions may be approved administratively unless determined by the City Engineer and the Planning & Development Department to materially alter the development and the approved site plan, in which case such changes shall be reviewed pursuant to Article IX of the Site Plan Review Regulations.
 13. Pursuant to Section 5.1.E.14 of the Site Plan Review Regulations, any future proposed ground-mounted / freestanding signage for the development that does not appear on the approved plan set shall require an amendment to the approved site plan set pursuant to Article IX of the Site Plan Review Regulations, as well as compliance with Section 608 of the Zoning Ordinance.
 14. The developer's contractor shall limit off site construction activities during school arrival in the mornings (typically between 7:00 am to 8:15 am) and school dismissal in the afternoons, while school is in session, and shall coordinate with the office of the school district superintendent.

15. In lieu of installing sidewalks along the entire property's frontages as required by Section 6.5.D.5 of the Site Plan Review Regulations, the applicant shall:

- a) Construct sidewalks as proposed on the approved site plans, prepared by VHB and as amended based on comments received from the Reviewing Engineer. These comments include extending the proposed sidewalk an additional 200 feet south along the west side of Hanover Street Extension terminating at a painted crosswalk which extends to existing sidewalk on the easterly side of Hanover Street Extension immediately adjacent to the site driveway to Lebanon High School.
- b) Contribute funds to an amount to be determined by the City to be equal to the cost of the sidewalk no longer than the balance of the frontage of the applicant's property along Hanover Street Extension. Said monies may be pooled with other funds from properties within the corridor to pay for the development of a coordinated plan for or construction or rehabilitation of pedestrian facilities in the vicinity of Hanover Street Extension.

16. The applicant shall coordinate the final proposed design of the Old Etna Rd/Hanover St Ext and/or the Hanover Street crossing recommended by the Reviewing Engineer, and Evans Dr/Hanover St Ext intersection improvements (as conceptually depicted in the approved plan set) with the Department of Public Works and the Planning & Development Department, with review and advisory comment by the Lebanon Pedestrian and Bicyclist Advisory Committee.

17. The applicant shall make and maintain reasonable improvements (landscaping, signage, street striping/graphics, etc.) between the development's southern entrance to the I-89 Pedestrian Bridge to improve the aesthetic and promote public recognition of that important means of connection into Lebanon Downtown. The applicant shall develop a plan in coordination with the Department of Public Works, the Planning & Development Department, and as needed, the NH Department of Transportation, to contribute to the enhancement of the aesthetics of the existing Pedestrian Bridge. Unless otherwise agreed to by the Department of Public Works, the applicant shall be responsible for maintaining all such improvements.

18. The applicant shall address any outstanding comments from Weston & Sampson regarding the applicant's traffic study and related design improvements, including but not limited to the recommendation that the driveways shall be designed to allow any garbage trucks and firetrucks that may arrive southbound on Hanover Street Extension to turn right into the site without being required to stop and wait for exiting traffic to move.

19. A water pressure and flow test on Hanover Street Extension shall be completed by the applicant to be witnessed and approved by the Lebanon Fire Department and the Department of Public Works.

20. The applicant shall address all comments set forth in the letter dated December 9, 2024, from Steve Keach, PE, of Keach-Nordstrom Associates, Inc., to the satisfaction of the City Engineer. Any substantive changes to the approved site plan that result from the applicant's response to the Reviewing Engineer's comments shall require review and approval by the Planning Board.

21. The applicant shall provide satisfactory responses to any/all outstanding Planning Staff comments or requests conveyed by Staff memo, email, or other documentation, including but not limited to the 32 comments made via e-mail sent on November 11, 2024.

22. The applicant shall demonstrate satisfactory compliance with the requirements of Section 6.2 (landscaping) and Section 6.7 (lighting) of the Site Plan Review Regulations.

23. The interior access drive shall be named and the buildings and dwelling units shall be given addresses in accordance with City of Lebanon policies and procedures.

24. The applicant shall satisfactorily address the following comments of the Lebanon Fire Department:
 - a) Sheet 9.1: the Fire Department Vehicle Tracking does not show any tracking path into or out of Building 1. The applicant shall confirm that the entrance/parking design continues to conform to all applicable Fire Code requirements.
 - b) Sheet 9.1: the Applicant shall confirm that a fire engine is able to access the rear parking lot behind Building 4 in the event of a car fire.
25. The applicant shall verify whether the US Postal Service will require a mail kiosk and, if so, shall update the plan set accordingly.
26. Condition #1 of the concurrent PURD Conditional Use approval shall be satisfied.
27. Within 45 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 and the City Engineer:
 - a) Any changes necessitated in response to Condition #1 of the concurrent PURD Conditional Use approval.
 - b) Any changes necessitated in response to any of the preceding Site Plan conditions of approval (i.e. #1-#26), as applicable.
 - c) Add plan notes and update plan set as needed to memorialize and reflect the preceding conditions of approval (i.e. #1-#26), as applicable.
 - d) Provide a 5 ft. wide easement along the property frontage for potential future sidewalk improvements. (Section 6.5.C.5.c)
 - e) Add a plan note indicating that the trailhead parking will be available for use by the general public.
 - f) Replace phasing plan sheets with a building permit schedule sheet in accordance with Condition of Approval #3.
 - g) Conferring with the Heritage Commission, identify names of multi-family buildings utilizing historic names associated with the Densmore Brickyard.
 - h) Amend the cover sheet to provide description of plan revisions (5.1.E.4.d).

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

28. The applicant shall provide a letter or certification from the engineer or record or other qualified design professional confirming that the approved plan set meets the accessibility standards of the State of New Hampshire Building Code.
29. Prior to any construction activities and prior to the application for a Building Permit, the applicant shall apply to the Planning and Development Department for a voluntary merger of the subject properties. Upon approval, the voluntary merger shall be recorded at the Grafton County Registry of Deeds.
30. The applicant shall schedule and hold a pre-building permit application meeting with the Planning and Development Department, City Building Inspectors, City Engineer/Department of Public Works, and Fire Department, in order to help streamline the building permit review process and to review applicable code requirements.
31. The applicant shall obtain approval from the City Council or the City Manager's office for any additional water and/or sewer flows in accordance with the applicable Chapter 136 and 182 of the City Code.
32. All engineering review fees shall be paid in full as required by Section 4.7.E.1 of the Site Plan Review Regulations. (*Note: applicant can request an invoice from the Department of Public Works*).
33. If required by the Department of Public Works, the applicant shall apply for and obtain an Excavation Permit, Driveway Permit, and Stormwater Permit.

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

34. The applicant shall create and support a scheduled maintenance plan in accordance with state and local regulations for maintaining inflow and outflow of water from the pond, paying particular attention to those sections over which new driveways will be constructed.
35. The applicant and future landowners shall put in place and maintain reasonable controls for regulating access to the pond perimeter and the pond itself.
36. Prior to the start of any construction activities on the property, the applicant shall provide a performance guarantee pursuant to Section 8.3 of the Site Plan Review Regulations in an amount and form acceptable to the Department of Public Works and the City's legal counsel, to serve as a financial surety for: site restoration in the event of abandonment; installation and maintenance of appropriate erosion and sedimentation controls throughout construction; and full and final completion of public improvements and/or work within the public right-of-way at Hanover Street.
35. The applicant shall put in place and maintain reasonable controls for regulating access to the pond perimeter and the pond itself.
36. Prior to the start of any construction activities on the property, the applicant shall provide a performance guarantee pursuant to Section 8.3 of the Site Plan Review Regulations in an amount and form acceptable to the Department of Public Works and the City's legal counsel, to serve as a financial surety for: site restoration in the event of abandonment; installation and maintenance of appropriate erosion and sedimentation controls throughout construction; and full and final completion of public improvements and/or work within the public right-of-way at Hanover Street.
37. Prior to the start of any construction activities on the property for which construction inspection is required pursuant to this decision or any applicable ordinance or code, the City shall retain the services of an independent third-party inspector, for which the applicant shall be responsible for all inspection fees related to (a) on-site work related to sewer, water, temporary sedimentation and erosion control, and drainage improvements, and (b) all off-site work within the City's right-of-way (including but not limited to water, sewer, driveways, drainage), in accordance with Section 8.2 of the Site Plan Review Regulations. The applicant shall provide funding for inspection services in a form and amount acceptable to the City and shall sign an Infrastructure Inspection Agreement.
38. The applicant shall request approval pursuant to City Code Chapter 182, Section 182-40.B, to extend the water main from Hanover Street Extension through the development. The applicant shall request that the City Council, at the time of approval of the connection of the utilities, delegate to the City Manager the authority to accept on the City's behalf, a conveyance, which would include the water mains and hydrants within the development, excluding service connections beyond the curb shut-off valves, and all appropriate easements for their continued maintenance by the City, such conveyance to be recorded prior to acceptance of any utility improvements by the City.
39. The applicant shall sign a Water Extension Agreement in accordance with Chapter 182 of the City Code.
40. Prior to the start of any construction activities on the property, the applicant shall record in the Grafton County Registry of Deeds notice of the stormwater management and erosion and sediment control plans as required per Section 6.6.H.2.d of the Site Plan Review Regulations. Such notice shall be reviewed by the Planning & Development Department prior to recording.
41. The development shall be subject to City of Lebanon Impact Fees, pursuant to Section 213 of the Zoning Ordinance. The Impact Fee shall be calculated at the time of Building Permit issuance based on the Impact Fee Schedule adopted on May 20, 2024. In accordance with RSA 674:39, the approved site plan shall be exempt from any future changes in impact fees and methodology for five years from the date of approval; however, any building permits which are issued after the end of that five-year period shall be fully subject to whatever impact fees and methodology are in effect at the time of building permit issuance.

42. All water and sewer fees shall be paid as set forth in City Code Chapter 68.
43. If required by the Department of Public Works, the applicant shall obtain an Excavation Permit, Driveway Permit, and Stormwater Permit.
44. Prior to the start of any construction activities on the property, the applicant shall obtain or update (if appropriate) any required Federal or State approvals, including but not limited to:
 - a) EPA Stormwater Pollution Prevention Plan (SWPPP)
 - b) NHDES Sewer Connection Permit
 - c) NHDES Wetlands Permit
 - d) NHDES Alteration of Terrain Permit

Conditions to be Satisfied Prior to the Issuance of a Temporary Certificate of Occupancy

45. Condition #2 of the concurrent PURD Conditional Use approval shall be satisfied.
46. The applicant shall dedicate the completed water mains and the on-site hydrant(s), excluding service connections beyond the curb shut-off valves, to the City for ownership and maintenance, subject to 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 the issuance of a final Certificate of Occupancy for the project and prior to the acceptance of the utility improvements. The easement shall be described in metes and bounds in the easement deed and on the easement plan. Said easement shall not be recorded until satisfactory completion of Condition of Approval #51 requiring the provision of as built plans.
47. The Applicant shall perform maintenance on the existing 48" CMP culvert that will be used for stormwater discharge of the project site, which also extends across Hanover Street Extension, to include both clearing of the culvert inlet and outlet of debris, and restore the condition of the headwall, to minimize the risk of culvert failure (capacity) to the satisfaction of the City Engineer and the Planning & Development Department. In addition, the applicant shall perform an inspection of the invert of the existing culvert and report its condition, in writing, to the City Engineer for review. The City will coordinate access to the right-of-way and any abutting property for maintenance. Maintenance activities shall be in accordance with NHDES standards.
48. The applicant shall implement all recommendations set forth in the applicant's traffic study.
49. One (1) year following the issuance of a certificate of occupancy of Building 3 and then again one (1) year after the issuance of a certificate of occupancy of the final building in the development, the applicant shall prepare a post-construction traffic study. Based on the traffic evaluation results, the applicant shall be required to work with the Lebanon Police Department, the Department of Public Works, and the Planning & Development Department to identify and provide additional mitigation to ensure safe and efficient traffic patterns at the intersections studied. The applicant shall post a performance security with the City of Lebanon in an amount adequate to cover the cost of traffic evaluation to ensure its satisfactory completion pursuant to this condition. Pursuant to the recommendation of the Lebanon Pedestrian and Bicyclist Advisory Committee, traffic/pedestrian/bicycle counts for the post-construction traffic studies shall be performed in September or May.
50. The impact fee calculated pursuant to Condition of Approval #41 shall be paid.
51. Third-party engineer or design engineer inspection reports and as-built drawings provided by the applicants (PDF format and CAD .dwg format, using the NH State Plane Coordinate System), including tie sheets, shall be reviewed and approved by the City Engineer.
52. All improvements depicted on the plan shall be completed, and shall be constructed as depicted on the approved plan, including any modifications to the plan as may be approved by the Planning Board in accordance with the Site Plan Review Regulations.

The group discussed what “active and substantial” development and completion mean (**Conditions 5&6**). Mr. Stacy asked what happens if the market turns after the first few buildings are built - could Buildings 4 & 5 not be built because of adverse market conditions. Mr. Alexio said it is hard to say because they do not know what the market will be like in the future.

The group discussed how to determine the appropriate hours to limit construction (**Condition 14**). Resident Margie Godfrey suggested the Board consult the School Board. Resident Bill Lamb suggested mandatory penalties be enforced if work is done outside permitted hours.

Mr. Colin Smith, Chair of the Lebanon Pedestrian & Bicycle Committee, said the conditions related to sidewalks (**Condition 15**) are what was suggested by his committee.

Mr. Corwin said lighting is not specifically addressed in **Condition 16**, but the Board can add specifications. He suggested a review of lighting designs for the crosswalks could be conducted.

Resident Margie Godfrey said it would be a wonderful commitment of the applicant to rehabilitate the pedestrian bridge (with more than just aesthetic changes) near the project site (**Condition 17**). The group discussed whether the bridge is owned/maintained by the City or the state. Chair Faunce said he had no concrete idea about how to craft a condition for a commitment by the applicant to maintain more than the aesthetic aspects of the bridge.

The group discussed the traffic study (**Condition 18**) completed by the applicant. Mr. Stacy said he conducted his own study at the intersection of Wolf Road and Old Etna Road from 7am to 8am on a Friday. He said he was surprised to see there was little to no traffic at that time at that intersection. He said he no longer has concerns about that intersection not being included in the traffic study. Resident Kathy Harrington said she lives on Mt. Support Rd. and she said traffic backs up from Evans Dr. all the way to Hanover Street, almost to the Hypertherm during the 5pm hour. She said it would be a good idea to study the traffic in that area in the evening. Mr. Fenstermacher said the traffic study did include those areas at rush hour.

Chair Faunce suggested that the access road leading to the development be named Densmore Dr. and that the buildings within the site be named after important persons to the Brickyard operation, such as Moffitt and Smith (**Condition 23**). Mr. Corwin added these suggestions to **Condition 27**.

Resident Margie Godfrey asked about safety around the pond on the site. Chair Faunce noted the pond would be addressed in **Condition 35**.

Resident Eugene Boisvert said he is the property owner at 237 Hanover Street (where Gilly’s Auto is). He said there are already traffic problems in his area in the mornings, afternoons, during school functions and during the commuter times from DHMC. (**Condition 15**). He said he did not think the proposed crosswalk (at Old Etna Rd and Hanover St) is going to help, but he did think the design with the extension of the sidewalk and crossing just Hanover St is better than the design with the island. He said the City should focus on the development’s entrance on the North side, which is near his property, because trucks can’t make the corner and have to go through the store’s parking lot. He said the problem will only get worse with more traffic.

Resident Bill Lamb asked if the lots that the site would occupy will be combined into one zone (**Condition 29**). Mr. Corwin said all zones for the site will remain.

The group discussed the timing of when a post-construction traffic study would be completed. **(Condition 49)**. They agreed to include language that two studies will be done one year after the issuance of a certificate of occupancy of Building 3 and after issuance of a certificate of occupancy of the final building. Mr. Fenstermacher said their plan is to build a new building each year.

Mr. Stacy said in the financial data, there was a Nexus challenge to the school's Impact Fees **(Condition 50)**. He asked if the Planning Board needed to address that challenge when calculating its Impact Fee. Mr. Corwin explained that the City Council authorized the Planning Board to adopt Impact Fees, which are collected from new developments for capital impacts (namely to police, fire, school, and recreation facilities) necessitated by the new developments. He said the public-school portion of the Impact Fees can be waived for age-restricted residential units and studios/one-bedroom units with a gross living area of 500 square feet or less. He said the challenge that has been presented is claiming that there won't be any Impact Fees collected for the studio/one-bedroom units in the Brickyard development because they are less than 500 square feet. It was agreed the Planning Board did not need to address this challenge at this time.

Board Questions to Applicant RE: Waivers Requested

Chair Faunce asked about the heights of Buildings 2, 4, and 5. Mr. Fenstermacher said the height is measured from the front of the buildings, so all are 45 feet tall. He said the design for the other buildings is higher (for which the variance is requested) because they are built into the hill.

Mr. Ceglarski asked if a fence would be erected around the pond. Mr. Fenstermacher said there would not be a fence but there would be signage. Chair Faunce noted that signage is considered "reasonable" safety measures. It was suggested the owner could make safety rules for the pond a part of the contract that tenants sign when they lease the units.

The group discussed the density bonus and confirmed that the density bonus is the size of the 51 townhomes, and if the bonus is not granted, the townhomes will not be built. Mr. Fenstermacher said they would have to redesign the plan to what would be feasible financially.

The group discussed the rents that would be imposed for the units. Mr. Fenstermacher said they are planning to ask \$2000/month for the studio apartments. He said they will have 12-month lease terms. Mr. Stacy suggested a third-party evaluation to assess the units and the rents being proposed, based on comparable units that already exist in Lebanon.

Dr. Rutter said the numbers do not seem to be accurate in the Financial Impact Statement and Mr. Kennelly agreed the statement appears to be sloppy. Mr. Corwin said, in the past, the City Assessor had reviewed other applicants' Impact Studies. He said a project's Impact Study provides information to the Board that does not provide much that can be used to alter the project. Mr. Corwin suggested the role of the Impact Study would be a good topic for a future work session. He noted that Mr. Mark Frazier, who is a reputable professional, wrote the Impact Study report for this project.

Public Comment

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

Mr. Bill Lamb (Ward 3) explained the assessment process to the Board. He noted that corporately owned residential developments are assessed differently from condominium owners and pay half

the taxes. He said this applicant is asking for conditional use concessions, but it is within the power of the Planning Board to say no and not grant those exceptions. He asked the Board members to reconsider what the revenue of the project to the City will be. He said the real question is whether the taxes this owner will pay will really cover the services that they're going to use.

A MOTION was made by Richard Ford Burley to extend the meeting to 10:30pm. The MOTION was seconded by Eric Stacy.

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

At 9:45pm, Chair Faunce called for a recess.

At 9:58pm, the meeting resumed.

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

Waiver Requests Discussion & Approval

A MOTION was made by Richard Ford Burley that, for the application of Brickyard One Nominee Trust, PB2024-22-SPRCUP, the Lebanon Planning Board approves partial waivers from the following sections of the Site Plan Review Regulations:

- Section 5.1.E.7 – Requirement to provide information relative to buildings within 200 feet of the site.***
- Section 5.1.E.16 – Requirement to count existing trees if used to meet landscape requirements.***
- Section 6.6.C.1.2.K – Requiring test pit data for stormwater management design.***
- Section 6.5.D.5 – Requiring construction of a sidewalk along length of property's frontage.***

The MOTION was seconded by Eric Stacy.

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

The group discussed the waiver request to increase the maximum permitted building height from 45 feet to 55 feet for Buildings 4 and 5. The group agreed that the additional 10 feet would not make a noticeable difference. They discussed the impact of the structures to the line of view. Chair Faunce noted that the most prominent building (Building 2) is the one closest to the pond and is not one of the buildings that would be 55 feet tall if the waiver is approved. The group noted that they have never received renderings from ground level. The group discussed the surrounding area and whether abutters would be impacted by the taller height of Buildings 4 and 5 (if the waiver is approved).

The group also discussed the residential characteristics of the project and site, and the meaning of the density bonus at length. Mr. Corwin explained Section 501.2.D:

“The PUD provisions of this ordinance provide applicants with a development approach intended to promote flexibility and innovation in land planning. Within this context, the density regulations that are established are intended to be maximum allowable densities each tract of land possesses different unique development characteristics and limitations. What is allowed on any particular track will be a function of innovative land planning and building design, interacting with the

special characteristics and limitations of the property. The density regulation set forth below or intended support development on areas most suitable for development while conserving the site resources.”

The group discussed the median income for single people in a household (\$95,000 per year) and the median income for a married couple in a household (\$133,000 per year) in Lebanon, and how the proposed rents are in keeping with the City’s current residential environment. The group discussed the changes that the developers made to include townhouses in the project, and that, if the density bonus is not granted, the townhouses might be eliminated from the project.

A MOTION was made by Richard Ford Burley to extend the meeting to 10:45pm. The MOTION was seconded by Eric Stacy.

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

A MOTION was made by Richard Ford Burley that, for the application of Brickyard One Nominee Trust, PB2024-22-SPRCUP, the Lebanon Planning Board approves a density bonus of 51 dwelling units per section. 501.2.D of the Zoning Ordinance and in support thereof finds that:

- 1. Pursuant to Section 501.2.D of the Zoning Ordinance, the maximum permitted density of the proposed PURD is 423 dwelling units.***
- 2. Section 507 of the Zoning Ordinance allows the Board to grant up to a 12% density bonus for PURDs.***
- 3. The applicant requests a density bonus of 51 units, which is the maximum number of additional units that the board may allow, pursuant to Section 507.***
- 4. A density bonus of 51 units is appropriate as the number and type of proposed additional units is in the best interest of the residents of the City of Lebanon.***

The MOTION was seconded by Patrick Kennelly.

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

A MOTION was made by Richard Ford Burley that:

At duly-noticed meetings of the Lebanon Planning Board held on July 8, 2024, August 12, 2024, September 9, 2024, October 14, 2024, November 12, 2024, December 9, 2024, and December 17, 2024, there appeared representatives on behalf of Brickyard One Nominee Trust regarding 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, requesting 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. for Buildings 4 and 5 as identified in the PURD plan set. PB2024-22-SPRCUP.

FINDINGS OF FACT

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

1. *45 ft. is the maximum building height in the R-1 District. Per Section 308.4 of the Zoning Ordinance, the Planning Board may allow building height of up to 55 ft. by Conditional Use Permit.*
2. *Section 308.4 provides as follows: "By conditional use permit per Section 302.4, the maximum building height for a proposed building may be increased up to 10 additional feet if the increase in building height is for the purpose of accommodating a parking structure underneath or within the proposed building, and provided that the building is set back from the setback line a minimum distance equal to two (2) feet for every one (1) foot of additional building height over 45 feet."*
3. *Pursuant to Section 308.4, the applicant requests a Conditional Use Permit to allow the two multi-family buildings that are located wholly within the R-1 District (i.e. Buildings 4 and 5 as labeled in the plan set) to have a height of 55 ft.*
4. *In order to grant the requested Conditional Use Permit, the Board must find the applicant's proposal satisfies the Enhanced Performance Standards set forth in Section 302.4.D as well as the specific requirements of Section 308.4. The applicant has addressed the Section 302.4.D and Section 308.4 criteria in an Application for Conditional Use Permit Support Statement (found on pages 48-50 of the agenda packet for the August 12, 2024 Planning Board meeting).*

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 section 302.4.D and the criteria set forth in Section 308.4 of the Zoning Ordinance:

1. *The site is suitable for the proposal Section 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. Section 302.4.D.2*
3. *The proposal does satisfy the criteria of Section 302.4.D.3.*
4. *Does satisfy the criteria section 302.4.D.4*
5. *The proposal does satisfy the criteria of section 302.4.D.5*
6. *The additional height for Buildings four and five is for the purpose of accommodating a parking structure underneath or within the proposed buildings. (Section 308.4)*
7. *Buildings 4 and 5 are set back from the setback line a minimum distance equal to two feet for every one foot of additional building height over 45 feet. (Section 308.4)*

Decision

Now therefore it be it resolved that the Planning Board, on this September 17th day of December 2024, hereby grants the request of Brickyard One Nominee Trust for a Conditional Use Permit

per Section 308.4 for a height of 55 feet for Buildings 4 and 5 as identified in the PURD plan set as set forth above and per testimony, plans, and materials submitted.

The MOTION was seconded by Jeremy Rutter.

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

A MOTION was made by Richard Ford Burley that:

At a noticed meetings of the Lebanon Planning Board held on July 8, 2024, August 12, 2024, September 9, 2024, October 14, 2024, November 12, 2024, December 9, 2024 and December 17, 2024 there appeared representatives on behalf of Brickyard One Nominee Trust regarding 174 Hanover St. (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. Requesting a Conditional Use Permit per Sections 308.2, 310.2, 311A.2, and 501.2 of Zoning Ordinance for a proposed 474-unit multi-family Planned Unit Residential Development (PURD). PB2024-22-SPRCUP

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 applicant owns the following 4 properties which they intend to merge into a single property following Planning Board approval of the subject application (collectively, referred to as the "Property"):*
 - 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)*
- 2. Per the applicant's application materials, the property is a total of +/-135.98 acres and is split-zoned R-O-1, R-3, R-1, and RL-3. A portion of the Property is the site of the former Densmore Brickyard. Other than vacant structures formerly occupied by the Densmore Brickyard, a vacant cottage at the north end of Densmore Pond, and a single family residence at what is currently 238 Hanover Street, the Property is vacant and undeveloped.*
- 3. The applicant proposes to develop the +/-38.18 portion of the Property zoned R-O-1, R-3, R-1 as a 474-unit multi-building, multi-family Planned Unit Residential Development (PURD). All existing structures on the Property will be demolished except for some of the Densmore Brickyard kilns that are still standing. The remainder of the Property – zoned RL-3 and containing 97.8 acres – is not included as part of the PURD and is proposed to remain vacant at this time.*

4. *When the subject application was originally submitted, the applicant had proposed to construct ten (10) multi-family dwellings with a total of 473 dwelling units (and a maintenance building with an additional dwelling unit). Following feedback from the Planning Board and the public at the August and September Planning Board meetings, the applicant substantially revised their plans and is now proposing 5 multi-family buildings with a total of 422 units at the southern end of the development site and 8 clusters of townhouses with 51 units at the northern end of the development site (and a maintenance building with an additional unit at the proposed northern entrance to development).*
5. *Pursuant to Sections 308.2, 310.2, 311A.2, and 501.2 of the Zoning Ordinance to Section 307.6.B.2, the applicant requests a Conditional Use Permit for the proposed PURD.*
6. *In order to grant the requested Conditional Use Permit, the Board must the Board must determine that the applicant has satisfied the criteria set forth in Section 501.1.J.1 ("Approval of CUP Application") of the Zoning Ordinance.*

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 criteria set forth in Section 501.1.J.1 of the Zoning Ordinance.

- a. *The site plan prepared pursuant to Section 501.1.E.1 above meets the purpose statement set forth in section 501.1.A (PUD Purpose) and the following standards:*
 - i. *In consideration of the Site Resources, the portions of the property most suitable for Open Space preservation and those portions most appropriate for development have been designated on the plans for those purposes.*
 - ii. *The layout of the designated Open Space area provides the greatest feasible public benefit, which is compatible with the applicant's permissible development goals, and there is no feasible alternative layout which would yield a significantly improved Open Space public benefit, while still fulfilling the applicant's otherwise permissible development objectives.*
 - iii. *To the maximum extent practicable, the plan adheres to the design guidelines set forth in section 501.1.G.*
- b. *All applicable requirements of Section 501.1.E ("Application Requirements"), Section 501.1.F ("Open Space"), Section 501.1.H, ("Dimensional Requirements"), and Section 501.2 ("Planned Residential Developments") have been met.*
- c. *The types of housing units and/or other buildings proposed within the PUD do not adversely impact the character of the area.*
- d. *The PUD does not have any substantial negative or undue impact on the environment or on transportation systems, community facilities, utilities and services.*
- e. *The PUD complies with all requirements of the Site Plan Review Regulations.*

DECISION

Now therefore be resolved that the Planning Board, on this 17th day of December, 2024, hereby grants the request of Brickyard One Nominee Trust for a Conditional Use Permit for Sections 308.2, 310.2, 311A. 2, and 501.2 of the Zoning Ordinance for a 474-unit PURD as set forth above, and per testimony, plans, and materials submitted and per the conditions that have been read at great length earlier in this meeting.

The MOTION was seconded by Brian Ceglarski.

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

A MOTION was made by Richard Ford Burley to extend the meeting to 11:00pm. The MOTION was seconded by Eric Stacy.

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

A MOTION was made by Richard Ford Burley that the Lebanon Planning Board approves the application of Brickyard One Nominee Trust regarding 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, PB2024-22-SBRCUP, for Site Plan approval to construct a proposed 474 unit multi-family Planned Unit Residential Development including five multi-family buildings containing 422 units and eight townhouse clusters containing 51 units, and a maintenance building containing one unit, together with parking, utilities, landscaping, access and other related site improvements as shown on plan set titled, "The Brickyard Residential Development," dated May 10, 2024, latest issue December 4, 2024, prepared by VHB EV Project: 52933.00 (53 sheets plus cover sheet), including any and all submissions and testimony provided for and during the public hearing.

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

The approval is subject to the conditions gone over at quite at great length earlier in this meeting.

The MOTION was seconded by Eric Stacy.

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

3. STUDY ITEMS

A. Review of Proposed Amendments to the Zoning Ordinance and Zoning Map Discussion continued from December 09, 2024 Planning Board Meeting

Mr. Reichert said the draft amendments in the agenda packet are the current state of the zoning approvals based on applicant feedback, board feedback, and public input.

He said Staff recommends the changes to the use codes to the proposed GC1 area for the Route 120 area that are included in the agenda packet for this meeting. He said the City Council has asked that vehicular sales no longer be a non-conforming use in the GC1 zone. He said the City Council suggested two options:

- Add vehicular sales to the GC1 use code and allow that to happen within the entirety of the rezoned area.

- Refrain from rezoning all the IND-L area south of Heater Rd.

After discussion, the group agreed that the second option was preferable and agreed to keep all IND-L areas south of Heater Road as IND-L.

Mr. Reichert said another question was whether to add the R3 zoning district to the Recovery House, which is managed by Headrest. He said they are in the process of buying a property within the R3 zoning district, and a Recovery House would not be a permissible use in that zone. He said it will allow the Recovery House to be built within close proximity to bus stops, which is an important resource for residents of the House. Mr. Reichert noted the agenda packet includes updated maps for the pattern zones that have been discussed in previous meetings. The group discussed clarifying the definition of one-family and two-family dwellings.

A MOTION was made by Richard Ford Burley that the Planning Board endorses the 2024-25 proposed Zoning Amendments as presented on December 17, 2024 to the Planning Board. The MOTION was seconded by Jeremy Rutter.

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

4. APPROVAL OF MINUTES

Chair Faunce said they would postpone the review of the November 12, 2024 and November 25, 2024 meeting minutes to a future meeting.

5. ADJOURNMENT

A MOTION was made by Richard Ford Burley to adjourn the meeting at 10:55pm. The MOTION was seconded by Eric Stacy.

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

The meeting was adjourned at 10:55pm.

Respectfully submitted,
Paula Roux
Recording Secretary