

FINAL

LEBANON PLANNING BOARD
Special Meeting
Monday, May 17, 2021, 6:30 PM
Remote Via Microsoft Teams
LebanonNH.gov/Live

ROLL CALL OF

MEMBERS PRESENT: Bruce Garland (Chair), Matthew Hall (Vice-Chair), Karen Zook (Council Representative), Gregorio Amaro, Joan Monroe, Kathie Romano, Jeremy Rutter

MEMBERS ABSENT: Laurel Stavis, Kim Chewning

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

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 directive 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. An overview of the meeting agenda was outlined.

Councilor Zook confirmed that she was on the Planning Board at the beginning of the Basic Holdings application process and was up to date on the recent meeting minutes and able to participate in the hearing.

2. Public Hearing Items

A. 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 March 29, 2021

Jeff Shapiro, Owner; Attorney Nate Stearns; Rod Finley, Pathways Consulting LLC; and Erica Wygonik, Resource Systems Group Traffic Engineer, attended online in support of the application.

Mr. Corwin reviewed the details of the suspended decision regarding the density bonus. There was a miscalculation on the total size of the combined property of #5 and #11 Oak Ridge. The updated calculation allows for 20 units, and the revised density bonus request by the applicant is for 21 units.

Mr. Stearns compared the 20- versus 21-unit plans. The same infrastructure would be required for either number of homes and adding the one unit would make the best use of resources. Citing his letter of April

5, 2021, Mr. Stearns enumerated the reasons why 21 units would be appropriate. The Regional Planning Commission's report demonstrates an urgent need for housing, the PURD regulations allow granting of a bonus, and the request is only one more than allowed. The plan conserves open space, provides flexibility for a diversity of housing types, offers workforce housing, avoids steep slopes, and allows stormwater management by clustering homes. The increase of one unit would only affect the residents of Occom Path. There is also direct access to outdoor space, which is not a typical option. The plan meets the objectives of a PURD, which encourages a more suitable form of development, maximizing a more economic and efficient manner of uses of resources. All recommended changes from the Planning Board have been incorporated, and the one-unit density bonus request is very important by reducing the rental cost per unit.

Mr. Corwin addressed a comparison of density between Pinewood Village and Occom Path. PURD was not in place when Pinewood was approved, and it would not meet today's PURD regulations regarding setbacks. Staff reviewed the updated plan set and does not have any concerns. Ms. Monroe noted that Pinewood's property is not flat, but Occom Path's is flat. No two parcels are alike, and it is important to consider what is proposed versus what is on the ground on another parcel.

Chair Garland invited public comment, which would be limited to topics that were not previously discussed.

Jan Bent, #3 Pinewood Village, stated that Pinewood Village was built in 1977 before PURD, and there was no density discussion. One can't compare Pinewood to Occom Path.

Rand Swensen, #15 Oak Ridge Road, agreed that it's not reasonable to compare Pinewood to Occom Path, as they have a different presence on the road. However, in his letter received by Staff today, Mr. Swenson stated his opinion that Occum Path is out of sync with the neighborhood and property values would suffer.

Rainie Kelly, #25 Wildwood Drive, expressed concern over stormwater runoff toward Quail Hollow. She inquired about solar on the units. Mr. Shapiro replied that they would be solar-capable within the long-term plan. He added that the setbacks of a PURD give neighbors more privacy. Ms. Kelly noted that the open space is not usable, which is against the spirit and intent of the Master Plan not to disrupt the character of the neighborhood.

Steve Arcone, #40 Oak Ridge Road, commented on the slope situation, which could be dangerous for children playing. The slope has much trash on it, and the developer should consider what to do with it.

Mr. Hall expressed his understanding of the comments by the neighborhood residents but did not see the difference between 20 and 21 units, or one story versus two stories of one unit, which does impact rent prices. There is no substantial difference.

Ms. Romano noted that the Board previously voted to limit the development to 19 units, and now 20 units are being allowed. Chair Garland explained that it was a split vote, which is why the Board is giving the density bonus second consideration.

***Matthew Hall moved that Planning Board APPROVE a density bonus of one (1) unit to allow a project of twenty-one (21) units for Occom Path.
The motion was seconded by Jeremy Rutter.***

Roll Call Vote:

Voting in Favor – Mr. Amaro, Mr. Rutter, Ms. Zook, Mr. Hall, Mr. Garland

Voting Against – Ms. Romano, Ms. Monroe

****The motion was approved (5-2).***

Mr. Corwin explained the changes to the conditions in the Draft Motion, which reflects the conditions of approval in the March 8, 2021 Staff Memo plus some suggested additions.

Chair Garland suggested a condition regarding cleaning up the slope.

Mr. Hall inquired if there were any concerns on the part of Staff. Mr. Corwin stated that there were not. Mr. Vincent confirmed that all comments have been addressed or are in the conditions. No issue of runoff toward Quail Hollow is expected on the slope, which is a vegetated slope with trees.

Ms. Romano noted many improvements to the project, which offers unique units not being offered elsewhere. She inquired about the size and type of trees being planned. Mr. Finley stated the landscape plan identifies locations and most are red maples. Mr. Brooks suggested a condition to update and label the trees on the plan. Ms. Monroe expressed concern over only one type of tree, because variety helps with protection from disease.

Mr. Hall and Mr. Amaro stated agreement that there have been substantial positive changes to the project that make it a nice addition to the area.

Ms. Monroe inquired about including a garden shed in the conditions. Mr. Corwin stated that it would have to be outside of the open space, as structures within that are prohibited.

Mr. Rutter inquired about a structure shown on the east side of development's property line that protrudes into the property. Mr. Finley stated that the structure belongs to a neighbor's property and is over the property line. They are not planning to do anything about it. Mr. Brooks suggested that the owner request that it be moved to a conforming position if it ever has to be rebuilt.

The Board members discussed the traffic issue regarding the lack of a turn lane into Oak Ridge Road from Route 10 north, which is under the control of the State.

Mr. Finley recommended adding a condition for cleaning up the trash on the slope by hand or with shovels but no power equipment and no tree cutting.

Ms. Monroe suggested boundary markers of the property's slope, possibly using flags, so children would know the limits for safe play.

Chair Garland invited public comment.

Ms. Bent inquired about saving a black birch on the northeast corner of the property. She was glad the slope would be cleaned. Regarding the left turn into Oak Ridge Road, most are violating the markings by using the non-turn lane, and it would be good to get the State's attention. Mr. Finley stated that the black birch would be saved.

Ms. Monroe inquired about the maintenance of the drainage system and the issue of fencing. Mr. Finley confirmed that it would be maintained routinely, and they would not be proposing fencing as stormwater would dissipate within 24 hours. Mr. Vincent stated that the applicant will apply to DES for an Alteration of Terrain permit. There is a requirement for maintenance of the drainage system, which is critical. A failure of that system would cause erosion and impact the infrastructure around the facility. It is well designed but must be maintained and remain clear of vegetation.

Chair Garland closed the Public Hearing.

Matthew Hall moved that the Lebanon Planning Board **APPROVE** the application of Basic Holdings, LLC for a Conditional Use Permit per Sections 501.1 & 501.2 of the Zoning Ordinance, Final Major Subdivision approval, and Site Plan Review approval of a proposed Planned Unit Residential Development (PURD) at 5 & 11 Oak Ridge Road (Tax Map 4, Lots 5 & 6), zoned R-3, PB2020-31-FMAJ, as shown on a plan set titled “Ocom Path PURD, Basic Holdings, LLC” prepared by Pathways Consulting, LLC, dated October 13, 2020, last revised May 3, 2021, Project No. 11465-01 (17 Sheets), including any and all submissions and testimony provided for and during the public hearing, with the following conditions:

Conditions to be Satisfied Prior to the Signing and Recording of the Plat (or prior to application for a building permit if the improvements are constructed prior to the recording of the plat)

(These conditions shall be satisfied within 2 years of the date of the Notice of Action.)

1. 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 applicant shall sign a Subdivision Agreement in accordance with Section 7.9.B of the Subdivision Regulations.
2. 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 applicant shall sign a Water Main Extension and Infrastructure Inspection Agreement in accordance with Chapters 136 and 182 of the City Code and Section 14.2 of the Subdivision Regulations.
3. Pursuant to Section 14.5 of the Subdivision Regulations, the applicant shall provide a Performance Bond for all required improvements, both on and off-site, including but not limited to: roadway and parking improvements, landscaping, lighting, utilities, bike lane/shoulder improvements, stormwater improvements, and sidewalks in an amount considered adequate by the Department of Public Works, and in a form satisfactory to the City Attorney. The Performance Bond shall be secured by a surety bond, a letter of credit, or an escrow account. *This requirement shall not apply if the required improvements are constructed prior to the recording of the plat.*
4. Street names and numbering shall be approved by the Police Department. The sole purpose of such review and approval shall be to assure that such names do not create confusion under the State’s Enhanced 911 system.
5. The applicant shall submit final designs, including construction drawings, of all infrastructure features, including the proposed on- and off-site roadway and parking areas, sidewalks, water and sewer utilities, and storm drainage systems, to the City Engineer for approval. All such designs shall meet the required design standards set forth in Chapters 136 (“Sewer Service”) and 182 (“Water Service”) of the Code of the City of Lebanon.
6. The applicant shall coordinate the final design of the Oak Ridge Road pedestrian crossing and sidewalk with the Planning and Development Department, the Department of Public Works, and the New Hampshire Department of Transportation.
7. 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 applicant shall

provide two (2) revised plan sets depicting the following revisions to the satisfaction of the Planning and Development Department, the Fire Department, and the City Engineer, as follows:

- a) Any changes made pursuant to Conditions of Approval #5 and #6.
 - b) On Sheet 1, in the “Site Information” table:
 - i. Identify existing use of properties.
 - ii. Change “duplex” to “two-family dwelling”; and
 - iii. Identify the unit mix (i.e. provide the total number of one-family dwellings and total number of two-family dwellings).
 - c) Identify the proposed name of the access drive. (SUB Section 10.4.C.1.d)
 - d) On Sheet 5 (layout plan):
 - i. Rename “Layout and Open Space Plan”;
 - ii. Add open space calculations;
 - iii. Add a note indicating how the open space will be owned, protected, and managed;
 - iv. Add the following as plan notes: “Per Section 13.14 of the Subdivision Regulations, there shall be no depositing, dumping, or storage of waste, or other natural or man-made material, supplies or equipment, on any subdivision land designated as open space,” and, “Per Section 13.14 of the Subdivision Regulations, no work, or removal, or filling shall be done, nor shall the existing natural characteristics of open space land be altered from the original condition, until a site plan shall have been approved by the Board;” and
 - v. Add any other information necessary to prepare the sheet for recording.
 - e) On Sheet 7 (grading, drainage, & erosion control plan), add a project-specific pipe schedule identifying pipe length, diameter, slope and invert values for each proposed segment of storm sewer.
 - f) Add a plan note to Sheet 8 (utilities plan) indicating that underground utilities, electric, telephone and cable, must maintain a minimum clearance of 10 ft. from all proposed water lines.
 - g) On Sheet 10 (landscape & lighting plan):
 - i. Identify correct percentage of evergreen trees proposed (SPR Section 6.2.B.4);
 - ii. Label all plantings and update the Plant List to accurately reflect the numbers of plantings depicted;
 - iii. Provide that all exterior lighting shall be 3,000K or warmer in CCT;
 - iv. Identify wattage for the three pole lights (SPR Section 5.1.E.12); and
 - v. Add the following requirements of the Site Plan Review Regulations as plan notes: Section 6.2.B.3 (“All new plant material shall be nursery-grown stock;”); Section 6.2.B.4 (first sentence only); Section 6.2.B.5; and Section 6.2.H.1.
 - h) On sheet 17 (the sidewalk extension plan):
 - i. Identify all easements necessary for the construction and maintenance of the sidewalk;
 - ii. Relocate sidewalk so that it is parallel with and immediately adjacent to the existing edge of pavement and provide a granite vertical curb; and
 - iii. Provide updated sidewalk construction details.
8. The applicant shall provide a digital copy of the revised plan set and/or revised application materials depicting any changes made pursuant to Condition of Approval #7, to the satisfaction of the Planning and Development Department and the City Engineer. The digital copy shall use a PDF-A format for archival purposes.

Conditions to be Satisfied Prior to Application for a Building Permit

9. The applicant shall schedule and hold a pre-building permit application meeting with the Planning and Development Department, City Building Inspectors, City Engineer/Department of Public Works, and Fire Department, in order to help streamline the building permit review process.
10. 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 Chapters 136 and 182 of the City Code.
11. 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
 - b) NHDES Alteration of Terrain Permit
12. All outstanding 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

(These conditions shall be satisfied within 2 years of the date of the Notice of Action)

13. The development shall be subject to City of Lebanon Impact Fees, pursuant to Section 213 of the Zoning Ordinance, except to the extent that the applicant obtains a waiver of such fees as may be permitted under applicable law. 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.
14. 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 and installation of on- and off-site roadways, parking, sidewalks, water and sewer utilities, storm drainage, and erosion control, in accordance with Chapters 136 and 182 of the City Code, Section 8.2 of the Site Plan Review Regulations and Section 14.2 of the Subdivision Regulations. The applicant shall provide funding for inspection services in a form and amount acceptable to the City.
15. Edge-of-disturbance fencing 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.
16. All water and sewer fees shall be paid as set forth in City Code Chapter 68.

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

(These conditions shall be satisfied within 5 years of the date of the Notice of Action)

17. Sheet 5 of the approved plan set shall be recorded at the Grafton County Registry of Deeds. Prior to recording, the plat shall be revised as necessary for recording purposes, in consultation with the Planning and Development Department, and shall be signed by the Planning Board Chair.

18. The applicant shall dedicate the completed water mains and hydrants within the complex, excluding service connections beyond the curb shut-off valves, to the City for ownership and maintenance, subject to appropriate easements. Said conveyance and easements shall be approved by the City Attorney and the Department of Public Works and recorded in the Grafton County Registry of Deeds prior to the issuance of a final Certificate of Occupancy for the project and prior to the acceptance of the utility improvements.
19. The applicant shall submit to the Planning and Development Department and the NH Department of Transportation (NHDOT) a traffic study, prepared by a Professional Engineer, evaluating whether the additional traffic from the Occom Path development meets any warrants at the Oak Ridge Road/NH Route 10 intersection (turn lanes, etc). The applicant shall be obligated to contribute its fair share to the cost of any improvements that are warranted by the traffic study and which the City and/or NHDOT choose to undertake. In determining the applicant's fair share, the cost of the traffic study shall be taken into account. The applicant's financial contribution, timing of payment, the City's and/or NHDOT's obligations, and other details shall be set forth in an agreement entered into by and between the applicant and the City and/or NHDOT, subject to review by the City's legal counsel. Any dispute between the applicant and the City arising under this condition may be appealed by the applicant to the Planning Board.
20. The applicant shall prepare and record an open space covenant or deed restriction in accordance with Section 501.1.F.5, 6 & 7 of the Zoning Ordinance, and shall be in form and content acceptable to the Planning and Development Department and the City Attorney.
21. The applicant shall obtain all necessary easements to construct and maintain the sidewalk along Oak Ridge Road to NH Route 10, and shall convey all such easements to the City, subject to review and approval by the Department of Public Works and the City Attorney.
22. Third-party engineer or design engineer inspection reports and as-built drawings provided by the applicant (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.
23. The impact fee calculated pursuant to Condition of Approval #13 shall be paid.
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 Subdivision Regulations and Site Plan Review Regulations.
25. Screens at least 5 feet in width shall be provided for all electrical and mechanical equipment, such as transformers and compressors. (Section 6.2.B.8 of the Site Plan Review Regulations).
26. The applicant shall, by hand or with hand tools, remove the garbage and debris from the steep slope at the southwestern corner of the property.

General Conditions

27. 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, and construction or

installation of any new driveway(s) shall also require a Driveway Permit from the Department of Public Works.

28. 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.
29. The applicant shall implement and maintain NHDES Site Specific Best Management Practices before, during, and after construction.
30. 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).

The motion was seconded by Jeremy Rutter.

Mr. Brooks noted that condition #19 should read, “from the Occum Path Development.”

Roll Call Vote:

Voting in Favor – Ms. Monroe, Ms. Zook, Ms. Romano, Mr. Hall, Mr. Garland, Mr. Amaro, Mr. Rutter

Voting Against – None

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

Chair Garland thanked the public.

6. AUTHORIZATION FOR PLAT SIGNING

Date: May 17, 2021

Matthew Hall moved that the Lebanon Planning Board authorizes the Chair to sign the plat for Basic Holdings, LLC, PB2020-31-FMAJ, titled “Final Major Subdivision Plan for Occum Path Basic Holdings, LLC” prepared by Pathways Consulting, LLC, dated October 13, 2020, last revised May 3, 2021, Project No. 11465-01 (17 Sheets), as such plan may be amended in accordance with the Board’s approval dated May 17, 2021.

The motion was seconded by Joan Monroe.

Roll Call Vote:

Voting in Favor – Ms. Romano, Mr. Hall, Mr. Garland, Mr. Amaro, Mr. Rutter, Ms. Monroe, Ms. Zook

Voting Against – None

****The motion was approved (7-0)***

Kathie Romano moved that the title of the plan be changed to, “Final Major Subdivision Plan for Occum Path Basic Holdings, LLC”.

The motion was seconded by Joan Monroe.

Roll Call Vote:

Voting in Favor – Mr. Rutter, Ms. Monroe, Ms. Zook, Ms. Romano, Mr. Hall, Mr. Garland, Mr. Amaro

****The motion was approved (7-0)***

Mr. Shapiro thanked the Planning Department and Planning Board for the time and energy put into this process and the City staff for working out all of the details. He shared his hope is that the PURD is something to be proud of in the future as being unique to the Upper Valley and for a target demographic.

3. Other Business - None

4. Approval of Minutes

A. March 29, 2021

Jeremy Rutter moved to approve the Planning Board minutes of March 29, 2021, as amended. The motion was seconded by Kathie Romano.

Roll Call Vote:

Voting in Favor – Mr. Garland, Mr. Amaro, Mr. Rutter, Ms. Monroe, Ms. Zook, Ms. Romano, Mr. Hall

Voting Against – None

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

5. Adjournment

A MOTION by Matthew Hall to adjourn the meeting. The motion was seconded by Kathie Romano.

Roll Call Vote:

Voting in Favor - Ms. Romano, Mr. Hall, Mr. Garland, Mr. Amaro, Mr. Rutter, Ms. Monroe, Ms. Zook

Voting Against - None

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

The meeting was adjourned at 8:44 PM.

Respectfully submitted,
Holly Howes
Recording Secretary