

FINAL

**LEBANON PLANNING BOARD
COUNCIL CHAMBERS, CITY HALL OR
REMOTE VIA MICROSOFT TEAMS
LEBANONNH.GOV/LIVE
MONDAY, FEBRUARY 10, 2025 6:30PM**

MEMBERS PRESENT: Andrew Faunce (Chair), Richard Ford Burley (Vice Chair), Patrick Kennelly, Jeremy Rutter, Karen Zook (City Council Rep), Kathie Romano (REMOTE), Kellen Appleton, Brian Ceglarski (alt)

MEMBERS ABSENT: Eric Stacy (alt)

STAFF PRESENT: Tim Corwin (Deputy Planning Director), Nathan Reichert (Director of Planning & Development)

OTHERS PRESENT: Matthew Decker, Esq. (Legal Counsel for the City)

1. CALL TO ORDER

Chair Faunce called the meeting to order at 6:37pm. Mr. Corwin reviewed the City's meeting in-person and REMOTE attendance policies and procedures.

Ms. Romano said she was attending remotely because she was out of town. She said no one was in the room with her while attending the meeting.

2. NOTICE OF REGIONAL IMPACT

The following applications were received by the Planning and Development Department on or before February 10, 2025:

- **Clayton Morlock & Sally Shoop, David & Deborah Roberts and Richard & Paula Tobin, 30 Storrs Hill Road (Tax Map 136, Lot 22), 14 Storrs Hill Road (Tax Map 136, Lot 25), 0 Storrs Hill Road (Tax Map 136, Lot 24), and 28 Storrs Hill Road (Tax Map 136, Lot 23) zoned RL-2 & R-3: Request for approval of a Boundary Line Adjustment between lands identified above and Voluntary Lot Mergers of Lots 136-24 & 136-22, Lots 136-24 & 136-25 and Lots 136-24 & 136-23. PB2025-08-BLAVLM**
- **Tycoga NH West, LLC (applicant), Ledyard National Bank (property owner), 42 Old Etna Road (Tax Map 50, Lot 30, Plot 100), zoned GC: Site plan review for a proposed +/- 880 sq. ft. coffee shop on the same lot as an existing building, together with associated site improvements. PB2025-09-SPR**
- **Grafton County Economic Development Council & North Country Council, 16 Cavendish Court (Tax Map 10, Lot 11, Plot 3600), zoned IND-L: Applicant requests**

a two (2) year extension of an existing approval (PB2022-48-SPR) per Section 8.4.A.3 of the Site Plan Review Regulations to construct an additional parking lot. PB2025-10-EXT

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

A MOTION was made by Richard Ford Burley that the applications of Clayton Morlock & Sally Shoop, David & Deborah Roberts and Richard & Paula Tobin, 30 Storrs Hill Road (Tax Map 136, Lot 22), 14 Storrs Hill Road (Tax Map 136, Lot 25), 0 Storrs Hill Road (Tax Map 136, Lot 24), and 28 Storrs Hill Road (Tax Map 136, Lot 23), zoned RL-2 & R-3, Tycoga NH West, LLC (applicant), Ledyard National Bank (property owner), 42 Old Etna Road (Tax Map 50, Lot 30, Plot 100), zoned GC, and Grafton County Economic Development Council & North Country Council, 16 Cavendish Court (Tax Map 10, Lot 11, Plot 3600), zoned IND-L do not have the potential for regional impact. The MOTION was seconded by Jeremy Rutter.

Roll Call Vote:

Voting For – Ms. Romano, Ms. Zook, Dr. Ford Burley, Mr. Faunce, Mr. Kennelly, Dr. Rutter, and Ms. Appleton

Voting Against – None

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

3. PUBLIC HEARING ITEMS

A. A. B. XYZ Dairy, LLC & Lyme Properties 2, LLC, River Park Drive (Tax Map 44, Lots 21 - 30 & 7), zoned CB, IND-L and R-3: Applicant requests a two (2)-year extension of the River Park 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). PB2025-05-EXT

Ms. Romano recused herself from the discussion. Chair Faunce said all remaining Board members will participate in the discussion and any voting on motions.

Attorney Decker said he provided a legal notice, which was included in the agenda packet materials for this meeting. He said the background of this extension application is that this applicant, XYZ Dairy, previously submitted an application for a two-year extension of all of its site plan deadlines. The Planning Board denied that application on November 12, 2024, with a written decision issued on November 19, 2024. He said that this denial of extension was not appealed.

He said on December 19, 2024, XYZ Dairy filed an additional application, again requesting a two-year extension of all site plan review deadlines. He said New Hampshire courts created a doctrine, called the Subsequent Application Doctrine, which is designed to prevent Land Use Boards from being forced to hear repeated applications for the same relief and under applicable New Hampshire case law. He said Land Use Boards, such as the Planning Board, are required to make a “threshold determination” that a subsequent application is significantly different from the prior application to keep the Board from having to repeat its same labor over and over again.

Attorney Decker said the legal standard for a threshold determination is the answer to the following question: Does the subsequent application present a material change in circumstances that affect the merits of the application?

He said this hearing at this meeting is a limited purpose public hearing to allow the applicant to speak to what they would assert are the material changes in their application since the November 12, 2024 decision, and then for the Board to deliberate on those changes and to determine whether those changes are material.

He said if the Board determines at this meeting that there is a material change in circumstances that affects the application, it will pass a motion accordingly and schedule a full hearing on the two-year extension request.

Mr. David Clem and Mr. Chet Clem (XYZ Dairy and Lyme Properties) were present on behalf of the applicant.

Mr. David Clem read the following statement: (he also provided copies to the Board members and Attorney Decker)

On December 19, 2024, Lyme Properties, operating as the development agent for XYZ Dairy, LLC, submitted a request for a 2-year extension of the River Park West Lebanon Site Plan (#PB2010-25-SPR) as most recently amended on September 9, 2019 (#PB2018-34-SPA) and extended by this Board on October 12, 2021 (#PB2021-29-EXT). The December 19th extension request identified that, since the Lebanon Planning Board's rejection of XYZ's previous request for extension (as submitted on July 8, 2024), the Grafton County Superior Court issued an Omnibus Order granting a Preliminary Injunction to XYZ (1) reinstating the building permit at issue in both the state court action and within the prior request for extension; and (2) extending the Planning Board's Phase 1 site plan approval deadlines by 11 months and two days from notice of the Order.

I now submit this correspondence in advance of today's "limited public hearing," scheduled "to determine whether there has been a material change of circumstances affecting the merits of [XYZ's] application since the time of [its] prior [July 8th] application."¹

Under New Hampshire law, the requirement of material change pursuant to the "subsequent application doctrine" is "**not to be technically and narrowly imposed**, but yet enforced to the extent that property interests may be settled and stable, and property owners protected from harassment."² Moreover, **a decision of a superior court can create a material change warranting a change in an administrative body's decision.**³

¹ XYZ received notice of the nature of this hearing by way of the City's counsel's February 7, 2025 Memorandum. To the extent that the Planning Board desires or requires supplementation of this letter, XYZ is amenable to providing a further submission. To the extent that this evening's hearing expands beyond the outlined "limited" scope, XYZ requests an opportunity to further supplement this letter as it relates to the merits of its request.

² *Bois v. Manchester*, 113 N.H. 339, 342 (1973)(emphasis supplied).

³ See *Radcliff v. Zoning Bd. Of Appeals*, D.N. CV 121852 S, 1993 Conn. Super. LEXIS 1536, at *18 (June 9, 1993) (relating to the revocation and reinstatement of a building permit)(emphasis supplied); *Middlesex Theatre, Inc. v. Commissioner of State Police*, 128 Conn. 20, 22-23, 20 (1941) ("Where a change of conditions has occurred since the decision of the administrator or where other considerations have arisen materially affecting the merits of the matter and no vested rights have intervened, it is reasonable and appropriate to the functioning of efficient administrative machinery that the subject matter be re-examined in the light of the altered circumstances.").

That is precisely the case here. Critically, in submitting its second request for a 2-year extension, XYZ identified several material changes of circumstance since its prior application, including but not limited to:

- after *three days* of evidentiary hearings, the Court explicitly disagreed with the City's argument that XYZ should have continued investing in Site Plan work while the building permit matter was unresolved (an argument the Planning Board seemingly adopted on or about its November 12, 2024 decision);
- the building permit has been reinstated; and
- the Phase 1 deadlines have been extended.

In support of its December 19th second extension request, XYZ attached the Court's Omnibus Order, its Superior Court Complaint (including its twenty-two exhibits), and its Memorandum in Support of its Petition for Temporary Restraining Order and Motion for Preliminary Injunction—none of which were previously before the Lebanon Planning Board when considering XYZ's July 8th first request for extension. These documents encompass—by the City's counsel's own admission contained in his February 7, 2025 Memorandum—"a different but overlapping set of facts."

In its Omnibus Order, the Court determined that, after three days of evidentiary hearings, XYZ established a "likelihood of success on the merits" that the City of Lebanon made an actionable misrepresentation of a material fact that XYZ relied upon to its detriment. In other words, after hearing the evidence, the Court concluded that XYZ reasonably relied upon the City's representations related to the building permit, that XYZ was harmed as a result, and that the facts established by XYZ warranted the reinstatement of the building permit and the extension of the Phase 1 deadlines. Importantly, the Court also stated as follows:

The Court is unpersuaded by the City's argument that XYZ should have completed the Phase 1 infrastructure work without a building permit. As Chet and David Clem testified, the City cannot reasonably expect a developer to pursue infrastructure work without a building permit for the associated building project.

The same argument underscored by the Court holds true for the attendant delays in all of the other phases of development. The City could not have reasonably expected XYZ to meet the deadlines for those other development phases without a valid building permit on Phase 1, since the Phase 1 building was critical to the overall economics of the project and to the construction of the primary entrance of the development. The clear "changes in circumstances" provided by the direction in the Court's Order warrant the Board's full consideration of the merits of XYZ's second request for extension.

To the extent that the Planning Board is not otherwise persuaded that a material change necessitates consideration of XYZ's December 19th extension request, XYZ further asserts that consideration is warranted as this Board's consideration of XYZ's July 8th request was neither fair

or impartial.⁴ In brief, the Planning Board was notified of XYZ's pending action related to the building permit and site plan deadlines pending in Grafton County Superior Court prior to issuing its formal decision on XYZ's first extension request. Nevertheless, the Planning Board, relying upon the recommendations of municipal staff, rejected XYZ's first extension request prior to the issuance of any decision by the Court. More specifically, five members of the Planning Board *met in advance of the public hearing without a motion to convene in executive session* in a public meeting. These same five members then voted to deny the extension request without reading the motion in the public hearing or making the motion available to the applicant in advance. While I appreciate the fact that the Planning Board relies on municipal staff to support the Board, I believe the Planning Board is an independent, quasi-public body and should affirm its authority by acting independently of staff opinion, fairly, and impartially—in line with the Court's Order—in this instance.

Turning to the merits of this request, the Planning Board is tasked with determining whether the delays on the other phases of the River Park project were the result of circumstances beyond XYZ's control. It is clear, based on the specific language of the Court's Order, that the Court's findings not only necessitate consideration of XYZ's December 19th second extension request, but granting XYZ's request for two-year extensions in full. The City's misrepresentations as to the building permit irrefutably predated the other events the Planning Board considered in relation to XYZ's prior extension request. Accordingly, (1) because of the City's misrepresentations as to the building permit and the delays resulting therefrom; and (2) because XYZ reasonably did not invest in other aspects of the project while the permit was in a City-imposed limbo, there plainly exist circumstances beyond XYZ's control necessitating a 2-year extension of XYZ's site plan deadlines on the remaining phases of the River Park project.

It is my hope that the Lebanon Planning Board will exercise reason and fairness, as the Court has done, in considering the merits of and granting XYZ's request for extension. Doing so would also constitute a significant gesture of good faith in rebuilding the trust required to bring this beneficial project to fruition for the City of Lebanon.

Chair Faunce confirmed that the Board members had received substantial materials in the agenda packet for this meeting, which included 22 exhibits that were related to the three days of Superior Court evidentiary hearings mentioned by Mr. Clem in his read statement.

Dr. Ford Burley asked for clarification from Attorney Decker on the meaning of “technically and narrowly imposed” in relation to the case of *Bois v. Manchester* (cited in Mr. Clem's letter). Attorney Decker said he believed the instruction is for the Board to look at the case law more broadly and focus on the content of the application to possibly identify a material change in the circumstances, rather than focus just on the fact that this is another request for a two-year extension.

Mr. Clem said his legal representation is out of the country and not available to come to this meeting. He said this is an amendment to a permit that has already been granted by the Planning Board and renewed multiple times, and involves only the scheduling of the phases. He said what distinguishes it from any other site plan and subdivision approval in the City is this was the first filed under the Lebanon Zoning Ordinance that allows a phased development.

Chair Faunce opened the public comment portion of the hearing. No one from the public spoke. Chair Faunce closed the public comment portion of the hearing.

Dr. Ford Burley said Attorney Decker's legal notice indicates that the Superior Court judge said, “while the Court and the Planning Board considered many of the same facts, neither decision

bears on nor negates the other.” He said that suggests that a court opinion is not a new material condition. Mr. Chet Clem and Mr. David Clem disagreed that the judge’s decision, which disagrees with the Board’s decision, does not constitute new material worthy of the Planning Board's consideration of a rehearing for a two-year extension.

Mr. Kennelly asked if Attorney Decker knew the court cases cited in Mr. Clem’s letter and whether they speak to a decision of a Superior Court being considered a material change. Attorney Decker said he was reading about the cases during this meeting to learn more. He noted that both cases are Connecticut State court cases and would not be finding authority in New Hampshire.

At 7:16pm, Chair Faunce called for a recess to allow Attorney Decker to familiarize himself with the cases cited in Mr. Clem’s letter.

At 7:32pm, the meeting resumed.

Attorney Decker said the two cases were cited in Mr. Clem’s letter for the proposition that a decision of a Superior Court can create a material change, warranting a change in an administrative body's decision. He gave details from each case.

Dr. Ford Burley asked about the reference to the phrase, “Likelihood of success on the merits,” in Mr. Clem’s statement, and asked Attorney Decker to explain what that entails. Attorney Decker replied that when a court is reviewing an application for a temporary injunction, it is like a pause on the status quo while the court case is pending. Attorney Decker explained the elements for a temporary injunction.

Mr. Corwin confirmed the materials that have been provided to the Board for this meeting:

- 241-page document (posted online with the January 27, 2025 Work Session agenda packet and again for this meeting) provided by the applicant
- Four-page memorandum from Attorney Decker

Chair Faunce asked Mr. Clem if they sought to reapply for the permit at the time when the permit was revoked. Mr. Clem said this was asked at the first hearing and he said he responded that they felt like the existing building permit was valid and that it had value and there was no need to reapply, and he said he still believes that to be true. Mr. Chet Clem said one of the evidentiary jury hearings in the court agreed with their position. He said the court decision upholds that the permit was invalidated improperly.

The Board discussed whether there has been a material change in the application since the November 12, 2024 decision. In particular, the group discussed whether scheduling changes for phase deadlines constitute a change in the application.

Attorney Decker confirmed that, as of November 12, 2024, the City’s Building Inspector had declared the building permit expired. He said the state Building Code Review Board affirmed it had expired. The Board discussed whether decisions that were made at that time, when they were unaware a judge would grant a restoration of 11 months and two days of the building permit, would be made differently, and whether that constitutes a material change to the application.

A MOTION was made by Richard Ford Burley that the application of XYZ Dairy LLC for a two-year extension of all relevant dates in its Site Plan Approval be accepted under the

subsequent application doctrine because the applicant has carried its burden to demonstrate that its application is materially different from its prior application, the change in circumstance described by the applicant, the decision of the Superior Court judge, dated November 25, 2024, and the subsequent extension of phase one by 11 months and two days is material and would affect the merits of the prior application. The MOTION was seconded by Kellen Appleton.

Roll Call Vote:

Voting For – Ms. Zook, Dr. Ford Burley, Mr. Faunce, Dr. Rutter, Mr. Ceglarski, and Ms. Appleton

Voting Against – Mr. Kennelly

****The MOTION was approved (6-1)***

Chair Faunce said the public hearing will be continued at the February 24, 2025 meeting. Mr. David Clem confirmed all materials will be provided by the applicant to Staff by noon on Thursday, February 20, 2025.

Ms. Romano rejoined the meeting.

B. Cicotte Holdings, LLC, 51 Evans Drive (Tax Map 78, Lot 40, Plot 200), zoned R-O-1: Request for a Conditional Use Permit pursuant to Section 311A.2 of the Lebanon Zoning Ordinance and for Site Plan Review per Section 3.1.D of the Site Plan Review Regulations to expand the outdoor vehicular storage area for an existing vehicular sales use together with associated site improvements including landscaping and lighting. PB2024-48-SPRCUP - Postponed from January 13, 2025

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 Cicotte Holdings, LLC, 51 Evans Drive (Tax Map 78, Lot 40, Plot 200), zoned R-O-1 is complete enough for the Planning Board to accept jurisdiction and commence review. The MOTION was seconded by Jeremy Rutter.

Roll Call Vote:

Voting For – Ms. Romano, Ms. Zook, Dr. Ford Burley, Mr. Faunce, Mr. Kennelly, Dr. Rutter, and Ms. Appleton

Voting Against – None

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

Mr. Dan Nash (Advanced Geomatics & Design) was present on behalf of the applicant. He gave an overview of the project, which involves expansion of paved areas, the addition of a stormwater treatment system, additional landscaping, and other improvements.

Mr. Corwin said the applicant must address the following:

- Compliance with Conditional Use Permit criteria per Section 302.4.D of the Zoning Ordinance which permits the expansion of a vehicular sales use that involves expansion of the vehicle display area
- Site Plan Review resulting from the proposed expansion of 12,500 additional square feet of pavement, which is considered a major change to the site

The group discussed the Conditional Use Permit application at length. In particular, the group discussed whether the wetlands floodplain will be affected by the expansion of the vehicular display area. The group discussed whether a LOMA (Letter of Map Amendment – which indicates from FEMA that the site is not in a flood zone) is needed.

Chair Faunce opened the public comment portion of the hearing. No one from the public spoke. Chair Faunce closed the public comment portion of the hearing.

A MOTION was made by Richard Ford Burley that:

At a duly-noticed meetings of the Lebanon Planning Board held on February 10, 2025, there appeared representatives on behalf of Cicotte Holdings, LLC, regarding 51 Evans Drive (Tax Map 78, Lot 40, Plot 200), zoned R-O-1, requesting a Conditional Use Permit per Section 311A.2 of the Zoning Ordinance to expand the outdoor vehicular storage area for an existing vehicular sales use. PB2025-04-FMAJSPRCUP

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 improved with a vehicular sales use.***
- 2. The applicant proposes to expand the vehicular display area with an additional 12,551 sq. ft. of pavement.***
- 3. “Vehicular sales” is allowed by Conditional Use in the R-O-1 District per Section 311A.2 of the Zoning Ordinance. Expansions of a use allowed by Conditional Use also require a Conditional Use Permit from the Planning Board.***
- 4. In order to grant the requested Conditional Use Permit, the Board must find that the project satisfies the general Conditional Use criteria set forth in Section 302.4.D of the Zoning Ordinance.***

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 proposed layout and design of the site is not incompatible with the established character of the neighborhood and shall mitigate any external impacts on abutters, the neighborhood, and nearby public ways and infrastructure. (§302.4.D.3)***

4. ***The criteria set forth in Section 302.4.D.4 relates to new building construction and, since no new building construction is proposed, is inapplicable to the subject application.***
5. ***The proposed use and layout of the site, including all related development activities, does to the greatest extent practicable preserve identified natural, cultural, historic, and scenic resources on the site and shall not degrade such identified resources on abutting properties. (§302.4.D.5)***

III. DECISION

Now therefore be it resolved that the Planning Board, on this 10th day of February, 2025, hereby grants the request of the Cicotte Holdings, LLC, for a Conditional Use Permit per Sections 311A.2 of the Zoning Ordinance to expand the outdoor vehicular storage area for an existing vehicular sales use at 51 Evans Drive (Tax Map 78, Lot 40, Plot 200).

The MOTION was seconded by Andrew Faunce.

Roll Call Vote:

Voting For – Ms. Romano, Ms. Zook, Dr. Ford Burley, Mr. Faunce, Mr. Kennelly, Dr. Rutter, and Ms. Appleton

Voting Against – None

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

Mr. Reichert asked if the LOMA has been issued by FEMA yet. Mr. Nash said it has not yet been requested. Mr. Reichert suggested that the LOMA be made a condition of approval because, without it, the site is still considered in a flood zone. The group discussed whether the LOMA is needed if a flood plain permit has been granted, and whether the original flood plain permit is still valid after 2-3 years.

Dr. Rutter noted several inconsistencies and discrepancies in the submitted site plan materials, particularly related to:

- The number of parking spaces required
- Pavement pavers indicated on site plan drawings but not included in the legend
- Number of trees required for shade
- Proposed location of shade trees (not close enough to provide shade in the parking lot)
- Number of shrubs/bushes required for perimeter landscape/buffer
- Specific types of trees proposed
- Whether vehicle display area is included in the total number of parking lot spaces

The group discussed whether the applicant should request a waiver from any submission or design requirement that would be applicable outside of the development area, for improvements such as sidewalks. Mr. Corwin noted that the Board does not have to grant such a waiver.

The group began discussing the requested waivers in detail. They determined that there was not enough clear information provided to make informed decisions whether to grant any of the waivers. Ms. Romano noted it is difficult to discuss insufficiencies in submitted materials at length during a meeting only to have to go through them again at another meeting. She said if the materials were complete when the Board first receives them, so much time would not be wasted.

A MOTION was made by Richard Ford Burley that, for the application of Cicotte Holdings, LLC, PB 202448 SPRCUP, the Lebanon Planning Board disapproves partial waivers for all the waivers requested. The MOTION was seconded by Kathie Romano.

Mr. Corwin suggested that the Board continue the public hearing for this application to the March 10, 2025 meeting to give Staff time to work with the applicant to gather more information.

Dr. Ford Burley withdrew the MOTION to disapprove the requested waivers. Ms. Romano seconded the withdrawal of the MOTION.

A MOTION was made by Richard Ford Burley to continue the public hearing for the application of Cicotte Holdings, LLC, PB 202448 SPRCUP until the March 10, 2025 Planning Board meeting. The MOTION was seconded by Andrew Faunce.

Roll Call Vote:

Voting For – Ms. Romano, Ms. Zook, Dr. Ford Burley, Mr. Faunce, Mr. Kennelly, Dr. Rutter, and Ms. Appleton

Voting Against – None

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

At 9:19pm, Ms. Zook left the meeting.

A MOTION was made by Richard Ford Burley to extend the meeting to 9:45pm. The MOTION was seconded by Brian Ceglarski.

Roll Call Vote:

Voting For – Ms. Romano, Dr. Ford Burley, Mr. Faunce, Mr. Kennelly, Dr. Rutter, and Ms. Appleton

Voting Against – None

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

4. STUDY ITEMS

A. Recap 2025 Adopted Capital Budget & Commence 2026-2031 CIP Process

B. Strategic Plan Annual Goals and Workplan

Chair Faunce said Study Items 4A & 4B would be discussed at a future meeting.

C. Review of Proposed Amendments to Site Plan Review Regulations – Minor Site Plan Committee and Conceptual Review

The group discussed the site plan details that should trigger the requirement for a conceptual review for a proposed project. They agreed to the following draft amendment text:

B. Conceptual Review Required. Conceptual review shall be required for any land development that requires Planning Board review pursuant to Section 3.1.D and which involves any one or more of the following:

1. 20 or more new dwelling units;
2. Ten (10) or more detached one- and/or two-family dwellings;
3. More than one (1) principal multi-family, non-residential or mixed use building; and/or
4. Any development determined to have regional impact;

C. Conceptual Review Optional. For any site land development other than those identified in Section 4.3.B., conceptual review shall be optional.

~~general terms, or the basic concept of the proposed development, the applicant may end the conceptual discussion at any time.~~

D. Notice. Conceptual reviews shall only take place at a formal meeting of the Board. Public notice of a required the conceptual discussion review shall be provided pursuant to Section 4.8 and shall also be provided to the following:

1. Conservation Commission
2. Pedestrian & Bicyclist Advisory Committee
3. Tree Advisory Board
4. Heritage Commission (if located within the Historic District)

Public notice is not required for optional conceptual reviews. ~~is not required, but~~

EB. Submission Requirements. ~~Not less than two weeks before the date of the scheduled conceptual review, the~~ The Applicant shall provide a project description, a written statement addressing how the concept conforms with the Master Plan, and a sketch plan of sufficient accuracy and quality, based on a United States Geological Survey map or similar map, showing the following:

1. Existing property lines of the parcel(s) under review;
2. General topography, to include highlight of slopes in excess of 25%;
3. Prominent natural features of the site, including but not limited to: tree lines, watercourses, flood plains, wetlands, and ledge outcrops;
4. The approximate location and size of existing and proposed buildings, parking areas, roadways, and other improvements.

5. When conceptual review is required:

- a. A properly completed and signed application form.
- b. The appropriate fees as established by the Board's fee schedule.
- c. A list of the name(s) and address(es) of all persons to be notified by certified mail in accordance with RSA 676:4, I(d), including the following:

- i. The Applicant(s);
- ii. The Owner(s) of record of the site;
- iii. The Owners of abutting properties;
- iv. Every surveyor, engineer, architect, soil scientist, or wetlands scientist whose professional seal appears on any plan or document submitted to the Board;
- v. All persons holding conservation, preservation, or agricultural preservation restrictions (as defined under RSA 477:45) on the subject property. (NOTE: When there are no such restrictions on the subject property, the applicant shall provide a definitive statement to that effect.);
- vi. The holders of any easements, rights-of-way, or other restrictions on or over the subject property. (NOTE: When there are no such easements, rights-of-way, or other restrictions on the subject property, the applicant shall provide a definitive statement to that effect.).

FG. Procedures. Conceptual review shall be an informal discussion with the Board, conducted in general terms, of the basic concept of the proposed development. The conceptual review shall be limited to a discussion of the concept in general terms, for the purpose of familiarizing the Board with the location and type of development, and familiarizing the Applicant with the issues and concerns of the Board. The Board shall consider whether the proposed development is an allowed use in the Zoning Ordinance and in accordance with the Master Plan. The Board shall determine whether the development is compatible with any plans for existing or future roads, utilities, and services. The Board shall focus on the characteristics of the site and its relationship to the surrounding area to determine how well the proposed development fits into the natural environment and the cultural landscape, including historical resources.

Discussions held during any conceptual review shall not bind either the applicant or the Board in any manner, and statements made by Board members shall not be the basis for disqualifying said members or invalidating any subsequent action taken by the Board.

A MOTION was made by Richard Ford Burley that the Lebanon Planning Board schedules a public hearing for Study Item 4C: Proposed Amendments to Site Plan Review Regulations Regarding Minor Site Plan Committee and Conceptual Review - if public notice requirement can be satisfied - for the February 24, 2025 Planning Board Work Session, and, if not, to the March 10, 2025 Meeting of the Planning Board. The MOTION was seconded by Jeremy Rutter.

Roll Call Vote:

Voting For – Ms. Romano, Dr. Ford Burley, Mr. Faunce, Mr. Kennelly, Dr. Rutter, and Ms. Appleton

Voting Against – None

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

5. OTHER BUSINESS

None

6. APPROVAL OF MINUTES

- **December 9, 2024**
- **December 17, 2024**
- **January 13, 2025**

January 13, 2024 Amendments:

Page 7 Line 46: Edit to read: “Boulders from the Barrows Street site and soil from the Kimball Street site were used.”

A MOTION was made by Richard Ford Burley to approve the December 9, 2024, December 17, 2024, and January 13, 2025 Planning Board Meeting minutes as presented and amended. The MOTION was seconded by Andrew Faunce.

Roll Call Vote:

Voting For – Ms. Romano, Dr. Ford Burley, Mr. Faunce, Mr. Kennelly, Dr. Rutter, and Ms. Appleton

Voting Against – None

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

7. ADJOURNMENT

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

Roll Call Vote:

Voting For – Ms. Romano, Dr. Ford Burley, Mr. Faunce, Mr. Kennelly, Dr. Rutter, and Ms. Appleton

Voting Against – None

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

The meeting was adjourned at 9:40pm.

Respectfully submitted,

Paula Roux

Recording Secretary