FINAL

LEBANON PLANNING BOARD
COUNCIL CHAMBERS, CITY HALL OR
REMOTE VIA MICROSOFT TEAMS
LEBANONNH.GOV/LIVE
MONDAY, JUNE 09, 2025 6:30PM

MEMBERS PRESENT:	Andrew Faunce (Chair), Richard Ford Burley (Vice Chair), Eric Stacy, Kellen Appleton, Patrick Kennelly, Karen Zook (City Council Rep), Kathie Romano (alt)
MEMBERS ABSENT:	Jeremy Rutter
STAFF PRESENT:	Tim Corwin (Deputy Planning Director), Nathan Reichert (Director of Planning & Development), Brian Vincent (City Engineer)
OTHERS PRESENT:	Matthew Decker, Esq. (Legal Counsel for the City)

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1. CALL TO ORDER

Chair Faunce called the meeting to order at 6:34pm. Mr. Corwin reviewed the City's meeting in-person and REMOTE attendance policies and procedures. Chair Faunce appointed Ms. Romano as a regular voting member for this meeting.

2. NOTICE OF PUBLIC HEARING

None

3. PUBLIC HEARING ITEMS

A. Wayne & Fiona Barr and Ruth H. Guernsey, TTEE, 24 Green Street West (Tax Map 59, Lot 48), 22 Green Street West (Tax Map 59, Lot 49) & 0 Green Street West (Tax Map 59, Lot 64), zoned R-3: Request for approval of a Boundary Line Adjustment. PB2025-30-BLA

Mr. Corwin said the application is complete enough for the Board to accept jurisdiction and commence review.

A MOTION was made by Richard Ford Burley that the Lebanon Planning Board finds the application of Wayne & Fiona Barr, trustees, and Ruth H. Guernsey, trustee for the proposed Boundary Line Adjustment PB2025-30-BLA is complete enough to accept jurisdiction and commence review. The MOTION was seconded by Kellen Appleton.

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

Mr. Wayne Barr and Ms. Fiona Barr were present on behalf of the applicant and gave an overview of the application. Mr. Barr said the boundary line adjustment would give them the proper amount of setback required to build an Accessory Dwelling Unit (ADU). He said the

Guernsey trustees are in agreement with the proposed adjustment.

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

A MOTION was made by Richard Ford Burley that the Lebanon Planning Board approves the application of Wayne & Fiona Barr, Trustees, and Ruth H. Guernsey, Trustee for a proposed Boundary Line Adjustment between 24 Green Street West (Tax Map 59, Lot 48), 22 Green Street West (Tax Map 59, Lot 49) & 0 Green Street West (Tax Map 59, Lot 64), zoned R-3, as shown on a plat titled "Lot Line Adjustment Plan prepared for Wayne and Fiona Barr Revocable Trust and Revocable Trust of Ruth H. Guernsey," prepared by Vive Libre Geomatics, dated May 8, 2025, Drawing: 25008-bo, including any and all supplemental submissions and testimony provided during the public hearing, subject to the following conditions:

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

Conditions to be Satisfied Prior to the Signing and Recording of the Plat
1. The applicants shall provide a revised plat depicting the following changes to the satisfaction of the Planning and Development Department:
- ***a. Add the statement required by Section 7.11 of the Subdivision Regulations.***
- ***b. Add a label to the locus and original boundaries inset maps.***
- ***c. Add a note that Tax Map 59, Lot 64 is vacant.***
- ***d. Provide the date and description of the plat revisions. (8.2.A.1)***

2. The applicants shall provide a digital record drawing of the final revised plat (Cad .dwg format, using the NH State Plane Coordinate system).
3. The applicants shall provide to the City draft copies of the deeds of the land transfer for review to ensure the transfer will be completed properly for Assessing and recording purposes.
4. The applicants shall submit two (2) mylars of the approved plat and applicable recording fees to the Planning & Development Department in accordance with Planning & Development Department recording procedures. (8.1.D & 7.11)
5. The applicants shall submit the executed deeds of the land transfer together with applicable recording fees to the Planning & Development Department to be recorded contemporaneously with the plat.

The MOTION was seconded by Kellen Appleton.

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

A MOTION was made by Richard Ford Burley that the Lebanon Planning Board authorizes the Chair to sign the plat of Wayne & Fiona Barr, Trustees, and Ruth H. Guernsey, Trustee, PB2025-30-BLA, as revised pursuant the Planning Board's conditions of approval.

The MOTION was seconded by Kathie Romano.

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

B. The Falls at Rivers Edge Homeowners Association, Inc., Apple Blossom Drive, Fountain Way & Stillwater Drive (Tax Map 44, Lot 19, Plots 100-5300), zoned R-3: Request to amend the Conditional Use Permit for the Falls at River's Edge development, originally approved on November 22, 1999, to remove condition of approval #12 requiring that all dwellings shall be sprinklered. PB2025-28-CUPA

Ms. Romano recused herself because she said she is a member of The Falls at Rivers Edge community. Mr. Corwin said the application is complete enough for the Board to accept jurisdiction and commence review.

A MOTION was made by Richard Ford Burley that the application of The Falls at Rivers Edge Homeowners Association, Inc PB2025-28-CUPA is complete enough to accept jurisdiction and commence review. The MOTION was seconded by Andrew Faunce.

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

Mr. Corwin gave an overview of the application. He said when the project was first approved in 1999, all homes were required by the Planning Board to be sprinklered, and the plans for each unit of The Falls development include sprinklers. He said that requirement is no longer enforceable by the Planning Board. He said members of the Association have several reasons for wanting to remove the sprinklers in the units.

Ms. Laurel Stavis and Mr. Tom Benzel (The Falls at Rivers Edge Homeowners Association) and Attorney Barry Schuster were present on behalf of the applicant.

Ms. Stavis said she had a leak in the sprinkler system which leaked antifreeze into her home through a crack in the ceiling. She said the leak was due to the failure of a small plastic joint. She said antifreeze is dangerous to those living in the home, especially pets. Mr. Benzel said the plastic parts have degraded over time. He said other residents know that the issue is being brought to the Planning Board, and he said, if the request to remove the systems is approved at this meeting, it will be up to each individual owner whether they want to keep the sprinkler system or not.

The group discussed how the other residents would be notified and that the Fire Department had been consulted to ensure the units would be safe without the sprinkler systems if they were removed.

A MOTION was made by Richard Ford Burley that the Lebanon Planning Board approves the application The Falls at Rivers Edge Homeowners Association, Inc., regarding Apple Blossom Drive, Fountain Way & Stillwater Drive (Tax Map 44, Lot 19, Plots 100-5300), zoned R-3, PB2025-28-CUPA, for an amendment the Conditional Use Permit for the Falls at River's Edge development, originally approved on November 22, 1999, to remove condition of approval #12 requiring that all dwellings shall be sprinklered, including any and all submissions and testimony provided for and during the public hearing.

In support of its decision, the Board finds that since the Conditional Use Permit for the Falls at River's Edge development was approved, changes in state law now render condition of approval #12 unenforceable. This approval is subject to the following conditions:

General Conditions
1. Condition of Approval #12 as set forth in the Notice of Action dated November 22, 1999, approving a Conditional Use Permit for a 57-lot cluster subdivision known as the Falls at River's Edge is hereby removed. All other conditions of approval therein shall remain in full force and effect.
2. A copy of this Notice of Action shall be signed by the Planning Board Chair and shall be recorded in the Grafton County Registry of Deeds in accordance with the Planning & Development Department's recording procedures.

The MOTION was seconded by Kellen Appleton.

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

C. **Brady Sullivan Prospect Hill, LLC, 0 Prospect Street (Tax Map 108, Lot 2), zoned R-3: Request to amend the approved plans for Phase 2 of Prospect Hill development to (a) adjust the grading plan for Phase 2B, (b) per Section 7.13.F of the Subdivision Regulations, amend the approved phasing plan to accelerate the timeline for the completion of Phases 2C and 2E and to extend the time to achieve active and substantial development of Phase 2B which is required to be completed by November 15, 2025, pursuant to the phasing plan approved on December 13, 2021 (PB2021-37-FMAJA), and (c) approve a proposed off-site hauling plan for the removal of excess material excavated from the site during the course of construction. PB2025-23-FMAJA - Postponed from May 12, 2025**

[At 6:55pm, Mr. Stacy joined the meeting. Ms. Romano rejoined the meeting. Ms. Appleton recused themselves from the discussion because they are a tenant abutter.]

Mr. Corwin said the application is complete enough for the Board to accept jurisdiction and commence review.

A MOTION was made by Richard Ford Burley that the application of Brady Sullivan Prospect Hill PB2025-23-FMAJA is complete enough to accept jurisdiction and commence review. The MOTION was seconded by Kathie Romano.

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

Chair Faunce noted that he, Mr. Stacy, and Ms. Romano attended a site walk for this project on Tuesday, May 27 at 5pm. He said a quorum of the Board was not achieved and no decisions were discussed or made during the visit.

Mr. Jon Rokeh, PE, (Rokeh Consulting LLC), and Attorney Marc Pinard (Brady Sullivan General Counsel) were present on behalf of the applicant. Mr. Rokeh said the applicant is requesting amendments to several conditions of approval in order to speed up the completion of the project.

He said Phase 2A is complete and the gravity sewer and all utilities available to do Phase 2E and Phase 2C and Phase 2 E basically immediately. He said they could build all those multi-family homes now. He said that work was originally planned for later in Phase 2B, which they would be just starting now.

*Figure 1: **Phase 2A** (constructed): Green; **Phase 2C:** Yellow; **Phase 2E:** Light Purple; **Phase 2B**: Blue; **Phase 2F:** Outer edge of blue area*

He said they are requesting a waiver from Section 14.4.C which requires that applicants can only apply for 50% of the building permits for a given phase until the infrastructure is complete. He said if they had the building permits for the entire phase all at once, they would be able to put all the foundations and be able to complete everything much more efficiently.

He said another waiver they are requesting is regarding the slope at the rear of the buildings. He said the current plans were approved with a 3:1 slope, but he said they would like to use the material that is produced during construction on the site. He said if they are able to use the material, they will have a 2:1 slope ratio. The group discussed the slope of the yards behind the homes at length. Mr. Rokeh said if they are able to reuse the material produced during construction on the site, it will reduce the number of trips that the trucks need to make to haul the material away from the site.

Mr. Rokeh outlined the haul route, which identified Twin State Gravel and, possibly, the Densmore Brickyard project site, as deposit sites for the material. Ms. Romano noted the low overpass on Glen Road may present a problem for trucks. The group discussed complaints from residents on Elm Street West regarding truck traffic. Ms. Romano noted that the proposed haul route has not been published before this meeting, and residents did not know it was going to be discussed at this meeting. She said they may have comments about it and may not have known to come to this meeting to discuss it. Mr. Rokeh said if the waivers they are requesting are approved, hauling won't begin for about eight months, so there will be time to notify residents about the route.

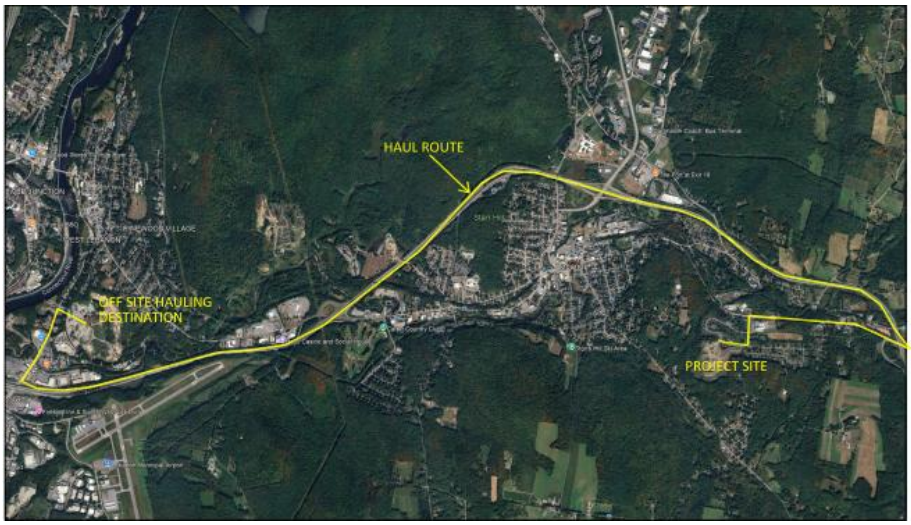

Figure 2

The group discussed times of the day that the trucks would be hauling material and asked for consideration of the school day (both for traffic/safety concerns and for noise concerns), especially if the Densmore Brickyard site is used for dumping. Dr. Ford Burley suggested the final decision on the haul routes be made at a later date, when more finalized information is provided to the Board. Mr. Vincent said this project's haul amounts are greater than the typical project.

The group discussed the team's plans to stabilize the steep slopes in the project. Mr. Rokeh said the slope will be a 2-foot-thick ledge, which Mr. Vincent said should be stable unless they are built on silt or sand subsoils.

Mr. Rokeh reviewed the Phasing Plan. Mr. Corwin explained that the restriction to 50% for the building permits in each phase ensures that the infrastructure gets completed before developers can begin selling lots to future homeowners.

Chair Faunce opened the public comment portion of the meeting.

Mr. Warren Klecan (abutter) said this project does not seem to get the care and concern from the City that other projects seem to get. He said the residents in the area are requesting the following considerations during the construction of this project:

- 7AM to 3PM workday Monday-Friday hauling from site (no work on weekends)
- Limit the number of trucks hauling material each day
- Enforce a 15-mph speed limit
- Employ dust control measures
- Enforce trucks to use covers to manage spillage

Dr. Ford Burley estimated about 14 trucks per day would be used to haul the remaining material at the site, based on the information provided by the applicant.

Ms. Melissa Robinson (abutter) made the following comments:

- barrier gate (to protect cars coming in and out and going down Hillcrest St) is not in current plans – She said neighbors previously fought hard for a gate to be included but it is missing from plans. She said she was told the gate is not going to be installed until the whole project is completed
- The bike path that runs near the site is being used by cars at high rates of speed.
- Shorten or improve the hauling time
- Dust is a constant problem. She said the siding and her windows of her house are covered.
- The trucks are dangerous and children in the neighborhood are not safe

Chair Faunce asked if the Hillcrest barrier gate could be added back to the plans. Mr. Rokeh said they would consider it, depending on why it was removed. Chair Faunce said a condition of approval can be added that the gate will be added back, contingent upon the reason it was removed. Mr. Corwin said staff would look into the gate and whether signage or markings could be added to the bike path.

Mr. David Kuhn (neighbor) said

- The bike path really is just a wider piece of road and needs proper markings and signage to notify users it is a bike path.

- The trucks are going down Moulton Ave during school drop-off and pick-up and it is not a safe situation for kids.

Mr. Rory Gawler (abutter) made the following comments:
- Noise produced by the trucks is disturbing.
- Every truck that leaves the site is a truck that will later enter the site. He said the truck trips are actually double what is being discussed. He said "truck trips" should also include the water truck that goes by to control the dust.
- Reverse alarms on trucks are loud. He said he asked the site supervisor to have trucks run forward only.
- He said he does not understand why the applicant does not use the road owned by the developer (Hemlock Ridge Dr) that runs parallel to Prospect Street.
- He said he was told last May by the Fire Chief that blasting operations would last five weeks. He said they lasted into late fall and resumed in the spring. He said the drilling of the blast holes is also loud and disturbing.

Ms. Kellen Appleton (abutter) said there is a lack of trust on the part of the residents because the plan for blasting and trucking timelines have not been communicated very well. She suggested that the Board make a condition of approval that the applicant should communicate in writing with abutters/tenants regarding the truck routes and times and when blasting will happen. Chair Faunce suggested that the construction trailer at the site could be a location for an information kiosk. Mr. Rokeh said the construction foreman is open to having an email list of residents to notify them of when blasting is going to happen.

The group discussed whether a condition of approval could be added that prohibits truckloads until an approved plan has been established. Mr. Rokeh said trucks must be used to continue construction of the project. Mr. Gawler asked if the trucks doing the large-scale hauling could be limited. He also asked if the City prohibits the use of air brakes ("jake brake") and asked that they not be used on Moulton Ave. Mr. Rokeh said if the Board grants the applicant's waiver requests, the number of trucks will be reduced.

Mr. Corwin suggested that the Board address the following at tonight's meeting:
- The updated phasing requested by the applicant
- Building permit waiver request
- Grading waiver request
- Add a condition of approval that puts a moratorium on the trucks hauling material for a certain amount of time

Dr. Ford Burley suggested the following language:
- Trucks hauling material shall be limited to ten a day.
- Before June 14th, 2025 and after August 26th 2025, they shall not pass in front of the Lebanon Middle School between the hours of 6:45am and 8:15am and between the hours of 1:45pm and 3:15pm.
- At no time shall they use their Jake Brakes (engine brakes) while on Prospect St., Molten Ave. or Laplante Rd.
- All trucks hauling material shall have and make use of their covers.
- No hauling during weekends
- Hauling limited to the hours between 7:00am and 4:00pm on weekdays.

He also suggested that the blasting schedule be approved no later than by the Planning Board's August meeting so it can be enforced in time for the start of the school year.

Chair Faunce closed the public comment portion of the meeting.

Mr. Corwin noted that a waiver is not required from Section 13.11.A.

A MOTION was made by Richard Ford Burley that, for the application of Brady Sullivan Prospect Hill regarding PB2025-23-FMAJA, the Lebanon Planning Board approves waivers for the following sections of the Subdivision Regulations:

- ***Section 13.10.A – A minimum of four (4) inches of topsoil hall be provided to cover all finished slopes***
- ***Section 14.4.C – No building permit(s) shall be issued for the final fifty percent (50%) of lots or units in the subdivision until all improvements required by the Board, including, but not limited to, wastewater, water, power, streets and sidewalks, have been fully completed by the applicant and inspected and approved by the City.***

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 Brady Sullivan Prospect Hill, LLC, regarding 10 Prospect Street (Tax Map 108, Lot 2), zoned R-3, PB2025-23-FMAJA, for Site Plan approval to amend the approved plans for Phase 2 of Prospect Hill development to (a) adjust the grading plan for Phase 2B, (b) per Section 7.13.F of the Subdivision Regulations, amend the approved phasing plan to accelerate the timeline for the completion of Phases 2C and 2E and to extend the time to achieve active and substantial development of Phase 2B which is required to be completed by November 15, 2025, pursuant to the phasing plan approved on December 13, 2021 (PB2021-37-FMAJA), and (c) approve a proposed off-site hauling plan for the removal of excess material excavated from the site during the course of construction, as set forth in the application materials and including any and all submissions and testimony provided for and during the public hearing.

This approval is subject to the following conditions:
1. The applicant shall comply with all applicable conditions of the Planning Board's Notice of Action dated November 14, 2016 (PB2016-22-EXT-FMAJ) and the Notice of Action dated December 13, 2021 (PB2021-02-EXT & PB2023-37-FMAJA) and all conditions of approval thereof except as superseded by the conditions below.
2. The prior approved phasing plan shall remain in effect except that a) construction of phases may proceed simultaneously and b) active and substantial development of Phase 2B shall be achieved by no later than November 15, 2026.
3. Within 30 days of this approval, the applicant shall update all Subdivision Agreements, Security Agreements, and other documents, as necessary, to reflect the dates of the extended and phased approval (per Section 14.1.B.1.c of the Subdivision Regulations).
4. Within 30 days of this approval and prior to the issuance of any permits, the applicant shall, pursuant to Sections 7.10 and 14.5 of the Subdivision Regulations, enter into a new

Performance Security Agreement and provide security necessary for the completion of all Phase 2B, 2C, 2D, and 2F required improvements and utilities.
5. Prior to the issuance of any building permits, the applicant shall update the project's Alteration of Terrain Permit with NHDES.
6. Within 30 days of this approval and prior to the issuance of any building permits, the applicant shall, to the satisfaction of the Planning & Development Department and the City Engineer, provide a complete, updated plan set incorporating the plan sheets submitted with this application and making any other revisions necessary pursuant to the approved changes.
7. The specifications and plans for the rock slopes shall, to the satisfaction of City Engineer, state the fill and slope requirements as set forth in Section 13.10 and 13.11 of the Subdivision Regulations so that the contractor is contractually obligated to perform the work in accordance with those specifications, plans and regulations.
8. The third-party inspection required pursuant to condition of approval #5 set forth in the Notice of Action dated November 14, 2016 (PB2016-22-EXT-FMAJ) shall include periodic inspection of the rock slopes ensure their construction in conformance with Section 13.10 and 13.11 of the Subdivision Regulations.
9. Within 14 days of this approval, the applicant shall provide a construction schedule to the City Engineer in order to secure a third-party inspector pursuant to condition of approval #8 above and condition of approval #5 set forth in the Notice of Action dated November 14, 2016 (PB2016-22-EXT-FMAJ).
10. No unit may sold in any phase until all site improvements within that phase are completed to the same degree as required for the issuance of a certificate of occupancy per Section 14.4.A.
11. Fencing shall be installed at the top of each slope in excess of 3H to 1V, that are to be rock-lined, and shall be a minimum height of 4 vertical feet above ground surface. Fencing shall be chain-link with PVC coating to the satisfaction of the Planning & Development Department.
12. Until such time as a full hauling plan is approved by the Planning Board, trucks hauling material shall be limited to 10 a day and hauling shall commence no earlier than 7 am and shall conclude by no later than 4 pm, Monday through Friday. No hauling shall be permitted on the weekends. Additionally, before June 14, 2025 and after August 26, 2025, trucks shall not pass in front of the Lebanon Middle School between the hours of 7:00 am and 8:15 am, and between the hours of 1:45 pm and 3:15pm. At no time shall such trucks use engine brakes while on Prospect St., Moulton Ave., or LaPlante Rd. All trucks hauling material shall have and make use of their covers. Such full hauling plan shall be submitted for review and approval by the Planning Board at the August 2025 regular meeting.

The MOTION was seconded by Eric Stacy.

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

Ms. Appleton rejoined the meeting.

At 8:37pm, Chair Faunce called for a recess.
At 8:47pm, the meeting resumed.

D. Michael Davidson, 3 Campbell Street (Tax Map 92, Lot 65), zoned LD: Appeal of an administrative determination that the conversion of a mixed-use building with an

office and 4 dwelling units to a 7-unit multi-family dwelling requires Site Plan review by the Planning Board per Sections 3.1.C.1 and 3.1.D of the Site Plan Review Regulations. Alternatively, applicant requests a waiver per Section 7.1 to waive the requirement to obtain Site Plan approval. PB2025-24-AAD - Postponed from May 12, 2025

Mr. Corwin said the application is complete enough for the Board to accept jurisdiction and commence review.

A MOTION was made by Richard Ford Burley that, application PB2025-24-AAD Michael Davidson, 3 Campbell Street (Tax Map 92, Lot 65) zoned LD, with regard to the appeal of an administrative determination that the conversion of a mixed-use building with an office and 4 dwelling units to a 7-unit multi-family dwelling requires Site Plan review by the Planning Board per Sections 3.1.C.1 and 3.1.D of the Site Plan Review Regulations, is complete enough to accept jurisdiction and commence review. The MOTION was seconded by Kathie Romano.

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

Attorney Brian Bouchard and Mr. Tim Sidore were present on behalf of the applicant.

Mr. Bouchard explained that the City issued an emergency notice to vacate an apartment building located at 3 Campbell St. in January 2025. He said the decision was based on two issues:

- a heating issue
- one of the windows in one unit was not adequately sized for emergency egress and ingress.

He said Mr. Davidson was able to fix the heating issue and he has since been trying to change the window, but he can't change the window because the City maintains that the property is not in compliance. He said Mr. Davidson still hasn't changed the window because he cannot get a building permit from the City. He said the underlying issue is that Mr. Davidson renovated office space into living space within the building, and, although he made no exterior or site changes, the City considers the changes he made land development under the Site Plan Review Regulations and requires Site Plan approval. He said if the changes are considered land development, it is the type of land development that only requires minor site plan review and not the full site plan review. He said Section 7.1 of the Site Plan Review Regulations say that the City can grant a waiver for any of the requirements of the Site Plan Review Regulations that are not imposed by state law.

The group discussed how the applicant may have interpreted the Site Plan Review Regulations language. Ms. Romano noted that the office space was converted to living space, and it is not right if no site plan review is done for that living space. Mr. Bouchard said the use of the space has not changed because the building had continued to be used as residential space (in addition to the previous office use). Mr. Bouchard suggested the City waive the requirement and determine that the project requires only minor site plan review.

A MOTION was made by Richard Ford Burley that the Planning Board finds that, as written, Section 3.1.C.1 of the Site Plan Review Regulations can reasonably be interpreted to mean that the conversion of two office units to three residential units within the context of 3 Campbell St. is a land development that may be handled by the Minor Site Plan Committee.

The MOTION was seconded by Andrew Faunce.

Chair Faunce opened the public comment portion of the meeting.
Mr. Nate Reichert (Director of Planning & Development and Zoning Official for the City of Lebanon) read the text of Section 307.5 Dwelling Unit Density of the Zoning Ordinance:

"Density determinations from multi-family dwellings and mixed-use buildings shall be made by the Planning Board during the course of site plan review based on site specific conditions and factors, such as the availability of parking and or availability to provide required parking, availability of adequate water, sewer and ability to provide required site improvements and to meet all of the requirements of the site plan review regulations and all other applicable City regulations."

He noted that the Planning Board has the authority to determine density, and from density comes the number of apartments (based on the number of parking spaces available) and EV charging requirements. He described the team members included in the Minor Site Plan Committee and noted that he is the Chair of the committee. Dr. Ford Burley said he could add to the motion he had just made that the Planning Board finds that the added density is appropriate to the site.

Mr. Sidore said the applicant has applied for a building permit and to the Heritage Commission to install what is considered the proper window. He said the applicant would like permission to now be able to re-enter the apartment, address the window issue, and reoccupy the apartment while the questions related to the site plan and seek minor site plan review are being resolved. Ms. Romano noted that the applicant needs approval for the unit before it can be rented. Mr. Corwin said he was not sure it is within the Board's jurisdiction to resolve the issues Mr. Sidore noted. He said the Board can make its decision to help provide a path forward.

Chair Faunce closed the public comment portion of the meeting.

A MOTION was made by Richard Ford Burley the Planning Board finds that, as written Section 3.1.C.1 of the Site Plan Review Regulations can reasonably be interpreted to mean that the conversion of two office units to three residential units within the context of 3 Campbell St. is a land development that may be handled by the Minor Site Plan Committee. The Planning Board further finds that the added density related to the specific change in question is reasonable for the zoning of the lot.

The MOTION was seconded by Andrew Faunce.

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

A MOTION was made by Kellen Appleton to extend the meeting to 10:00pm. The MOTION was seconded by Richard Ford Burley.

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

E. 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). PB2025-25-EXT - Postponed from May 12, 2025

Ms. Romano recused herself from the discussion of this item.

Chair Faunce said because this request for extension follows a March 17, 2025 ruling on the same matter, the applicant has the burden to present some new material fact or change in circumstance that the majority of the Board determines by vote to be sufficient to open a new hearing on the same request.

He gave a brief history of the extension request. He said on March 17, 2025, the Lebanon Planning Board granted a one-year extension of all deadlines that applied to the River Park project. The Superior Court's decision to grant 11 months and two days of injunctive relief was both the necessary new material fact cited by the Board to justify its rehearing of that 2024 extension request and the basis of its decision for approval of a one-year extension of all phases, restoring the originally agreed upon amounts of time for all phases of the project.

He said the majority of the Board perceived no case had been made by the applicant to support a two-year extension. The Condition of Approval in the September 9, 2019 Notice of Action, which is a foundational agreement of record for the project, is that an updated phasing schedule shall be provided with any extension request. He said, while the applicant did not provide an updated phasing schedule in its most recent extension request, the Board expedited its March 17, 2025 decision by making the subsequent submission of that schedule within 30 days of Condition of Approval. He said, in doing so, the Board relaxed a requirement of that 2019 governing agreement to be applicant’s benefit. He said, while notified of the Board's decision in the customary fashion, the applicant did not provide the requested information, effectively voiding that one-year extension that the Board had approved.

Chair Faunce said, additionally, the applicant did not file an appeal within the allowable 30-day period, which provided the opportunity to contest the Board's decision on its merits. He said, for tonight, the first decision of the Board is whether the applicant has offered a new material fact or change in circumstances to warrant a rehearing of the previously settled matter.

He said the Board is first determining whether it is holding a hearing, by virtue of holding a limited public hearing to determine what new material fact or change in circumstance and that is through an interaction with the applicant to ask questions in order to learn more about materials that the applicant has provided for our consideration.

Attorney Robert Taylor and Mr. David Clem (XYZ Dairy) were present on behalf of the applicant.

Chair Faunce noted that the applicant has submitted a large amount of information since the last time they attended a Planning Board meeting. Chair Faunce asked if the applicant was presenting as a new material fact that they have added tortious interference and civil conspiracy to the legal filing for the courts consideration in 2026, and, in preparation for tonight's hearing, that the applicant has presented a series of City staff emails and the applicant’s interpretation of their intent as evidence to support those claims.

Attorney Taylor said Mr. Clem had submitted a letter to Staff, but Attorney Taylor said he proposed to present some new information that justifies reconsideration of the two-year extension request and not was proposing to go back through Mr. Clem's letter or amendments.

Attorney Taylor made three points as to why the extension should be granted. **See Figure 3**.

Attorney Taylor urged the Planning Board not to listen to City Staff and to grant the applicant's extension request.

Attorney Taylor said if he goes into court on appealing Planning Board decisions, they'll be set aside and every single one of them over the last year will be voided. He said the applicant has suffered as a result of it. He said if the Board had independent counsel, it would have been different.

CONCLUSIONS

1. **Mr. Clem's letter of 23 May 2025 to the PB, and the evidence submitted with it, proves that the PB "staff" are severely biased against the Project – hence the need for reconsideration of the PB's recent decisions against XYZ without their involvement.**
2. **The Building Inspector's 30 May 2025 Attempt to Terminate the XYZ Permit is a misconstruction of the Building Permit, the Building Code, and NH Law that will take time to correct – hence the need for the 2-year extension.**
3. **The Planning Board's improper reliance on conflicted attorneys, and the PB Chair's bias and improper *ex parte* communications with City Officials, have tainted the PB's prior decisions against XYZ – hence the need for those those decisions to be reconsidered by impartial members only, with help from independent counsel.**

Figure 3: Points made by Attorney Robert Taylor, attorney for XYZ Dairy

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A MOTION was made by Richard Ford Burley to extend the meeting to 10:15pm. The MOTION was seconded by Eric Stacy.

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

Chair Faunce recused himself from the rest of the discussion for this request.

Dr. Ford Burley said he was not comfortable going forward with any further discussion of this information until the Board has a chance to talk to independent counsel.

A MOTION was made by Richard Ford Burley to continue the discussion of the public hearing for 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). PB2025-25-EXT - Postponed from May 12, 2025, to a future meeting.

The Board members discussed whether it should make a decision at this meeting or postpone this discussion to a future meeting.

Attorney Decker said he did not agree that he was in conflict in this situation. He said that assertion requires further analysis and legal advice, whether that is from him or from independent counsel.

Attorney Decker made the following limited recommendation:
He said none of the three items that were raised tonight were previewed to anyone. He said there

was no reason the Board had to be ambushed tonight; the material could have been submitted earlier. He suggested to the Board that the reason for that was to intimidate the Board into taking unconsidered action. He said his recommendation is that the Board continue this matter to another hearing. He suggested Chair Faunce not recuse himself until he's had more opportunity to consider the situation. He noted that the Board is not prepared to address any of this ambush information tonight, none of which actually addresses the subsequent application doctrine, which was what the Board was expecting.

Mr. Stacy read a prepared written statement in favor of granting a new hearing to consider the requested extension.

A MOTION was made by Richard Ford Burley to continue the discussion of 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). PB2025-25-EXT - Postponed from May 12, 2025 to the July 14, 2025 Planning Board meeting. The MOTION was seconded by Appleton.

****The MOTION was approved (4-1)***
(Voting in Favor: Ford Burley, Zook, Appleton, Kennelly)
(Voting Against: Stacy)

Chair Faunce and Ms. Romano rejoined the meeting.

F. LRX 1 Martin Drive, LLC, 1 Martin Drive (Tax Map 129, Lot 19), zoned GC: Request for Site Plan Review to replace an existing +/- 3,393 sq. ft. building with a new +/- 3,683 sq. ft. building to be used as a car wash, together with associated site improvements including stormwater management, landscaping and lighting. PB2025-21-SPR - Continued from May 12, 2025

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

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

Mr. Jeff Merritt and Mr. Brent Cole (Granite Engineering), and Renee Costa (owner), were present on behalf of the applicant. Mr. Merritt gave an overview of the project. He said the existing rear building on the car wash will be demolished and rebuilt into a new building with four car wash bays and a detail bay. He reviewed the waivers that the applicant is requesting.

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 (7-0).***

Chair Faunce asked whether signage or pavement markings would be added to aid traffic flow in and out of the car wash. Mr. Merritt said they could do that very easily. He noted that the traffic flow lane will accommodate cars turning left to get into wash bay 1, even though it is a fairly tight turn.

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

Mr. Corwin confirmed that a waiver was not needed from Section 6.2.B – perimeter landscaping requirements.

A MOTION was made by Richard Ford Burley that, for the application of LRX 1 Martin Drive, LLC, PB2025-21-SPR, the Lebanon Planning Board approves partial waivers from the following sections of the Site Plan Review Regulations:

- ***Section 6.2.B – perimeter landscaping requirements***
- ***Section 6.2.D – landscaping around buildings requirements***
- ***Article V submission requirements and Article VI design requirements as applicable outside of the designated development area***
- ***Section 5.1.E.16 – landscaping plan requirements***
- ***Section 6.2.E.2 – requiring landscape beds at the end of parking rows***
- ***Section 6.5.D.5 – requiring construction of a sidewalk along the property's frontage***

The MOTION was seconded by Kellen Appleton.

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

A MOTION was made by Kellen Appleton that the Lebanon Planning Board approves the application of LRX 1 Martin Drive, LLC, regarding 1 Martin Drive (Tax Map 129, Lot 19), zoned GC, PB2025-21-SPR, for Site Plan approval to replace an existing +/-3,393 sq. ft. building with a new +/- 3,683 sq. ft. building to be used as a car wash, together with associated site improvements including stormwater management, landscaping and lighting as shown on a plan set titled "Lady Rich Express Carwash, LLC," prepared by Granite Engineering, dated April 14, 2025, revised May 28, 2025, Project No. 24-0702-1, including any and all submissions and testimony provided for and during the public hearing.
In support of its decision, the Board finds that the applicant has submitted plans, testimony, technical data, information, reports, and studies that together satisfactorily demonstrate compliance with the applicable requirements of the Site Plan Review Regulations, except as may reasonably be addressed through the imposition of certain conditions of approval, set forth below, and except as may have been waived pursuant to Section 7.1.

This approval is subject to the following conditions:

General Conditions
1. 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.
2. The development is subject to the Site Plan Review Regulations adopted May 13, 1991, last revised March 24, 2025, and the Zoning Ordinance adopted January 16, 2013, last amended March 19, 2025, which are the regulations in effect at the time the application was submitted.
3. A building permit must be applied for and issued within two (2) years of the date of this approval (4.10.A), subject to an extension if applied for by the applicant and if approved by the Planning Board per Section 4.10.B.
4. "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.
5. "Substantial completion," as defined in Section 8.4.B.1 of the Site Plan Review Regulations, shall be achieved within five (5) years of the date of this approval. If substantial completion is not achieved within five (5) years of the date of the Planning Board's approval, the development shall be subject to any changes in the City's land use regulations.
6. All required landscape plantings shall meet the minimum size requirements for such plantings set forth in Section 6.2.B of the Site Plan Review Regulations at the time of installation.
7. The applicant shall implement and maintain NHDES Site Specific Best Management Practices before, during, and after construction.
8. Prior to the start of any construction activities on the property, erosion control measures, including edge-of-disturbance fencing if applicable, shall be installed and maintained before and during any site work, to be verified by the City Engineer or City's third-party inspector on site.
9. The property owner is responsible for the maintenance and operation of the stormwater management system in accord with the O&M plan, and such responsibility shall run with the land. (Section 6.6.H.2.b of the Site Plan Review Regulations).
10. All service areas and facilities including garbage and waste disposal containers, recycling bins, electrical and mechanical equipment such as transformers and compressors, meter clusters, and other utility elements must be screened in accordance with Section 6.2.B.8 and Section 6.10.B.5 of the Site Plan Review Regulations.

Conditions to be Satisfied Prior to Application for a Building Permit and Prior to the Start of Any Construction Activities
11. 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) Redistribute 4 of the trees on the east side of the site to the north side.
b) Amend the cover sheet to provide description of plan revisions. (5.1.E.4.d)
The applicant shall provide the Planning and Development Department with one (1) full size copy of the revised plan set, and a digital copy of the revised plan set saved in a PDF-A format for archival purposes.
12. 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.
13. 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.
14. 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).
15. The applicant shall apply for an Excavation Permit, Driveway Permit, and/or Stormwater Permit, if required by the Department of Public Works.

Conditions to be Satisfied Prior to the Issuance of a Building Permit
16. 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.
17. 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.
18. Pursuant to Section 213 of the Zoning Ordinance and the Impact Fee Schedule adopted on May 20, 2024, the development shall be subject to City of Lebanon impact fees. The applicant shall provide a completed Impact Fee Invoice/Acknowledgment form with the building permit application.
19. All water and sewer fees shall be paid as set forth in City Code Chapter 68.
20. The applicant shall obtain an Excavation Permit, Driveway Permit, and/or Stormwater Permit, if required by the Department of Public Works.
21. 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.

Conditions to be Satisfied Prior to the Issuance of a Certificate of Occupancy
22. The impact fee calculated pursuant to Condition of Approval #17 shall be paid.
23. 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.
24. 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 MOTION was seconded by Richard Ford Burley.

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

G. Alice Peck Day Memorial Hospital, 10 Alice Peck Day Drive (Tax Map 90, Lot 59), zoned R-3: Request for Site Plan review to a) install a +/1,200 sq. ft. concrete pad on the east side of the existing hospital building and b) construct a proposed 58-space parking lot to serve the existing hospital use, together with associated site

improvements. PB2025-29-SPR

A MOTION was made by Richard Ford Burley to reschedule the public hearing for Alice Peck Day Memorial Hospital, PB2025-29-SPR to the June 23, 2025 Planning Board Work Session meeting. The MOTION was seconded by Eric Stacy.

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

4. COMMITTEE REPORTS – none

5. OTHER BUSINESS – none

6. APPROVAL MINUTES – none

7. ADJOURNMENT

A MOTION was made by Richard Ford Burley to adjourn the meeting at 10:43pm. The MOTION was seconded by Andrew Faunce.

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

The meeting adjourned at 10:43pm.

Respectfully submitted,
Paula Roux
Recording Secretary