

FINAL

LEBANON PLANNING BOARD
Council Chambers, City Hall
Tuesday, May 28, 2019
6:30 PM

MEMBERS PRESENT: Keith Davio (Chair), Bruce Garland (Vice Chair), Matthew Hall, Joan Monroe, Gregory Schwarz, Laurel Stavis, Karen Zook (Council Representative), Kathie Romano, Matthew Cole (Alt.)

MEMBERS ABSENT: Sarah Welsch and Jim Winny (Alt. Council Representative)

STAFF PRESENT: David Brooks (Planning and Development Director), Tim Corwin (Senior Planner), Christina Hall (City Engineer), Rebecca Owens (Associate Planner)

1. **CALL TO ORDER** – Chair Davio called the meeting to order at 6:34 P.M.
 - Matthew Cole was appointed as a regular member in the absence of Sarah Welsch.

2. APPROVAL OF MINUTES:

Clarifications: Page 2, line 46: Change “City’s” to “West Lebanon”; line 47: add “West” in front of “Lebanon”; Page 3, lines 2-3: Sentence should read: “Mr. Brooks said West Lebanon developed around the railroad and Lebanon developed between the river and the mills.”

A MOTION was made by Bruce Garland to approve the April 22, 2019 Minutes as presented in the May 28, 2019 agenda packet and as amended. Seconded by Gregory Schwarz.

**The MOTION passed 8-0-1. Mr. Hall abstained because he was not present at this meeting.*

4. STUDY ITEMS:

A. REVIEW AND COMMENT ON DEVELOPMENT OF POTENTIAL REGIONAL IMPACT:

Pursuant to RSA 36:56, the Hanover Planning Board has determined that a site plan application from The Hitchcock Clinic and Pompanoosuc Investment Corporation for expansion of DHMC’s Lot 9 parking area, located at 226 Lebanon Street, has the potential for regional impact.

Chair Davio asked that this item be discussed first on the agenda.

David Stiger (Dartmouth Hitchcock Medical Center) and Nick Fiore (Engineering Ventures) came before the Board representing the above item. (Complete details and a Map of their proposal to the Hanover Town Offices can be found in the City of Lebanon’s Planning Board May 28, 2019 agenda packet.)

Mr. Stiger said DHMC submitted an application to Hanover for a Site Plan Review to expand satellite parking for DHMC and informed the Board about the difficulties in finding parking spaces for patients; a new tower being planned; the potential impact of a new parking garage, and; the need for off-site parking for construction personnel.

Mr. Brooks said the application is before the Hanover Planning Board, which has deemed this project to have the potential for Regional Impact, making the City of Lebanon an abutter.

The Board discussed and gave comments on the potential for regional impact due to traffic; the new tower; the expansion of the busing fleet; the possibility of DHMC adding a biomass plant and its potential impact on traffic; the location of the State jurisdiction on the Urban Compact agreement on Rte. 120, and; the impact of adding a potential traffic signal at Element Hotel on Rte. 120.

3. PUBLIC HEARINGS – CONTINUED FROM 5/13/19:

A. XYZ DAIRY, LLC: (This item was taken out of order from the agenda and discussed 2nd)

Amendment to previous Subdivision and Site Plan Approvals for the River Park phased development project located at 167-197 North Main Street, Tax Map 44, Lots 3,7, and 21-30, and Tax Map 58, Lots 27, and 89-99, West Lebanon, NH, in the R3, IND-L and CBD zones.
#PB2018-34-SPA.

(Note: The Board received an 18-page revised draft Motion from Planning Staff at the beginning of this hearing and was not reviewed prior to the meeting by either the Planning Board or Mr. Clem.)

The Board recognized and acknowledged Mr. Clem.

Chair Davio said that there are a couple of outstanding issues from where the last public hearing left off:

- 1) The question of recusal for Ms. Romano and Ms. Stavis.
- 2) The issue of temporary parking.

Ms. Romano recused herself from this discussion.

Ms. Stavis reluctantly recused herself from this hearing noting for the record that there will be no one representing West Lebanon on the Board for this hearing.

Chair Davio said that based on previous testimony, both the applicant and the City had differences in opinion based on who comes up with the regulations for temporary parking. The current regulations are for full compliance for the Site Plan Review and the applicant has asked for a waiver from those regulations in order to build temporary parking. He believed the Board was in favor of temporary parking, but questioned what it would look like and how long it would be allowed to stay as temporary parking. In Chair Davio's opinion, it is up to the applicant to show the Board what he plans to do for temporary parking in order for the Board to consider a waiver.

Mr. Garland said gravel is all the Board should require of temporary parking.

Mr. Schwarz respectfully disagreed with Mr. Garland, noting that the issue of the time span is very important and that temporary parking sometimes turns into being permanent. He needed more knowledge before approving a waiver.

Christina Hall said she thought the applicant was requesting a waiver for silt paving and did not realize the applicant meant gravel as this was not stated in the waiver application nor was it stated how long that temporary parking would be in existence. She said that the regulations do not speak to temporary parking and these issues were brought forth in a memo.

Mr. Brooks said the regulations only have one standard for parking, and that specifies the different layers of sub-base and base. By statute, only the Planning Board can grant a waiver from that standard. The Board needs to know what they are waiving and direct staff as to what is going to be acceptable. The applicant suggested that the City might already have adequate opportunity during the Building Permit stage to ensure that an adequate and safe parking area gets designed. However, if a design less than the full standard is submitted, staff cannot administratively approve it.

With respect to the duration, Mr. Brooks said the applicant has previously stated his reasons for not wanting to meet the standard and provided a schedule for when each of the phases will occur. If the applicant stays on schedule, this should not be a problem. If, for some reason, the applicant misses the deadline, or the project falls behind, he would need to come back before the Board to either get an extension of time or propose to make the temporary parking lot permanent. At that point staff can begin to think about where the timeline is and securing a Performance Security payment. The Board needs to spell out a way to ensure that the temporary parking lot does not remain gravel, or something less than permanent.

Mr. Garland said he is vehemently opposed to the City getting involved with the inside of a project and if something goes wrong with what is being provided by the developer/owner, that is between those parties, not the City.

Ms. Monroe questioned the lots potential to create drainage issues and the potential for mud/snow runoff into the river.

Mr. Clem said he was flying a little blind because he just received the suggested motion tonight and has not had a chance to review it in advance. He restated what his position was as follows:

The current Site Plan and Subdivision Approval, approved by the Lebanon Planning Board, establishes the “concept” of temporary parking and does not talk about standards for temporary parking, noting there is no municipal description of temporary parking. His application did not include a waiver request for the reason it was no different from what was approved on the original Site Plan and Subdivision. He was requested by the Planning Staff to submit a waiver request but believes there are adequate protections for the City’s interest in the existing language of the Site Plan and Subdivision approval. The current Site Plan and Subdivision approval says that before he goes to get a Building Permit, he has to meet with the Planning Staff and prepare information so that they can sign off on a Building Permit Application. We have done this already with the first building, when Mr. Clem came back to the Planning Board with a more specific footprint, circulation pattern, number of parking spaces based on an actual design and full construction drawings. The Planning Department signed off on that, agreed to the new configuration, and he then submitted a Building Permit Application. All that information was carefully detailed, but he has yet to receive a Building Permit almost three (3) years later.

Mr. Clem provided the Board examples of a number of parking facilities that only have gravel, no lighting and no drainage. His objection to preparing engineered drawings now is going through the Planning and Engineering process with examples of the upfront costs that are very site-specific.

Mr. Clem objected to posting a bond for temporary parking, which basically is defined by a landlord-tenant relationship under contract law. There is a legitimate issue of how long a temporary situation can exist, but the solution is in the phasing. He noted that once there is a parking garage, the necessity for any temporary parking goes away.

Mr. Brooks, in response to Mr. Hall’s question, said the concept of temporary parking was approved in the original application. He thought it was acceptable to design a parking lot that does not comply with the full design standards of the Site Plan Regulations, but the applicant still needs to tell the Board what it will be. Staff has one opinion on temporary parking and the applicant has a different opinion. The Board needs to tell Staff what is acceptable.

The Board discussed: if there have been precedents to this situation within the last 10-years; how Mr. Clem would prevent water/snow run-off from getting into the river, and; the need for the applicant to tell the Board what is going to be built so the Board can tell the applicant whether his proposal is acceptable or not.

Mr. Garland felt that a properly graveled compacted surface, graded for appropriate drainage, with adequate safeguards for snow and other related issues would be acceptable to the Board.

Christina Hall said it would not cost the applicant much to have a Geotech do an evaluation of the site so the Board would know what the unknown duration of temporary parking would be. She is prepared to accept gravel as long as it is prepared properly and maintained through the different construction phases that will be occurring.

Another discussion took place regarding setting a precedent for future developments; the need for ideas to define what a temporary parking standard is moving forward, and; what happens if the phasing does not go as planned.

The Board took a few minutes to read through the revised Draft Motion (page 8 of 18, Alternative #2) as presented to them at the beginning of the meeting.

Chair Davio opened the Public Hearing.

Ms. Kathie Romano of West Lebanon asked how many parking spaces will be on Lot #2 when it's finished. Mr. Brooks indicated there would be 73 parking spaces as part of Phase I.A. Mr. Clem said he plans to use curb stops to define parking spaces.

No other members from the public came forth to speak.

The Board discussed the duration issue, with Mr. Clem stating that a 3-year duration before the submission of a Building Permit Application for the next phase would be a reasonable time period and explained his timing as follows:

- When he gets a CO for phase I, the 3-year time clock begins for Phase I. He would then be in compliance and allowed to use temporary parking for that Phase I building. If Phase 1.A starts, at the end of the projected time or overlaps, the 3-year time clock begins upon the CO for that building and any parking under a temporary parking lot would be in compliance as long as he then filed the Building Permit Application for 1.B.

Christina Hall asked if a full CO could be released without having a bond posted. Mr. Brooks said yes, if less than fully built, a paved parking lot is what the Board approves.

The Board reviewed and discussed the redlined/revisions in Sections 14 through 21 of the Draft Motion (as presented in the handout) and the need to bring the dates of the old phased project timelines into conformity with the new proposed phased project timelines, while keeping Mr. Clem in compliance with, and not in default of, the Site Plan Amendments and approvals that he has already received.

Mr. Brooks addressed, with Mr. Clem, what was holding up the Building Permit as follows (these items provided to Mr. Clem September of 2018 and his attorney in December of 2017):

- Payment of water/sewer fees.
- Naming who is going to build the building for the Building Code.

- Naming who the design team is going to hire to do the special inspections, also required prior to the project.

Further discussions took place regarding when Mr. Clem could begin construction; the City's Crafts Avenue project, past extensions and if there are restrictions on the number of extensions that can be granted, how fast a project of this size could be absorbed in the marketplace. Mr. Clem said he is willing to go with a 2-year rollover if he can come back for another extension and his reasons are legitimate.

The Board reviewed the memo from the Engineering Department (dated January 3, 2019-revised on 3/26/19 and included in the May 13, 2019 Planning Board agenda packet). Chair Davio requested that this document be cleaned up and the parties involved come back with agreed upon solutions regarding the questions raised in the memo before the next meeting.

ACTION PLAN ITEMS AND DRAFT MOTION ADDITIONS FOR NEXT HEARING:

- Phasing and Parking Lot table to be added to the Motion.
- A modification that includes a maintenance plan to the existing 7.A Item.
- An additional paragraph about the cycles of the Certificate of Occupancy (CO) and Building Permits.
- The proposed revised Draft Motion should be received by the Board and Applicant prior to the next meeting so everyone has time to adequately review it.
- Mr. Clem to come back to the Board with dates (located on pages 12-18 of the handout) for each phasing project at the next hearing.
- Memo from Engineering Department (dated January 3, 2019-revised on 3/26/19 and included in the May 13, 2019 Planning Board agenda packet) should be cleaned up and the parties involved will come back with agreed upon solutions before the next meeting.

Chair Davio MOVED to continue this public hearing to June 10, 2019, 6:30 P.M., in Council Chambers. Seconded by Vice Chair Garland.

**The Vote on the Motion passed unanimously (7-0). Ms. Romano and Ms. Stavis were recused.*

Ms. Romano and Ms. Stavis were welcomed back as regular members of the Board.

B. DISCUSSION RE: MASTER PLAN IMPLEMENTATION:

Rebecca Owens updated the Board on where they were at with status reporting. Each Committee/Board/Department's CHaMPS received some orientation on how to fill out a reporting form using project examples, references and metrics that match Actions/Strategies in the Master Plan for their assigned Chapter. She described the challenges involved with the form and presented examples of the online form information gathered to date. Next steps include: CHaMP reorganization; Planning and Zoning will be filling in the gaps; an Executive Summary will be given to SCIMP in September; an assessment will be done regarding where we are at, and; will move into metrics in 2020.

5. COMMITTEE REPORTS:

- Planning Board Subcommittees: No Report.
 - Planning Board Capital Improvement Program (**M. Hall/S. Welsch/B. Garland/K. Davio**)
- City Council Subcommittees: No Reports.
 - Class VI Roads Advisory Committee (**J. Monroe**)
 - Lebanon Energy Advisory Committee (**K. Davio**)
- City Council Representative: (K. Zook/ J. Winny): No Report.
- Heritage Commission: (G. Schwarz): Mr. Schwarz updated the Board on upcoming events and a Special Open House that will be taking place on June 12th at the Dana House and two talks will

be taking place at Kilton Library regarding the Dana House plan. He also informed the Board about a presentation from Willis House Partnership, LLC requesting a Certificate of Approval in the Zoning Ordinance to install a photovoltaic (solar) energy system on a portion of the roof on the rear addition of the Willis House property located at 2 South Park Street.

- Pedestrian & Bicyclist Advisory Committee: (~~VACANT~~) – Ms. Zook volunteered to become the Planning Board’s representative to the Ped/Bike Advisory Committee.

Chair Davio MOVED to appoint Karen Zook as the Planning Board’s representative to the Ped/Bicyclist Advisory Committee. Seconded by Gregory Schwarz.

**The Vote on the Motion was (8-0-1) Karen Zook abstained.*

- Upper Valley Lake Sunapee Regional Planning Commission: (B. Garland/L. Stavis) - No Report.
- UV Sub-Committee of the Connecticut River Joint Commissions: (B. Garland/L. Stavis) – No Report.
- Upper Valley Transportation Management Association: (S. Welsch) – No Report.
- Mascoma River Local Advisory Committee: (K. Romano) - No Report.
- Steering Committee for the Implementation of the Master Plan: (B. Garland/G. Schwarz/K. Davio/J. Monroe) – No Report.
- Planning Office - Task Status: (D. Brooks/M. Goodwin/T. Corwin/R. Owens): No Report.

6. OTHER BUSINESS:

- Vice Chair Garland requested that Tim Corwin be brought back before the Board to discuss the differences in Extensions.
- Keith Davio, noting personal reasons, tendered his resignation from the Planning Board beginning at the end of this meeting, to the dismay of all members. The Board thanked Mr. Davio for all the hard work and expertise he has provided over the years and wished him well. He will be greatly missed.

Bruce Garland will be acting Chair at the beginning of the next meeting (June 10, 2019), when an election to replace him will take place. To be placed at the end of the agenda.

9. OPEN DISCUSSION: None

10. ADJOURNMENT

Keith Davio MOVED to adjourn the meeting at 9:28 P.M.

**The MOTION passed (9-0).*

The meeting was adjourned at 9:28 P.M.

Respectfully submitted,
Dona E. Gibson
Recording Secretary