



**LEBANON PLANNING BOARD
APRIL 12, 2021 - 6:30 PM
REMOTE VIA MICROSOFT TEAMS
LEBANONNH.GOV/LIVE**

1. Call to Order

- A. Review of meeting procedures and NH RSA 91-A "Right-to-Know" requirements.

2. Notice of Regional Impact

3. Public Hearing Items

- A. XYZ Dairy, LLC, 55 Crafts Avenue & 0 Beyerle Street (Tax Map 58, Lots 20 & 18), zoned R-3: Request for a Boundary Line Adjustment. PB2021-08-BLA
- B. City of Lebanon, 0 Airpark Road (Tax Map 159, Lot 4), zoned IND-L: Applicant requests a review per RSA 674:40, III, of a layout plan to extend Airpark Road. The proposed street extension is intended to serve the City's Airport Tax Increment Financing (TIF) District. PB2021-07-DED

4. Approval of Minutes

- A. March 8, 2021

5. Other Business

- A. Basic Holdings, LLC, 5 & 11 Oak Ridge Road, (Tax Map 4, Lots 5 & 6), zoned R-3: Request to reconsider denial of density bonus per Section 507.2 of the Zoning Ordinance for a proposed 22-unit Planned Unit Residential Development (PURD). PB2020-31-FMAJ

6. Adjournment

The order of agenda items is subject to change.

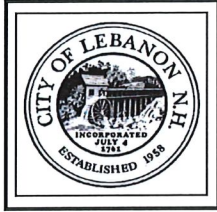
Due to the current situation with the COVID-19 Pandemic, the City of Lebanon is offering its meetings via Microsoft Teams. Members of the public are encouraged to attend by going to LebanonNH.gov/Live where you will find instructions on how to enter the meeting. Members of the public will be able to participate and ask questions through the Microsoft Teams software or by phone. Please visit LebanonNH.gov/Live for full details.

THE AGENDA, IN ITS ENTIRETY IS AVAILABLE ON THE CITY'S WEBSITE AT LEBANONNH.GOV

Agenda
Planning Board
April 12, 2021

Agenda Item #3A
Public Hearing Items

XYZ Dairy, LLC, 55 Crafts Avenue &
Beyerle Street (Tax Map 58, Lots 20
& 18), zoned R-3
PB2021-08-BLA



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

PLANNING BOARD

April 12, 2021 Meeting

Staff Memorandum – PB2021-08-BLA

APPLICATION INFORMATION

Agenda Item: 3.A

Application ID: PB2021-08-BLA

Application Type:
Boundary Line Adjustment

Property Location & Tax Map:

- 55 Crafts Avenue (Tax Map 58, Lot 20)
- 0 Beyerle Street (Tax Map 58, Lot 18)

Property Owner/Applicant:
XYZ Dairy, LLC

Property Sizes (existing):

- 55 Crafts Avenue (Tax Map 58, Lot 20): +/-1.26 acres *per boundary line plat*
- 0 Beyerle Street (Tax Map 58, Lot 18): +/-0.73 acres *per boundary line plat*

Property Sizes (existing):

- 55 Crafts Avenue (Tax Map 58, Lot 20): +/-1.26 acres *per boundary line plat*
- 0 Beyerle Street (Tax Map 58, Lot 18): +/-0.73 acres *per boundary line plat*

Zoning District:
Residential Three (R-3)

Zoning Overlay District(s):
None

LEGAL NOTICE

XYZ Dairy, LLC, 55 Crafts Avenue & 0 Beyerle Street (Tax Map 58, Lots 20 & 18), zoned R-3: Request for approval of a Boundary Line Adjustment. PB2021-08-BLA

PLANS AND APPLICATION MATERIALS

- ▶ Application form (1 page)
- ▶ Letter from Chet Clem, of Lyme Properties 2, LLC, dated March 8, 2021 (project description; 1 page)
- ▶ Subdivision Regulations - Technical Checklist (3 pages)
- ▶ Plat titled "Boundary Line Adjustment Plan Prepared for XYZ Dairy, LLC," prepared by Paton Land Surveying, LLC, dated March 18, 2021, Proj. No. 2017-273-21
- ▶ Exhibits depicting the current and proposed lot lines for the subject properties, based on a plat titled "Boundary Plan of Lands of XYZ Dairy, LLC," prepared by Paton Land Surveying, LLC, dated September 26, 2017, last revised February 19, 2021, Proj. No. 2017-273-21 (2 sheets)

COMPLETENESS REVIEW

This application has been reviewed in accordance with the Lebanon Subdivision Regulations. The Planning & Development Department recommends that the Board find that the application is complete enough to accept jurisdiction and to commence review.

APPLICATION OVERVIEW

This is a request for a Boundary Line Adjustment between lands located at 55 Crafts Avenue (Tax Map 58, Lot 20) and 0 Beyerle Street (Tax Map 58, Lot 18). The lots are separated on the City's Tax Map by an unbuild portion of Beyerle Street, which was originally laid out as part of a 1912 subdivision, but was never formally accepted by the City. At the request of the applicant, the City recently reviewed the status of this portion of Beyerle Street and confirmed that the City no longer believes it has fee ownership nor any rights to accept prior dedications of the unbuild portion Beyerle Street (shown in purple in Figure 1 below). Consequently, the abutting property owners own to the center line of the unbuild portion of Beyerle Street.

STAFF MEMORANDUM

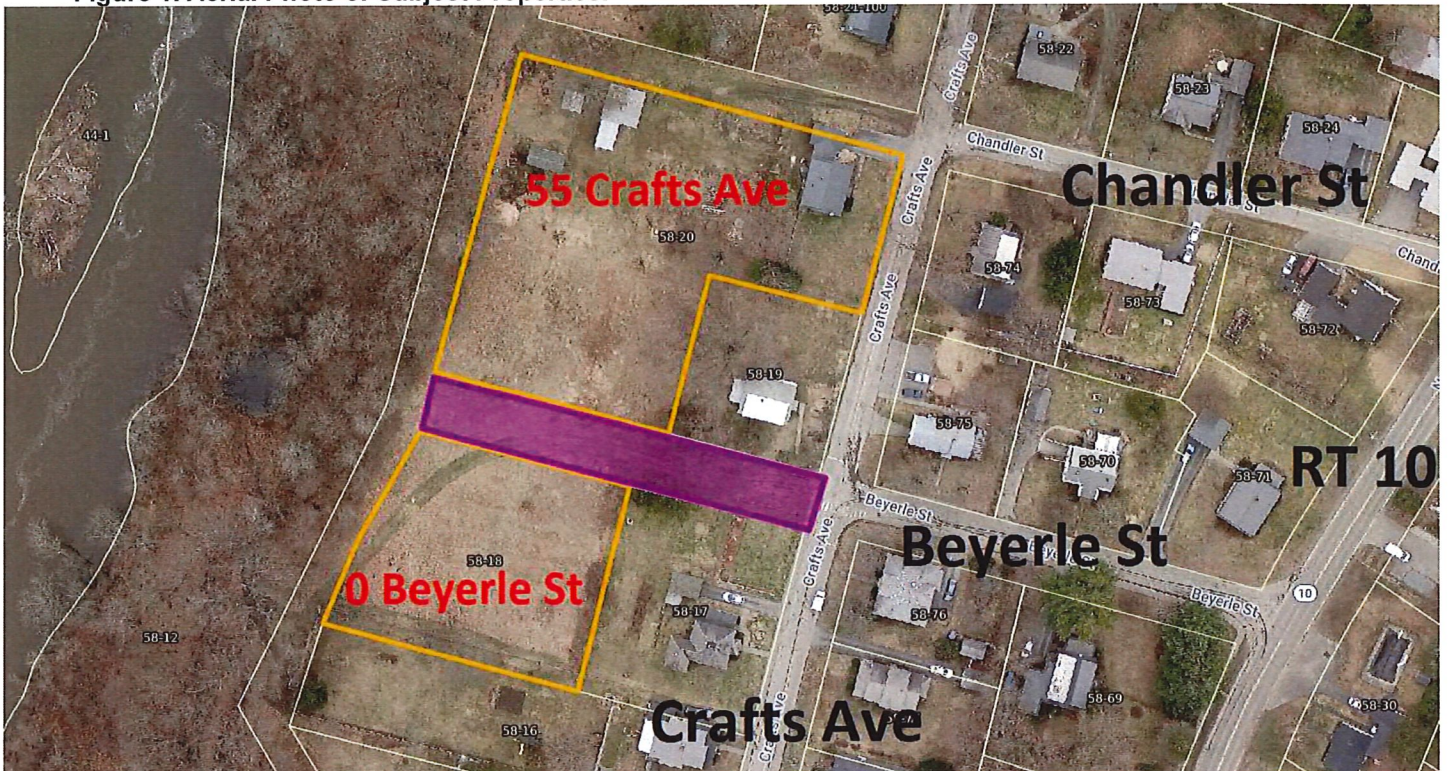
PB2021-08-BLA
55 Crafts Ave & 0 Beyerle St
April 5, 2021 PB Mtg
Agenda Item 3.A
Page 2 of 3

As proposed, the changes resulting from the proposed Boundary Line Adjustment are as follows:

- ▶ Map/Lot 58-20 will decrease by a net of +/-0.59 acres, from +/-1.26 acres to +/-0.67 acres.
- ▶ Map/Lot 58-18 will increase by a net of +/-0.59 acres, from +/-0.73 acres to +/-1.33 acres.

Note that these figures include the portion of each property's respective ownership in the unbuilt portion of Beyerle Street.

Figure 1. Aerial Photo of Subject Properties.

**STAFF COMMENTS****ASSESSING**

No comment.

BUILDING INSPECTION

No comment.

FIRE

No comment.

POLICE

No comment.

PUBLIC WORKS/CITY ENGINEER

No comment.

STAFF MEMORANDUM

PB2021-08-BLA
55 Crafts Ave & O Beyerle St
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PLANNING

The applicants have already addressed the Planning and Development Department's comments regarding the information presented on the plat. Planning staff has no other comments.

ZONING

55 Crafts Avenue (Tax Map 58, Lot 20), which is improved with a one-family dwelling, currently conforms to the minimum lot size and width requirements for Class 1 lots in the R-3 District and will continue to after reconfiguration. O Beyerle Street (Tax Map 58, Lot 18), which is vacant, currently conforms to the minimum required lot size for Class 1 lots in the R-3 District and will continue to after reconfiguration. However, O Beyerle Street (Tax Map 58, Lot 18) may be non-conforming to the minimum width requirement depending on the status of Lincoln Avenue (another unbuilt street that originates from the same 1912 subdivision as the unbuilt portion of Beyerle Street). Nevertheless, this non-conformity – if it exists – will not be exacerbated by the proposed Boundary Line Adjustment.

STAFF RECOMMENDATIONS

If the Board moves to approve this application, then based on the information reviewed by City staff, the Planning and Development Department recommends that the Board approve the application with the following conditions:

1. Prior to the signing and recording of the plat, the applicants shall provide one (1) full-size copy of the plat and a digital record drawing (Cad .dwg Format using NH State Plane Coordinate system).

Attachments

cc: XYZ Dairy, LLC
Chet Clem, Lyme Properties
File

Q:\Development_Review\2021_Applications\PB2021-08-BLA_55 Crafts Ave & O Beyerle St_058-020 & 058-018\Staff Comments\2021-04-05_Staff Memo.docx

**CITY OF LEBANON
APPLICATION FOR**

SPECIAL EXCEPTION	☐	☐	SITE PLAN REVIEW
VARIANCE	☐	☐	SUBDIVISION
MOTION FOR REHEARING	☐	☒	LOT LINE ADJUSTMENT
APPEAL OF AN ADMIN. DECISION	☐	☐	CONDITIONAL USE PERMIT
☐ OTHER _____			

PROPERTY OWNER (APPLICANT):

NAME: XYZ Dairy, LLC TEL.#: (603) 676-7800
MAILING ADDRESS: 57 Main Street, West Lebanon, NH 03784
E-MAIL ADDRESS: dclem@lymeproperties.com

CO-APPLICANT, AGENT, OR LESSEE:

NAME: Chet Clem, Lyme Properties TEL.#: (603) 676-7106
MAILING ADDRESS: 57 Main Street, West Lebanon, NH 03784
E-MAIL ADDRESS: chet@lymeproperties.com

PROJECT LOCATION:

TAX MAP #: 58 LOT#: 20 + 18 LOT #: ZONE: R3

STREET ADDRESS OF PROJECT: 55 Crafts Avenue, 0 Beyerle Street

IS THIS PROPERTY LOCATED IN THE: **WETLANDS** ☐ YES ☒ NO **HISTORIC DISTRICT** ☐ YES ☒ NO
FLOOD PLAIN ☐ YES ☒ NO

SCOPE OF PROJECT:

Lot Line Adjustment to Correct City Records

TYPE OF OCCUPANCY:

EXISTING ☐ VACANT ☒ ONE FAMILY ☐ TWO FAMILY ☐ MULTI-FAMILY ☐ COMMERCIAL ☐ INDUSTRIAL
PROPOSED ☐ VACANT ☒ ONE FAMILY ☐ TWO FAMILY ☐ MULTI-FAMILY ☐ COMMERCIAL ☐ INDUSTRIAL
IF USE IS **COMMERCIAL** OR **INDUSTRIAL**, PLEASE NOTE **SPECIFIC**
USE: _____

SIGNATURE BLOCK:

FOR PLANNING BOARD APPLICATIONS ONLY: I, the undersigned, hereby submit this application on the date noted below with the knowledge and understanding that the Planning Board shall determine if the submitted application is complete according to its regulations at its next regularly scheduled meeting on April 12, 2021, unless I personally request, in writing, that the Board delay its determination of completeness to a later date.

PROPERTY OWNER: David Clem DATE: 3/8/2021

NOTE: IF, AS OWNER, YOU WISH TO DESIGNATE AN AGENT TO ACT ON YOUR BEHALF, PLEASE READ THE FOLLOWING AND SIGN BELOW: I hereby designate the person listed above as my agent for the purpose of procuring the necessary local permits for the proposed work as described herein. Representations made by my agent may be accepted as though made by me personally, and I understand that I am bound by any official decision made on the basis of such representation.

PROPERTY OWNER: David Clem DATE: 3/8/2021

DATE RECEIVED	FILE # (MAP/LOT)	APPLICATION #	FEE - \$ AMOUNT	DATE PAID	VOUCHER #
3/8/2021	58/20 & 58/18	PB2021-	\$79.32	3/8/21	18117

08-BLA

(Last Revised 4/04/18)



March 8, 2021

City of Lebanon
Planning Department
51 N. Park St.
Lebanon, NH 03766

Re: Project Description - Lot Line Adjustment - Parcels 58-18 & 58-20

To Whom It May Concern:

XYZ Dairy, LLC, the owner of record of Parcels 58-18 and 58-20, is seeking a Lot Line Adjustment of the two parcels that will serve to correct the City of Lebanon's GIS and assessment records. Lyme Properties serves as the development agent for XYZ Dairy, LLC.

This clarifies and addresses the issue brought forth by a complainant in August, 2020 regarding the unbuilt and unaccepted section of so-called Beyerle Street (f/k/a Dartmouth Street). When the City of Lebanon responded in December, 2020 that the City had claim to that "paper street" XYZ Dairy, LLC submitted an application for Conceptual Review of a subdivision that would be afforded by the legal street frontage created by that ruling.

Although incorrectly represented as such on the City's GIS map, the segment of Beyerle Street between Parcels 58-18 and 58-20 is in fact owned by XYZ Dairy, LLC.

The City subsequently communicated accepting XYZ's position on that matter, though we have not received a complete legal opinion on the "paper streets" as requested.

The January 11, 2021 request for Conceptual Review will now superceded by this formal application for lot-line adjustment. The Conceptual Review remains on the March 8, 2021 Planning Board hearing and we anticipate discussing this matter accordingly.

Being as this Lot Line Adjustment only impacts the boundaries of two parcels in common ownership, it does not constitute a subdivision.

Sincerely,

A handwritten signature in black ink that reads "Chet Clem".

Chet Clem
Lyme Properties 2, LLC
57 Main Street
West Lebanon, NH 03784

CITY OF LEBANON, NH
SUBDIVISION REGULATIONS - TECHNICAL CHECKLIST
MINOR LOT LINE ADJUSTMENT / BOUNDARY LINE AGREEMENT

PLAN SUBMITTAL TECHNICAL CHECKLIST:

NOTE: Minor Lot Line Adjustment / Boundary Line Agreement plans shall include the information described below pursuant to Section 8 of the Lebanon Subdivision Regulations. Plans shall be submitted on sheets no larger than 24" x 36". Plan sets with multiple sheets shall include sheets of uniform size and be bound on the left edge. When more than three (3) sheets are required, an additional cover sheet shall be attached including a table of contents. The scale of the plans shall be appropriate to the size of the overall development. All lettering shall be of a size and type that is legible.

In order to facilitate the use of the City's Geographic Information System (GIS) for planning purposes, all surveys and engineered plans submitted for Subdivision Review shall utilize the NH State Plane Coordinate system and shall reference the North American Vertical Datum of 1988 (NAVD 88), unless prior approval to use an alternate coordinate system and/or vertical datum is granted by the Planning Office.

A written request for waiver shall be required, pursuant to Section 7.15 of the Subdivision Regulations, for any submission requirement for which the information or data is not provided by the applicant. [§8.2.C]

Plan Requirements	Info. Provided	Waiver Sought
8.2.A(1) - - Name of the City and County in which the subdivision is proposed; - A Locus map; - North arrow; - Scale of the plat; - Date of the plat and of any revisions to the plat; (NOTE: The date on the plat at the time of initial submission for application review shall be included on all subsequent submissions to the City. Any subsequent change(s) to the plat shall include a revision date and description of the revision(s).)	☒ ☒ ☒ ☒ ☒	☐ ☐ ☐ ☐ ☐
8.2.A(2) - Names and mailing addresses of Applicant(s); Owner(s) of Record of subject properties; Owners of abutting properties, including tax map and lot references; and Holders of any easements, rights-of-way, or other restrictions.	☒	☐
8.2.A(3) - Names and business addresses of the surveyor, including license number and seal, and of every engineer, architect, soil scientist, or wetlands scientist whose professional seal appears on any plan or document submitted to the Board.	☒	☐
8.2.A(4) - Zoning District in which the subject lots are located, including district boundaries if in more than one district.	☒	☐
8.2.A(5) - Location of all existing structures on the subject lots.	☒	☐
8.2.A(6) - Site location map showing the original boundaries of the subject lots and adjacent lots.	☒	☐
8.2.A(7) - The new surveyed property line(s) as a result of the application, including bearings and distances, as determined by an actual field survey by a licensed land surveyor, including the date of the completion of the survey. All dimensions shall be shown in feet and decimals, and the area of the altered lots shall be shown in square feet and acres.	☒	☐

CITY OF LEBANON, NH
SUBDIVISION REGULATIONS - TECHNICAL CHECKLIST
MINOR LOT LINE ADJUSTMENT / BOUNDARY LINE AGREEMENT

Plan Requirements (cont.)	Info. Provided	Waiver Sought
8.2.A(8) - The plat shall be titled to include the names of the owners of all lots altered by the application.	☒	☐
8.2.A(9) - A statement shall be placed on the plat as follows: "This plan shows Minor Lot Line Adjustments / Boundary Line Agreements and does not require the approval of the Lebanon Planning Board as a subdivision."	☒	☐

NOTE: THE APPLICANT IS RESPONSIBLE FOR PROVIDING THE REQUIRED INFORMATION PURSUANT TO SECTION 8 OF THE SUBDIVISION REGULATIONS. PLEASE BE AWARE THAT THIS CHECKLIST IS FOR INFORMATION AND GUIDANCE ONLY AND DOES NOT REPRESENT THE LAW DICTATING SUBMITTAL REQUIREMENTS NOR IS IT COMPLETE AND INCLUSIVE THEREOF.

Completed By: Chit Al

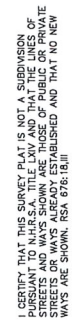
Planning office Use Only:

Date Received ___/___/___ Checklist Complete YES or NO Checked by: _____

(Last Revised 05/22/13)

Current Condition: Parcels 58-18 & 58-20

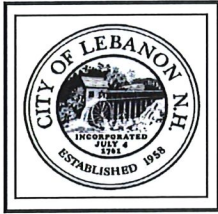




Agenda
Planning Board
April 12, 2021

Agenda Item #3B
Public Hearing Items

City of Lebanon, 0 Airpark Road (Tax
Map 159, Lot 4), zoned IND-L
PB2021-07-DED



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

PLANNING BOARD

April 5, 2021 Meeting

Staff Memorandum – PB2021-07-DED

APPLICATION INFORMATION

Agenda Item: 3.B

Application ID:
PB2021-07-DED

Application Type:
Public highway layout

Property Location & Tax Map:
0 Airpark Road (Tax Map 159, Lot 4)

Property Owner/Applicant:
City of Lebanon

Zoning District(s):
Light Industrial (IND-L)

Property Size:
48.34 acres

Overlay District:
Wetlands Conservation District

LEGAL NOTICE

City of Lebanon, 0 Airpark Road (Tax Map 159, Lot 4), zoned IND-L: Applicant requests a review per RSA 674:40, III, of a layout plan to extend Airpark Road. The proposed street extension is intended to serve the City's Airport Tax Increment Financing (TIF) District. PB2021-07-DED

APPLICATION MATERIALS

- ▶ Letter dated March 22, 2021, from David Brooks, Director of Planning and Development (project description; 2 pages)
- ▶ Plan titled "Road Layout Plan of Land of City of Lebanon, Airpark Road Extension", prepared by Paton Land Surveying, LLC, dated March 20, 2021, Proj. No. 2019-281-17A
- ▶ Plan titled "Airpark Road Development – Phase 1, Proposed Site Plan" (Sheet C1), prepared by Dufresne Group Consulting Engineers, dated January 7, 2021, last revised January 20, 2021, Project # 31202003

BACKGROUND

As described in the attached letter from David Brooks, Director of Planning and Development, the City of Lebanon proposes to construct an extension of Airpark Road onto and across its property at 0 Airpark Road (Tax Map 159, Lot 4). The irregularly-shaped proposed right-of-way is shown on the attached "Road Layout Plan", and is outlined in purple of page 2 of the attached letter. Note that a portion of the proposed Airpark Road extension right-of-way will encompass a portion of an existing Class VI road right-of-way (Hall Road).

The road extension is intended to facilitate development of the City's Airport TIF District. A draft site plan for the development of the Airport TIF District is attached for reference and to help illustrate the potential building layout. Note that the future development of each building site within the District will require Planning Board approval. At this time, the City is only seeking approval to layout the road extension.

At its meeting on April 7, 2021, the City Council is expected to refer the layout of the Airpark Road extension for review by the Planning Board in accordance with RSA 674:40. Pursuant to RSA 674:40, III, before the City Council can vote to locate and construct the roadway, the proposed road layout must first be submitted to the Planning Board for review. If the Planning Board approves the road layout, the City Council may then approve the location and construction of the roadway by simple majority.

STAFF MEMORANDUM

PB2021-07-DED
Airpark Road Extension
April 5, 2021 PB Mtg
Agenda Item 3.B
Page 2 of 2

If the Planning Board disapproves of the road layout, then a two-thirds majority of the City Council is required to approve the location and construction.

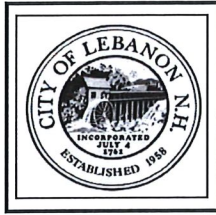
STAFF COMMENTS

Pursuant to NH RSA 674:40, III, Planning Board review is required to create a new public street. If the Planning Board rejects the layout of the proposed Airpark Road extension, the City Council can still approve the layout, but it will require a 2/3rds vote of the City Council instead of a simple majority.

STAFF RECOMMENDATION

If agreeable to the proposed layout of the Airport Road extension across the subject property, the Planning and Development Department recommends that the Board take the following action:

Approve the creation as a public street the +/-96,575 sq. ft. area identified as "Proposed Airpark Road Extension" on a plan titled "Road Layout Plan of Land of City of Lebanon, Airpark Road Extension", prepared by Paton Land Surveying, LLC, dated March 20, 2021, Proj. No. 2019-281-17A, as contemplated by the City Council.



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

March 22, 2021

Lebanon Planning Board
51 N. Park Street
Lebanon, NH 03766

RE: Planning Board review of proposed roadway layout plan for extension of Airpark Road pursuant to RSA 674:40, III

Planning Board members,

On November 6, 2019, the City Council voted unanimously to establish the Lebanon Airport-Tech Park Tax Increment Finance (TIF) District on lands adjacent to the airport. The Council subsequently approved funding for the initial design and permitting for a roadway and utility infrastructure to serve the TIF District. The design phase is complete and applicable permits have been or are being obtained.

The infrastructure improvements have been designed to be constructed in two phases to allow the City to make the minimum upfront investment necessary to provide access to the property and to enable development of 2-3 building sites on the City's Airport TIF District property (Map/Lot 159-4). The first phase of construction will also provide access to developable land on the east side of the adjacent Upper Valley Tech Park, LLC property (Map/Lot 131-3), which is also part of the TIF District. After development begins to occur and a tax increment is generated, the City could elect to construct the remainder of the roadway and utilities to open up 2-3 additional building sites on the City property.

For Fiscal Year 2021, the City Council approved a capital project to construct the first phase of improvements, representing approximately 850 linear feet of roadway and utilities. The Department of Public Works has assumed project management for the construction phase of the project. The project has been advertised and bids were received on March 18, 2021. Construction is anticipated to commence this Summer and be complete by Fall 2021.

To formally enable construction of the roadway (see purple shaded area on Figure 1), the City Council must "lay out" the street, which has not previously been shown on the City's official street map and does not appear on any subdivision plat previously-approved by the Planning Board. Pursuant to RSA 674:40, III, before the City Council can locate and construct the roadway, the proposed road layout plan must first be submitted to the Planning Board for review. If the Planning Board approves the road layout, the City Council may then approve the location and construction of the roadway by simple majority. If the Planning Board disapproves of the road layout, then a two-thirds majority of the City Council is required to approve the location and construction.

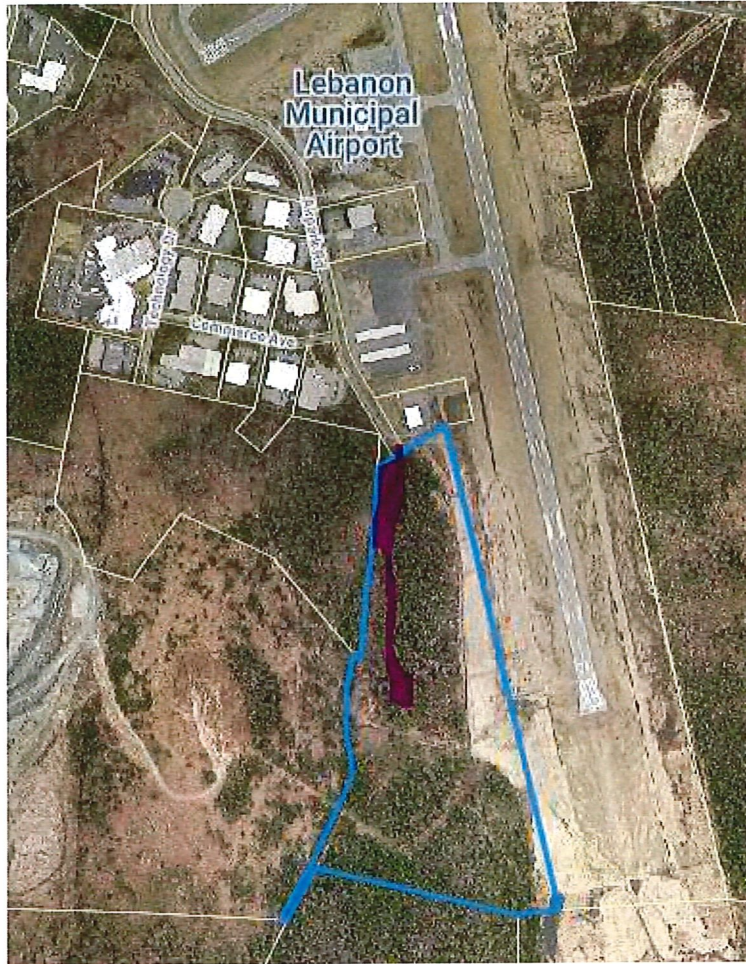


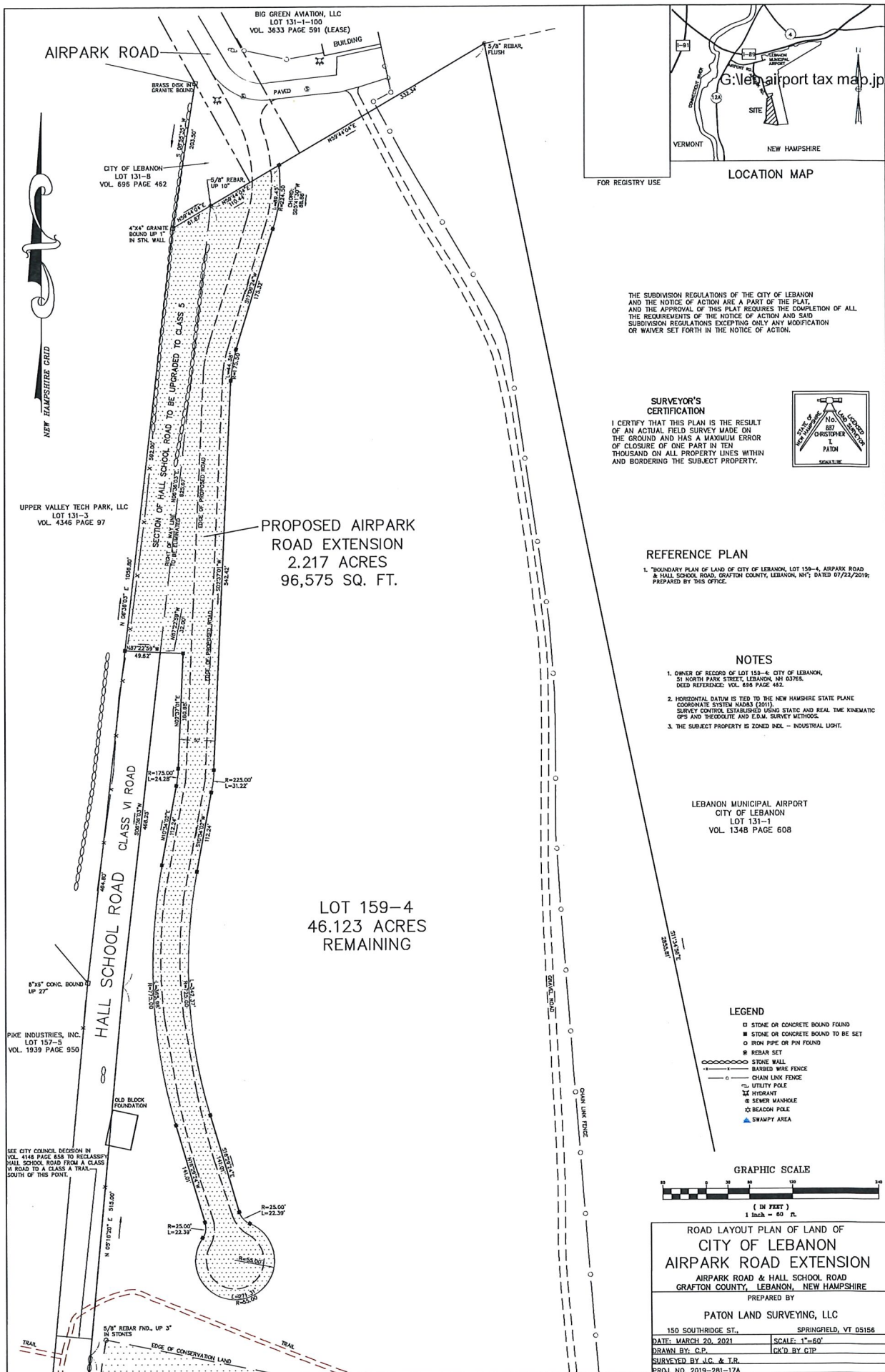
Fig. 1 – Extension of Airpark Road

Planning Department staff will be present to further describe the proposed road layout project and to answer any questions at the April 12, 2021 Planning Board meeting.

Sincerely,

David Brooks
Director of Planning & Zoning

enc. Road Layout Plan
excerpt of design plans



THE SUBDIVISION REGULATIONS OF THE CITY OF LEBANON AND THE NOTICE OF ACTION ARE A PART OF THE PLAT, AND THE APPROVAL OF THIS PLAT REQUIRES THE COMPLETION OF ALL THE REQUIREMENTS OF THE NOTICE OF ACTION AND SAID SUBDIVISION REGULATIONS EXCEPTING ONLY ANY MODIFICATION OR WAIVER SET FORTH IN THE NOTICE OF ACTION.

SURVEYOR'S CERTIFICATION

I CERTIFY THAT THIS PLAN IS THE RESULT OF AN ACTUAL FIELD SURVEY MADE ON THE GROUND AND HAS A MAXIMUM ERROR OF CLOSURE OF ONE PART IN TEN THOUSAND ON ALL PROPERTY LINES WITHIN AND BORDERING THE SUBJECT PROPERTY.



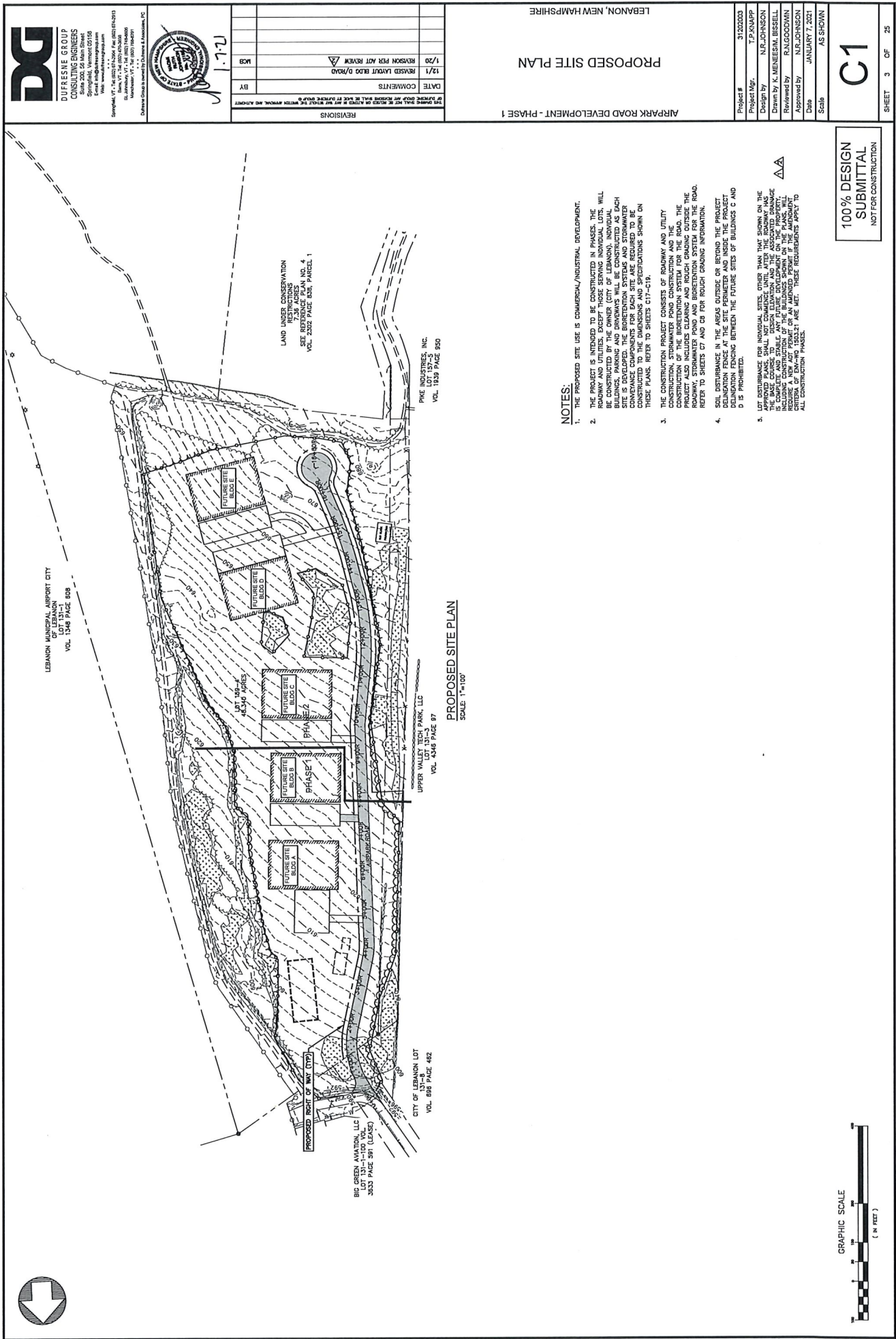
REFERENCE PLAN

1. BOUNDARY PLAN OF LAND OF CITY OF LEBANON, LOT 159-4, AIRPARK ROAD & HALL SCHOOL ROAD, GRAFTON COUNTY, LEBANON, NH, DATED 07/22/2019; PREPARED BY THIS OFFICE.

NOTES

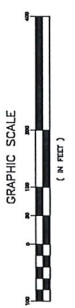
1. OWNER OF RECORD OF LOT 159-4, CITY OF LEBANON, 21 NORTH PARK STREET, LEBANON, NH 03766. DEED REFERENCE: VOL. 698 PAGE 482.
2. HORIZONTAL DATUM IS TIED TO THE NEW HAMPSHIRE STATE PLANE COORDINATE SYSTEM MARKS (2011). SURVEY CONTROL ESTABLISHED USING STATIC AND REAL TIME KINEMATIC GPS AND THEODOLITE AND EDM SURVEY METHODS.
3. THE SUBJECT PROPERTY IS ZONED INCL - INDUSTRIAL LIGHT.

LEBANON MUNICIPAL AIRPORT
CITY OF LEBANON
LOT 131-1
VOL. 1348 PAGE 608



- NOTES:**
1. THE PROPOSED SITE USE IS COMMERCIAL/INDUSTRIAL DEVELOPMENT.
 2. THE PROJECT IS INTENDED TO BE CONSTRUCTED IN PHASES. THE ROADWAY AND UTILITIES, EXCEPT THOSE SERVING INDIVIDUAL LOTS, WILL BE CONSTRUCTED IN PHASE 1. BUILDINGS, PARKING AND DRIVEWAYS WILL BE CONSTRUCTED AS EACH SITE IS DEVELOPED. THE BORESTATION SYSTEMS AND STORMWATER CONSTRUCTION SHALL BE CONSTRUCTED IN PHASE 1. THE BORESTATION SYSTEMS SHALL BE CONSTRUCTED TO THE DIMENSIONS AND SPECIFICATIONS SHOWN ON THESE PLANS. REFER TO SHEETS C17-C19.
 3. THE CONSTRUCTION PROJECT CONSISTS OF ROADWAY AND UTILITY CONSTRUCTION, STORMWATER POND CONSTRUCTION AND THE CONSTRUCTION OF THE BORESTATION SYSTEM FOR THE ROAD. THE PROJECT SHALL BE CONSTRUCTED IN PHASES. PHASE 1 SHALL INCLUDE THE ROADWAY, STORMWATER POND AND BORESTATION SYSTEM FOR THE ROAD. REFER TO SHEETS C7 AND C8 FOR ROUGH GRADING INFORMATION.
 4. SOIL DISTURBANCE IN THE AREAS OUTSIDE OR BEYOND THE PROJECT DELINEATION FENCE AT THE SITE PERIMETER AND INSIDE THE PROJECT DELINEATION FENCING BETWEEN THE FUTURE SITES OF BUILDINGS C AND D IS PROHIBITED.
 5. LOT DISTURBANCE FOR INDIVIDUAL SITES, OTHER THAN THAT SHOWN ON THE APPROVED PLANS, SHALL NOT COMMENCE UNTIL AFTER THE ROADWAY HAS BEEN COMPLETED AND STABLE. ANY FUTURE DEVELOPMENT ON THE PROJECT IS COMPLETE AND STABLE. ANY FUTURE DEVELOPMENT ON THE PROJECT SHALL REQUIRE A NOT AEST PERMIT OR AN AMENDED PERMIT IF THE AMENDMENT REQUIREMENTS OF THE AIRPARK ROAD PROJECT ARE MET. THESE REQUIREMENTS APPLY TO ALL CONSTRUCTION PHASES.

100% DESIGN
SUBMITTAL
NOT FOR CONSTRUCTION



PROJECT # 31202003	
PROJECT MGR. T. P. JOHNSON	
DESIGN BY N. R. JOHNSON	
DRAWN BY K. MEESING BESELL	
REVIEWED BY R. N. JOHNSON	
APPROVED BY N. R. JOHNSON	
DATE JANUARY 7, 2021	
SCALE AS SHOWN	
C1	
SHEET 3 OF 25	

PROPOSED SITE PLAN

AIRPARK ROAD DEVELOPMENT - PHASE 1

LEBANON, NEW HAMPSHIRE

DATE 1/20	
REVISION FOR NOT REVIEW	
BY	
WCB	



DUFFEENE GROUP
CONSULTING ENGINEERS
Suite 200, 50 Main Street
Springfield, Vermont 05156
Tel: (802) 486-1111
Fax: (802) 486-1112
Web: www.duffeene.com

State of New Hampshire
Department of Public Safety
Division of Motor Vehicles
1000 State Street
Nashua, NH 03063
Tel: (603) 768-6000
Fax: (603) 768-6001

Agenda
Planning Board
April 12, 2021

Agenda Item #4A
Approval of Minutes

March 8, 2021

DRAFT

**LEBANON PLANNING BOARD
Regular Meeting
Monday, March 8, 2021, 6:30 PM
Remote Via Microsoft Teams
LebanonNH.gov/Live**

ROLL CALL OF

MEMBERS PRESENT: Bruce Garland (Chair), Matthew Hall (Vice-Chair), Jim Winny (Council Representative), Gregorio Amaro, Kim Chewning, Joan Monroe, Kathie Romano, Jeremy Rutter, and Laurel Stavis

MEMBERS ABSENT: None

STAFF PRESENT: David Brooks (Planning Director), Tim Corwin (Senior Planner), Brian Vincent (City Engineer), Rebecca Owens (Associate Planner)

1. Call to Order Chair Garland called the meeting to order at 6:30 PM.

A. Review of meeting procedures and NH RSA 91-A "Right-to-Know" requirements.

Mr. Corwin shared the State Covid-19 emergency directives and participation details for the online meeting in Microsoft Teams. All members identified themselves.

Chair Garland conducted a roll call of members present as reported above.

2. Notice of Regional Impact

City of Lebanon, 0 Airpark Road (Tax Map 159, Lot 4), zoned IND-L: Applicant requests a review per RSA 674:40, III, of a layout plan to extend Airpark Road. The proposed street extension is intended to serve the City's Airport Tax Increment Financing (TIF) District. **PB2021-07-LAY**

XYZ Dairy, LLC, 55 Crafts Avenue & 0 Beyerle Street (Tax Map 58, Lots 20 & 18), zoned R-3: Request for a Boundary Line Adjustment. **PB2021-08-BLA**

Mr. Brooks stated that Staff recommends neither application has the potential for regional impact.

A MOTION by Matthew Hall that neither of the applications above has the potential for regional impact.

Seconded by Laurel Stavis

Roll Call Vote:

Voting in Favor – Mr. Winny, Ms. Monroe, Ms. Romano, Ms. Chewning, Ms. Stavis, Mr. Hall, Mr. Garland, Mr. Amaro, Mr. Rutter

Voting Against – None

***The MOTION was approved (9-0).**

3. Public Hearing Items

- 1 A. **89 Donuts, LLC (applicant), Miracle Mile Realty, LLC (property owner), 388**
2 **Miracle Mile (Tax Map 103, Lot 6), zoned GC:** Request for Site Plan Review to
3 construct a +/-1,332 sq. ft. drive-in restaurant (a Dunkin' Donuts with a drive-through
4 window and walk-in service) within the existing parking lot, together with associated
5 site improvements. **PB2020-32-SPR** - Continued from February 8, 2021.

6
7 Rod Finley, P.E., Pathways Consulting, LLC; Greg Sagris, Owner, 89 Donuts, LLC; Erica Wygonik, PE,
8 of RSG, attended on behalf of the applicant.

9
10 Mr. Finley stated that no changes have been made to the plan since the last meeting.

11
12 Mr. Corwin stated that Staff has no additional comments.

13
14 Chair Garland invited questions and comments from the Board.

15
16 Mr. Hall inquired about the pedestrian crossing and its location. Mr. Finley stated that the location is
17 about 25-30 feet from the drive-thru window. Mr. Vincent had suggested it be located near the stop bar,
18 but most pedestrians would be unlikely to walk that far from the bus stop. Mr. Finley stated that eye
19 contact would be important when crossing the traffic lanes. There was a suggestion of an island or a speed
20 table. Mr. Hall agreed it is enough distance. The developer agreed to change it if needed.

21
22 Chair Garland invited public comment. There was none.

23
24 Ms. Romano inquired about the lighting waivers. Mr. Corwin stated that light spillage is the purpose of
25 one of the sections, and lighting uniformity ratio information was not provided.

26
27 Mr. Hall asked if Staff has concerns about the lighting. Mr. Corwin stated Staff did not.

28
29 *A **MOTION** by Matthew Hall that the Lebanon Planning Board **APPROVE** waivers for the application of*
30 *89 Donuts, LLC (applicant) and Miracle Mile Realty, LLC (property owner) regarding 388 Miracle Mile*
31 *(Tax Map 103, Lot 6), PB2020-32-SPR, from the following sections of the Site Plan Review Regulations:*

- 32 • **Partial Waiver of Article VI design requirements** – *The applicant requests a general waiver*
33 *from having to comply with the Article VI design requirements outside of the specific area of the*
34 *lot proposed to be redeveloped.*
35
36 • **Section 5.1.E.5** – *requiring a current survey certified by a land surveyor licensed in New*
37 *Hampshire*
38
39 • **Section 6.2.D** – *landscaping around buildings requirements*
40
41 • **Partial Waiver of Section 6.6** – *stormwater design requirements*
42
43 • **Partial Waiver of Section 6.7.2.b** – *requiring maximum illumination of 0.5 foot-candles at*
44 *commercial property boundaries*
45
46 • **Section 6.7.3.a** – *Lighting uniformity ratio requirements*

47 *Seconded by Laurel Stavis*

Roll Call Vote:

Voting in Favor – Ms. Romano, Ms. Chewning, Ms. Stavis, Mr. Hall, Mr. Garland, Mr. Amaro, Mr. Rutter, Mr. Winny, Ms. Monroe

Voting Against – None

***The MOTION was approved (9-0)**

Mr. Rutter noted that Staff had recommended certain landscaping improvements to the double row of parking. Mr. Finley stated that the double row of parking is not part of the Dunkin' Donuts development site.

Chair Garland invited public comment. There was none.

Chair Garland closed the Public Hearing.

A MOTION by Matthew Hall moved that the Lebanon Planning Board APPROVE the application of 89 Donuts, LLC (applicant) and Miracle Mile Realty, LLC (property owner) regarding 388 Miracle Mile (Tax Map 103, Lot 6), PB2020-32-SPR, for Site Plan Review to construct a +/-1,332 sq. ft. drive-in restaurant (a Dunkin' Donuts with a drive-through window and walk-in service) within the existing parking lot, together with associated site improvements, as shown on a plan set titled "Site Plan for Miracle Mile Realty 'Dunkin Donuts'" prepared by Pathways Consulting, LLC, dated October 13, 2020, revised January 18, 2021, Proj. No. 12777-01 (15 sheets), including any and all submissions and testimony provided for and during the public hearing, with the following conditions:

1. The applicant shall make the following revisions to the plan set to the satisfaction of the Planning & Development Department and the City Engineer:
 - a) Amend the cover sheet to identify the height of each existing building [5.1.E.4.e(7)].
 - b) The sidewalk to be constructed to the rear of the Dunkin Donuts building shall be extended westward along the parking area to the western access drive.
 - c) Amend the lighting plan to:
 - i. Provide that all exterior lighting shall be 3,000K or warmer in CCT.
 - ii. Add Sections 6.7.2.c and 6.7.2.d of the Site Plan Review Regulations as plan notes.
 - d) Vegetative screening of at least 5 ft. in height shall be provided for the dumpster (Section 6.2.B.8).
 - e) Add a note that the property owner is responsible for the maintenance and operation of the stormwater management system in accordance with the "Stormwater Management Facilities Operation and Maintenance Manual for 89 Donuts, LLC," dated December 22, 2020, prepared by Pathways Consulting, LLC, Project No. 12777-01 (Section 6.6.H.2.b of the Site Plan Review Regulations).

The applicant shall provide the Planning & Development Department with two (2) full size copies of the revised plan set, and a digital copy of the revised plan set saved in a PDF-A format for archival purposes.

2. The applicant shall schedule and hold a pre-building permit application meeting with the Planning 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.

3. 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.
4. All engineering review fees shall be paid in full as required by Section 4.7.E.1 of the Site Plan Review Regulations.

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

5. 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 the construction of sewer, water, and temporary erosion control, and for work within the City's right-of-way (water, sewer, road, drainage, and temporary erosion control), in accordance with Chapters 136 and 182 of the City Code and 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 a Water & Sewer Extension and Inspection Agreement in accordance with Chapters 136 and 182 of the City Code.
6. 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 August 13, 2018. 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.
7. All water and sewer fees shall be paid as set forth in City Code Chapter 68.
8. Prior to the start of any construction activities on the property, the applicant shall obtain or update (if appropriate) any required State approvals including, but not limited to, the following:
 - a) NHDES Sewer Connection Permit, if necessary

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

9. As demonstrated by the applicant's traffic study, the Miracle Mile/East Plaza Drive/Listen East Drive intersection is currently underperforming, and its level of service will further erode with the additional traffic that the proposed use will generate. Consequently, to help mitigate the anticipated increase in traffic generated by the applicant's use, the applicant shall be obligated to contribute its fair share to the cost of preparing a traffic improvement plan for the Miracle Mile corridor. Any financial contributions from the applicant required to prepare the mitigation plan of action shall be paid prior to the issuance of a certificate of occupancy. Any dispute between the applicant and the City regarding the applicant's responsibilities pursuant to this condition may be appealed to the Planning Board.
10. The impact fee calculated pursuant to Condition of Approval #6 shall be paid.
11. 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 prior to acceptance of any utility improvements by the City.

12. 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 Subdivision Regulations and Site Plan Review Regulations.

13. The applicant shall install a security camera mounted on the east side of the building.

General Conditions

14. The applicant shall obtain an Excavation Permit from the Department of Public Works for any site work in the public right-of-way prior to any work in the right-of-way.

15. 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.

16. The applicant shall implement and maintain NHDES Site Specific Best Management Practices before, during, and after construction.

17. The property owner is responsible for the maintenance and operation of the stormwater management system in accordance with the operation and maintenance plan titled "Stormwater Management Facilities Operation and Maintenance Manual for 89 Donuts, LLC," dated December 22, 2020, prepared by Pathways Consulting, LLC, Project No. 12777-01 (26 pages), and such responsibility shall run with the land. (Section 6.6.H.2.b of the Site Plan Review Regulations).

Seconded by Jim Winny

Mr. Hall inquired about the timing of required monetary contributions per the proposed future traffic mitigation condition of approval.

Ms. Romano requested an additional condition of approval requiring a camera to be installed for the east side of the building.

Chair Garland reopened the Public Hearing to allow comments by the applicant.

Mr. Sagris stated that he plans to apply for a building permit within a month to allow any changes need to be made. Mr. Corwin suggested changing the timing of the traffic mitigation condition from the Building Permit stage to the Certificate of Occupancy stage. Mr. Sagris stated that he has no objection to adding language to the motion about the camera facing the east side of the property.

Ms. Monroe asked about the recommendation for a traffic light in the applicant's traffic study. Mr. Vincent stated that the applicant's traffic engineer identified it as warranted for a signal, but the City and applicant decided it was not the best choice for a number of reasons. Per the proposed traffic mitigation condition of approval, a study of the Miracle Mile corridor from Poverty Lane to the bridge will be undertaken to determine the best recommendations for changes.

Mr. Brooks noticed different plan project numbers in the motion, which need to be consistent.

Chair Garland closed the Public Hearing.

Mr. Hall and Mr. Winny agreed with the suggested changes to the motion.

Roll Call Vote:

Voting in Favor – Ms. Stavis, Mr. Hall, Mr. Garland, Mr. Amaro, Mr. Rutter, Mr. Winny, Ms. Monroe, Ms. Romano, Ms. Chewing

Voting Against – None

***The MOTION was approved (9-0).**

[Note: the motion for agenda item 3.A that appears above is as amended.]

B. Brady Sullivan Prospect Hills, LLC, 0 Prospect Street (Tax Map 108, Lot 2), zoned R-3: Pursuant to Section 14.1.B.1.c of the Subdivision Regulations, a request for an extension of time to achieve active and substantial development of Phase II of a project identified as Prospect Hills, a 171 unit Planned Unit Residential Development located off Moulton Drive and Prospect Street, Tax Map 108 Lot 2 (phase 2) and Lot 14 (phase 1). **PB2021-02-EXT** - Public Hearing continued from February 8, 2021

Jon Rokeh and Atty. Marc Pinard appeared on behalf of the applicant.

Mr. Rokeh stated that Brady Sullivan took over an abandoned project, which needed a large amount of clean up. Phase I needed to be completed to begin Phase II. The work being done during 2021 would involve the townhouse units.

Mr. Pinard stated that much work and expense had been invested to date, and the project was making progress. The applicant is asking for an extension of two years. Changes in uses occur over time, but this area is and has been residential. There has been no change in zoning, so there is no vesting issue. Nothing has changed and the project should be permitted to move forward. The applicant is committed to break ground this year and has made significant progress as evidenced in the meeting packet information. Due to having made substantial progress, an extension is a reasonable request.

Mr. Corwin noted that the applicant is also asking to suspend the security that has been posted for Phase II, and that is the applicant has requested a waiver to suspend the bond until construction begins. Mr. Pinard stated that construction may not start for several months, which would mean a savings in carrying costs. The bond would be back in place when the applicant is ready to break ground. The plan is to construct multi-family units first, then the other units. The project is likely to be completed by 2024, but the applicant is asking to go a bit longer due to potential issues.

Mr. Corwin noted that at the last meeting, the applicant was granted a waiver from the missed December deadline. The applicant must now demonstrate good cause for extending the time frame to achieve active and substantial completion. If the Board denies the extension, that would close the application and no action will need to be taken on the other waiver requests.

Chair Garland noted that the focus is on “good cause.”

Mr. Hall asked the applicants why nothing was done by the deadline. Mr. Rokeh stated that they are asking for the extension to begin Phase II. Mr. Pinard noted that Brady Sullivan closed down a year ago due to the pandemic, which caused much reorganization. The company is located in Manchester, and they tried to keep people working safely and to decide where to best place their resources. It was not possible to get up to Lebanon in the spring and summer and to extend their energies to Lebanon. The company has done their best to do what they could. They are asking for the extension by making a commitment to shift resources and continue work on the project. It’s the global pandemic that is the good cause.

Mr. Hall noted that the City has still seen a lot of development during the pandemic. Mr. Pinard replied that the applicant had to pick and choose where to work and that in hindsight, wished that they had chosen to go to Lebanon and that they could have focused there.

Ms. Romano inquired about the reason they want to suspend the bond. Mr. Rokeh stated that it costs \$175K per year to service on the bond. They plan to get into the ground this year.

Mr. Winny noted the goal is substantial completion despite no ground breaking and inquired what would be different this time. Chair Garland stated that the project was started in 2014. Ms. Monroe observed that the project had been extended multiple times. Phase I dragged on over a long time, while much other work has been done in the area. Due to significant environmental changes, the City is tightening regulations regarding extensions. It is even more important to work in a timely fashion, and the current plan is outdated.

Ms. Chewning commented that the applicant made a choice not to undertake the work in Lebanon in favor of other locations, and therefore that she is struggling to find good cause.

Mr. Pinard stated that they have given explanations, not excuses, and there are compelling reasons to require an extension, which includes the pandemic.

Mr. Rokeh noted that Phase II was approved for the Moultons, but it was completely redesigned based on the new standards. There is an updated alteration of terrain permit. The plan is to begin in the summer, and there will be wildlife studies and other requirements met during 2021. The project will meet those standards.

A MOTION by Matthew Hall that the Lebanon Planning Board **DENY** the application of Brady Sullivan Prospect Hills, LLC, regarding Phase II of the Prospect Hills development (Tax Map 108, Lot 2), originally approved as PB2016-22-EXP-FMAJ, for an extension of time pursuant to Section 14.1.B.1.c of the Subdivision Regulations to achieve active and substantial development as required by Section 14.1.B.1.b of the Subdivision Regulations, PB2021-02-EXT, noting the lack of active and substantial development or building by December 10, 2020, and not finding good cause for such lack of activity.

Seconded by Kim Chewning

Roll Call Vote:

Voting to Approve – Ms. Monroe, Ms. Romano, Ms. Stavis, Ms. Chewning, Mr. Hall, Mr. Garland, Mr. Amaro, Mr. Rutter, Mr. Winny

Voting Against - None

***The MOTION was approved (9-0).**

C. Basic Holdings, LLC, 5 & 11 Oak Ridge Road, (Tax Map 4, Lots 5 & 6), zoned R-3:
Request for Final Major Subdivision Review, Site Plan Review, and a Conditional Use Permit for a proposed Planned Unit Residential Development (PURD) pursuant to Section 501.2 of the Zoning Ordinance, containing 22 residential units together with related site improvements and amenities.
PB2020-31-FMAJ -Public hearing to commence on January 11, 2021 if the Board finds that the application is complete. Continued from February 8, 2021.

Jeff Shapiro, Owner; Rod Finley, P.E.; and Nate Stearns, Attorney, attended on behalf of the applicant.

Mr. Finley gave an overview of past and future plans. The project is now named "Occom Path," which is the same as the proposed road name. There will be a merger of #5 and #11 Oak Ridge. Renderings of the three types of units were shown. The majority are two-story, single family units. The configuration of the units and amenities were explained. There will be 22 units, which the Planning Board may allow under the 12% density increase. The water and sewer extensions were granted by the City Council, and there will be a private sewer in the development that connects to Pinewood Village and goes on to the Hanover system. Stormwater management was explained, and a complete plan set is available. All previous issues and considerations raised by the Planning Board during design review have been addressed.

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

The minutes from the site visit held during design review will be provided to Mr. Amaro, Mr. Rutter, and Ms. Chewning.

Ms. Monroe noted that the ground would not be suitable at present for a new site visit. Mr. Finley confirmed that the site markings should still be there. Mr. Corwin stated that per Section 4.11.D, following submission of an application, the Board can visit the property.

A MOTION by Matthew Hall that the application of Basic Holdings, LLC, 5 & 11 Oak Ridge Road, (Tax Map 4, Lots 5 & 6), zoned R-3 is complete enough for the Planning Board to accept jurisdiction and commence review.

Seconded by Joan Monroe

Roll Call Vote:

Voting in Favor – Ms. Stavis, Mr. Hall, Mr. Garland, Mr. Amaro, Mr. Rutter, Mr. Winny, Ms. Monroe, Ms. Romano, Ms. Chewning

Voting Against - None

The MOTION was approved (9-0).

Mr. Shapiro confirmed that the shared garages will be physically divided.

In response to questions from the Board, Mr. Finley stated that the community garden could be fenced, there will be a street sign for the development, that there is sufficient road width to accommodate cars in the driveways and allow adequate site lines, and that refuse and recycling cans will be provided for each unit; Mr. Shapiro stated that the buildings are not sprinkled, that there will be basements in all units, and that benches would be possible in the common areas; and Atty. Stearns stated that the units could be converted to condominiums, but it would require Planning Board approval.

Mr. Rutter inquired about unit floor plans. Mr. Finley stated that the applicant has prepared these, but they were not included with the application as they are not required to be submitted

Ms. Monroe observed that the Board's regulations would soon be requiring color temp lighting of 3,000K or warmer. She suggested the applicant provide electric vehicle charging as an amenity.

A MOTION by Matthew Hall to continue the hearing of Basic Holdings, LLC, 5 & 11 Oak Ridge Road, (Tax Map 4, Lots 5 & 6), zoned R-3 to Monday, March 29, 2021, at 6:30 PM.

Seconded by Kathie Romano

Roll Call Vote:

1 *Voting in Favor – Ms. Monroe, Ms. Romano, Ms. Chewning, Ms. Stavis, Mr. Hall, Mr. Garland, Mr.*
2 *Amaro, Mr. Rutter, Mr. Winny*

3 *Voting Against – None*

4 **The MOTION was approved (9-0)*

7 **4. Other Business**

- 9 A. **XYZ Dairy, LLC. 55 Crafts Avenue & 0 Beyerle Street (Tax Map 58, Lots 20 &**
10 **18), zoned R-3:** Conceptual review per Section 4.3 of the Site Plan Review Regulations
11 for a proposed major subdivision. **PB2021-05-CON** - Rescheduled from February 8,
12 2021

14 Chet Clem of Lyme Properties attended representing XYZ Dairy.

16 Mr. Clem stated that the issue of the property ownership began in August of 2020. It has been determined
17 that XYZ Dairy, LLC, does own the segment of Crafts Avenue that was in question. There has been
18 incomplete information to date regarding the property, and XYZ Dairy is asking that the conceptual
19 review remain open. They have asked for a lot line adjustment to be scheduled for the April 12, 2021,
20 meeting when they will present the full subdivision application.

22 Chair Garland referred to a March 4, 2021 letter from Mr. Clem, Sr. regarding a plat signing.

24 Mr. Brooks stated that the City attorney notified the City that the City has no right, title, or interest in the
25 unbuilt portion of Beyerle St. platted in 1892, which covers everything to the west of Crafts Ave. The
26 City's attorney is still researching the unbuilt portions of other streets in the area. It is expected that once
27 it is known which paper streets exist and which do not, the City records will be corrected.

30 Chair Garland stated that next month the Board would consider the boundary line adjustment and
31 schedule a conceptual review if needed.

34 Chair Garland explained the need for Board members to take the training on the Welcoming Ordinance,
35 which takes about half an hour. Each member will need to sign the document stating that they have
36 completed it.

37 Mr. Brooks stated that he would send a link to the Board members for the training. There are also two
38 more live sessions, March 24 at 7 PM during the City Council meeting and March 31 at 7 PM. Mr.
39 Brooks asked that the Board members let Staff know when they have completed the training, so Staff can
40 provide the document to sign.

42 **5. Approval of Minutes**

- 44 A. February 8, 2021

46 *A MOTION by Kathie Romano to approve the minutes of the February 8, 2021, Planning Board*
47 *Meeting as presented in the March 8, 2021, Planning Board meeting packet.*
48 *Seconded by Joan Monroe.*

50 *Roll Call Vote:*

1 *Voting in Favor – Mr. Garland, Ms. Monroe, Ms. Romano, Ms. Stavis, Mr. Rutter, Ms. Chewning, Mr.*
2 *Amaro, Mr. Winny, Mr. Hall*
3 *Voting Against - None*
4 **The MOTION was approved (9-0).*

6 **6. Adjournment**

8 *A MOTION by Matthew Hall to adjourn the meeting.*
9 *Seconded by Laurel Stavis.*

11 *Roll Call Vote:*

12 *Voting in Favor – Mr. Garland, Mr. Winny, Ms. Romano, Ms. Stavis, Mr. Rutter, Ms. Chewning, Mr.*
13 *Amaro, Mr. Hall, Ms. Monroe*
14 *Voting Against - None*
15 **The MOTION was approved (9-0).*

17 The meeting was adjourned at 9:13 PM.

19 Respectfully submitted,
20 Holly Howes
21 Recording Secretary

Agenda
Planning Board
April 12, 2021

Agenda Item #5A
Other Business

Basic Holdings, LLC, 5 & 11 Oak
Ridge Road, (Tax Map 4, Lots 5 & 6),
zoned R-3
PB2020-31-FMAJ



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

PLANNING BOARD

April 5, 2021 Meeting

Staff Memorandum – PB2020-31-FMAJ

APPLICATION INFORMATION

Agenda Item: 5.A

Application ID: PB2020-31-FMAJ

Application Type:
Motion/Request for Reconsideration

Property Location & Tax Map:
5 & 11 Oak Ridge Road
(Tax Map 4, Lots 5 & 6)

Applicant/Property Owner:
Basic Holdings, LLC

Property Size (per City Assessor):

- 5 Oak Ridge Road: +/-4.33 acres (+/-183,210 sq. ft.)
- 11 Oak Ridge Road: +/-0.75 acres (+/-32,977 sq. ft.)

Zoning District: R-3 District

Overlay Districts: none

Existing Improvements & Use:

- 5 Oak Ridge Road: commercial radio tower; a *nonconforming use*
- 11 Oak Ridge Road: +/-1,296 sq. ft. (finished) single-story one-family dwelling constructed in 1978 (*per the City Assessor's records*); a *conforming use per §310.2*

Proposed Improvements & Use:
22-unit Planned Unit Residential Development (PURD) per §501.1 & §501.2 of the Zoning Ordinance

Attachments:

- Request for Reconsideration of Waiver Decisions (8 pages)

SUMMARY OF REQUEST

Basic Holdings, LLC, 5 & 11 Oak Ridge Road, (Tax Map 4, Lots 5 & 6), zoned R-3: Request for Final Major Subdivision Review, Site Plan Review, and a Conditional Use Permit for a proposed Planned Unit Residential Development (PURD) pursuant to Section 501.2 of the Zoning Ordinance, containing 22 residential units together with related site improvements and amenities. **PB2020-31-FMAJ**

OVERVIEW & STAFF COMMENTS

At a Special Meeting held on March 29, 2021, the Planning Board approved a motion denying the applicant's request for a 12% density bonus pursuant to Section 507.2 of the Zoning Ordinance. Granting the bonus would have allowed 22 dwelling units within the proposed PURD, which is three (3) more than the 19 dwelling units that are allowed "by right" per Section 501.2.D.

On April 5, 2021, the Planning and Development Department received the attached memo from Nate Stearns, Esq., legal counsel for the applicant, requesting that the Planning Board reconsider its denial of the aforementioned density bonus request. As part of its reconsideration request, the applicant has submitted revised layouts depicting a 21-unit PURD and a 20-unit PURD. Pursuant to Section 501.2.D of the Zoning Ordinance, the permitted density of the proposed PURD is 19.92 dwelling units, only 0.08 less than 20 dwelling units.

The Planning Board is authorized to reconsider any decision that it makes, provided it does so within the statutory 30-day time period for appeal to the Superior Court. See *The Planning Board in New Hampshire – A Handbook for Local Officials*, NH Office of Strategic Initiatives, November 2019, page V-19; see also *74 Cox Street, LLC v. City of Nashua*, 156 N.H. 228, 231 (2007) ("municipal boards, like courts, have the power to reverse themselves at any time prior to final decision if the interests of justice so require").

If the Board agrees to reconsider the applicant's bonus density request, staff recommends that the Board make a motion to "suspend" its 3/29 decision on the bonus density request for further consideration at the Board's May 17, 2021, Special Meeting (at which the public hearing on the underlying PURD application will resume).

Attachment

cc: Jeff Shapiro, Basic Holdings, LLC (via e-mail)
Pathways Consulting, LLC (via e-mail)
Nathan Stearns, Esq. (via e-mail)
File

HERSHENSON, CARTER, SCOTT and McGEE, P.C.

P. Scott McGee
Nathan H. Stearns *
Micaela Tucker

Of Counsel
Peter H. Carter *

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General Practice of Law
Vermont and New Hampshire *

April 5, 2021

Lebanon Planning Board,
c/o Tim Corwin, Zoning Administrator/Senior Planner
City of Lebanon,
51 North Park Street
Lebanon, NH 03766
Tim.corwin@lebanonnh.gov

Re: Basic Holdings, LLC, 5 and 11 Oak Ridge Road PURD, Occom Path
Application #PB2020-31-FMAJ
Motion to Reconsider

Dear Lebanon Planning Board Members,

On behalf of Basic Holdings, LLC (“Applicant”), please accept this letter as a motion for the Lebanon Planning Board (the “Board”) to reconsider its decision to deny any density bonus for the Applicant’s PURD application pursuant to Section 501.2.D.2.c and Section 507 of the Lebanon Zoning Regulations. A land use Board may reconsider any of its own decisions within the statutory time period for an appeal. *The Planning Board in New Hampshire, A Handbook for Local Officials*, NH Office of Strategic Initiatives, March 2021, page V-19.

1. Applicant requests that the Board consider a revised 21 unit layout or even a 20 unit layout.

Applicant respectfully requests that the Board reconsider its decision to deny any density bonus for the Occom Path PURD. Applicant requests, however, that instead of reconsidering a 22 unit layout, the Board consider the attached alternative layouts for 21 units or 20 units. The density calculations in Section 501.2.D.2.a produce an allowable density of 19.92 units. A 21 unit layout represents an increase of barely more than 1 unit (1.08 units) under the density calculations in Section 501.2.D.2.a of the PURD regulations, and a 20 unit layout represents an increase of only 0.08 units above the density calculation.¹

¹ Applicant also notes that the formula method in Section 501.2.D.2.a requires that the total square footage of the property (after adjustment for steep slopes and wetlands) be reduced by ten percent to account for roads and streets. This results in a very conservative density calculation given that Occom Path uses less than seven percent of the area for roads and streets. For the Occom Path PURD the net square footage of the property is 221,285 s.f.. Applying the density formula results in a reduction for roads and streets of 22,128 s.f. and a net area of 199,147 s.f., for a total of 19.92 units. The actual square feet allocated to roads and streets, however, is only slightly more than 15,000, s.f., which would result in a net area of approximately 206,000 s.f., for a total of 20.6 units.

Both the 21 unit layout and the 20 unit layout remove the unit closest to the steep slope area, and replace that unit with additional open space to be used as a recreational area for the residents. Additionally, both layouts add 8 parking spaces to the interior island, for a total of 16 guest parking spaces—a 100% increase from the 22 unit layout and a 400% increase from Preliminary Design Review. Finally, the revised layout allows for additional snow storage in the area of the removed unit. Applicant believes that the proposed 21 unit and 20 unit layouts address the Board's concerns raised during consideration of the 22 unit layout by providing increased open space for the residents, increased parking, and less development proximate to the steep slope area.

2. Applicant's proposal is consistent with the Objectives of the PURD regulations.

The Applicant's proposals are consistent with the objectives of the PURD as set forth in Section 501.2.A of the Lebanon Zoning Regulations, which provide as follows:

The objectives of the PURD provisions of this ordinance are as follows:

1. To encourage conservation of Open Space to effect appropriate density and protect important natural resources such as agricultural soils, forested land, wildlife habitat, water resources, other natural resources, including geologic and scenic, and historical and archeological resources.
2. To establish a connected network of conservation lands, trails, and working farm and forest land throughout the City by linking the Open Spaces and trails within the development, to conservation lands, important natural resources and trails on adjoining lands wherever possible, and as particularly found in the Lebanon Master Plan and Natural Lebanon.
3. To preserve those areas of the property that have the highest ecological value, including, for example, wildlife habitat, large un-fragmented blocks of undeveloped land, and areas of co-occurring resources as shown in Natural Lebanon, and water resources, such as drinking water supply areas, wetlands, streams and rivers.
4. To encourage the development of environmentally sensitive outdoor recreation land uses.
5. To allow flexibility in residential development to provide for a diversity of housing types, densities, and styles.
6. To provide opportunities for the development of workforce or affordable housing.

7. To locate buildings and structures on those portions of the property which are the most appropriate for development and avoiding developing in areas ill-suited for development, including, for example, areas with poor soil conditions, a high water table, that are subject to frequent flooding or that have excessively steep slopes.

8. To encourage a more suitable form of development by facilitating the design, construction, and maintenance of housing, streets, utilities and public services in a more economic and efficient manner and by integrating the new development into the existing built and natural environment.

9. To promote the reduction of impervious surface areas and sustainable stormwater management

The Applicant's proposal—which, as far as Applicant is aware is the first development to be reviewed under Lebanon's PURD regulations, promotes these objectives. Among other things: Open Space will be conserved; Development will avoid sensitive natural resources, i.e., steep slopes; The project consists of single family homes and duplexes—a housing type in short supply in Lebanon; and the clustered layout reduces impervious surface and is designed based on sustainable stormwater management. Denying any density bonus appears, on its surface, to be at odds with these objectives, and applicant proposes that reconsideration is appropriate based on these objectives.

To encourage an Applicant to use the PURD development process and conserve open space, an applicant who uses the PURD design mechanism is eligible for a density bonus. The Applicant went to great lengths to propose a development that is consistent with the PURD requirements and objectives, and Applicant asks that the Board consider these Objectives when they consider Applicant's motion to reconsider the decision to deny a density bonus.

3. Applicant's proposal is consistent with the Board's Preliminary Design Review Findings and Determinations.

In January 2019, the Applicant submitted an application to the Board for Design Review of a Preliminary Layout for a 21 unit Planned Unit Residential Development. On November 12, 2019, the Board issued Preliminary Findings and Determinations, #PB2019-03-PMJ. Although the Preliminary Findings and Determinations stated that "[t]he Board is generally concerned with the proposed density of the development," the Board did not express disapproval for 21 units. The comments of the Board regarding density concerns that were memorialized in the Preliminary Findings and Determinations identified "the ability of the applicant to provide sufficient parking given the size of the property and the limitations imposed by the PURD open space requirements." Comments made during the deliberations also identified the amount of space between units as a "density" concern, but those comments were not incorporated into the

written Preliminary Findings and Determinations. The Board also discussed traffic and the anticipated requirement for a sidewalk to provide safe access to the Advance Transit stop on NH Route 10—but those discussions were not characterized at that time as issues related to density, but instead were identified as issues related to the potential need for off-site improvements.

In response to the Board's input and Preliminary Findings and Determinations, the Applicant redesigned the Preliminary layout to address the Board's density concerns. The Applicant relocated the community gardens to an area in the northwest corner of the Project. That move allowed increased spacing between the units. The applicant reconfigured the footprint of the homes and garages to provide an offset parking space in front of each garage that offers an open area for play space or additional guest parking for each unit, and results in a distance between units across the face of the garages of approximately 40 feet. The redesigned layouts also increase guest parking from 4 (in the Preliminary layout) to 16 spaces.

In addition, in response to neighbor comments that development should fit with the single family homes on Oak Ridge Road, Applicant moved the duplexes initially proposed to front on Oak Ridge to the rear of the development, and the current layouts provide single family homes on the Oak Ridge Road frontage.

Despite the Applicant's efforts to address the comments in the Board's Preliminary Findings and Determinations, the Board voted to deny any density bonus for the Project. This denial was unexpected based on the Preliminary Findings and Determinations, and Applicant respectfully requests that the Board reconsider its decision.

4. The revised 21 unit layout addresses comments of Board members made in connection with the decision to deny a bonus density.

If the Board agrees to reconsider its decision, Applicant asks the Board to consider the following:

Some of the Board member's stated reasons for denial discussed opinions that the houses are "squeezed in", "crammed in", and tightly packed. As indicated in the statement of Objectives, a PURD is designed and intended specifically to cluster together houses so that open space can be left open. The Applicant's layout is doing exactly what is intended and required under a PURD. Furthermore, Occom Path is far less dense than other housing projects that the Planning Board has approved in the last five years. Multistory apartment buildings behind the Element Hotel, on Mechanic Street and on Mount Support Road all have residents living within a few feet of each other in four directions (walls and ceilings shared with other tenants). These developments are also designed shared hallways which add to the density of people being near each other and lack of privacy and space. In addition, the attached layouts appear to be less dense than the nearby Pinewood Village, which consists almost entirely of duplexes with very little separation between outside walls of units.

The slight increase in density from 19.92 to 21 units or 20 units will only impact the people who live in Occom Path—all of whom will make an active choice to live there. No residents of the Oak Ridge Road neighborhood have to live there or even enter the property. Direct access to any outdoor space when it comes to the rental inventory in Lebanon is in rare supply and Occom Path will provide that quality of life by offering an alternative to multi-family housing units, more than offsetting any increase in density. If members of the Board have themselves, or know anyone who has looked to rent property in Lebanon in recent times, they will know then an extra unit or two matters when all you can find is an apartment without any outdoor space for kids and their families. Additionally, Occom Path is within a three minute walk to Sachem Field which provides many acres of recreational land that is enjoyed by the community.

While the Planning Board expressed an belief that it should not take the economics of a project into account, Objective 8 of the PURD Objectives set forth in Section 501.2.A.8, states that the objectives of the PURD regulations is “[t]o encourage a more suitable form of development by facilitating the design, construction, and maintenance of housing, streets, utilities and public services in a more economic and efficient manner.” Accordingly, Applicant submits that it would be appropriate for the Board to consider as a positive factor that building more units with the same infrastructure will more economic and efficient.

In addition, it is no secret that there is an outcry in the community for making housing more affordable. When units are cut back, the fixed costs of developing a property (road, utilities and even planning and design costs) are spread over fewer units. Hence, a developer needs to charge higher rent to pay for the project. A reduction in density from 21 to 19 units will have the undesired effect of increasing the average rent at Occom Path by 14%. In addition, a reduction from 21 to 19 units will result in a reduction in anticipated tax revenues for the City of Lebanon by close to \$12,000 per year.

For the foregoing reasons, Basic Holdings, LLC respectfully request that the Board reconsider its decision to deny any density bonus for the Occom Path PURD and agree to review Applicant’s proposed 21 unit layout or 20 unit layout for compliance with PURD, Subdivision, and Site Plan Review regulations.

Yours truly,

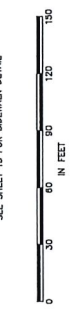
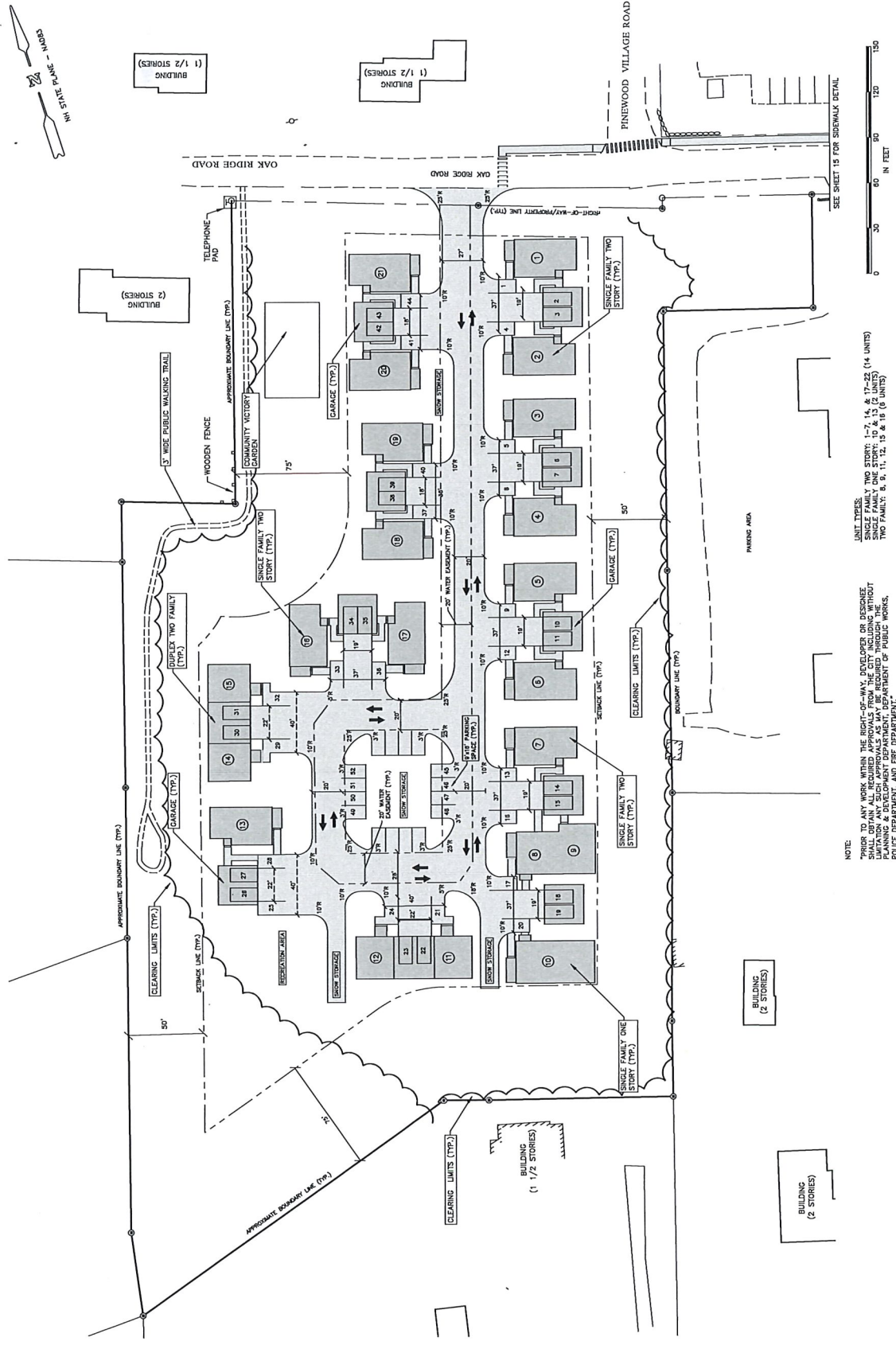
/s/ Nathan H. Stearns

Nathan H. Stearns, Esq.

Enclosures

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cc: Jeff Shaprio
Mac Gardner
Rod Finley



UNIT TYPES:
SINGLE FAMILY TWO STORY: 1-7, 14, & 17-22 (14 UNITS)
SINGLE FAMILY ONE STORY: 10 & 13 (2 UNITS)
TWO FAMILY: 8, 9, 11, 12, 15 & 16 (6 UNITS)

NOTE:
PRIOR TO ANY WORK WITHIN THE RIGHT-OF-WAY, DEVELOPER OR DESIGNEE SHALL OBTAIN ALL NECESSARY PERMITS AND APPROVALS WITHOUT LIMITATION ANY SUCH APPROVALS AS MAY BE REQUIRED THROUGH THE PLANNING & DEVELOPMENT DEPARTMENT, DEPARTMENT OF PUBLIC WORKS, POLICE DEPARTMENT, AND FIRE DEPARTMENT.

REVISION NO.		DATE	DESCRIPTION	MADE BY	CHECKED BY	APPROVED BY
04/20/20		04/20/20	REVISION 21 UNIT LAYOUT	PAB	R.F.	R.F.
11/20/20		11/20/20	STAFF REVIEW COMMENTS	MADE	R.F.	R.F.
					BT	BT
PATHWAYS CONSULTING, LLC 240 MECHANIC STREET, SUITE 100 LEBANON, NH 03766 (603) 448-2205 PRJ. NO. 11465-01						
21 UNIT LAYOUT PLAN FOR OCCOM PATH - BASIC HOLDINGS, LLC OAK RIDGE ROAD, CITY OF LEBANON, GRAFTON COUNTY, NH						
SCALE: 1"=30'						
DESIGNED BY: PAB						
CHECKED BY: R.F.						
DATE: 10/13/20						
SHEET 5 OF 17						

5

