

FINAL

**LEBANON PLANNING BOARD-SPECIAL MEETING  
WEDNESDAY, AUGUST 28, 2019  
COUNCIL CHAMBERS, CITY HALL  
6:30PM**

**MEMBERS PRESENT:** Bruce Garland (Chair), Matthew Hall (Vice-Chair), Kathie Romano, Joan Monroe, Laurel Stavits, and Karen Zook (Council Representative),

**MEMBERS ABSENT:** Matthew Cole, Gregory Schwarz, Sarah Welsch, and Jim Winny (Alt. Council Representative)

**STAFF PRESENT:** David Brooks (Planning Director), James Donison (Public Works Director), and Tim Corwin (Senior Planner)

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1. **CALL TO ORDER:** Chair Garland called the meeting to order at 5:30 PM.

2. **APPROVAL OF MINUTES:** July 31, 2019

Page 4, line 49, correct “Rand” Swenson; Page 5, line 2, to read, “Mr. Swenson stated that plowing of sidewalks along Route 10 was not done by Lebanon, but he believes it is done by Hanover as part of clearing out to Campion.”

*A MOTION by Matthew Hall to approve the minutes as amended.*

*Seconded by Karen Zook.*

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

3. **PUBLIC HEARINGS** - Continued from July 16, 2019

**A. BASIC HOLDINGS LLC, 5 & 11 OAK RIDGE ROAD, (Tax Map 4, Lots 5 & 6), zoned R-3:** Request for Preliminary Review of a Major Subdivision for a proposed Planned Unit Residential Development (PURD) pursuant to Section 501.2 of the Zoning Ordinance, containing 21 residential units together with related site improvements and amenities.  
**#PB2019-03-PMAJ**

Chair Garland opened the hearing by stating that there would be three sections within the meeting. The first discussion would be limited to Section 13. The second section would allow the public to speak to that section. However, Chair Garland asked that the public avoid repetition of earlier comments. Third, the public hearing would be closed, and the Board would finish Sections 12 and 13 of the preliminary review.

Rod Finley, Project Engineer of Pathways Consulting and Attorney Nathan Stearns appeared on behalf of the request.

Atty. Stearns began by responding to a letter dated July 31, 2019 sent to the Board by Robert Drake and Deborah Becker and characterized it as a personal attack on Mr. Shapiro’s character. Atty. Stearns expressed his belief that the letter does not belong in the meeting information or record.

Mr. Finley began the discussion with Section 13.9 - Storm Drainage. The drainage calculations have been submitted to Ms. Hall, and the comments from Ms. Hall have been addressed. The comments from Mr. Donison have also been addressed. Mr. Finley projected a rendering of the storm drainage system, noting there have also been test pits. There is all fine material on site and no ledge to depth. Several test pits were dug to 10 feet and the rate of drainage was too fast. Some other material would need to be added to slow down the drainage in the area of the garden to State levels. Both basins are oversized.

Regarding the site plan, there is a high spot at the rear of the property, with water flowing in two directions. The road width was reduced to 20 feet to minimize the impervious surfaces and there are no curbs to allow storm water onto lawns for drainage. There are two lawn drain areas and four rain gardens, which have been moved away from the slope. A stone-lined overflow provides filtration and drainage for a 100-year event. Ground water is at six feet, so drains will be created in the underlayer. Everything flows from west to east into a pond at Route 10 and Oak Ridge. Both basins hold a 100-year event.

Ms. Monroe inquired if the rain gardens were moved closer to the street. Mr. Finley stated that they were, and they put in an overflow structure to keep water from flowing toward the bank.

Jim Donison stated that he met with Pathways on Monday, and the drainage plan is reasonable and correct. Some adjustments were made to the elevation line and additional storm drainage was incorporated.

Ms. Monroe expressed concern about moving the rain gardens closer to the road, making it really tight in winter for snow storage and quite messy later with melting and additional water. Mr. Finley stated that there will not be an additional four spaces in the green area to allow for snow, as well as across the road in the side lot. There is also space between properties. If there is a large snowfall, it will be moved offsite. Ms. Monroe inquired if portions of the 50% open space includes areas for snow. Mr. Finley stated that the open space is only the outside area beyond the buildings and other minor adjustments can be made.

Ms. Romano inquired as to the dimensions and description of the rain gardens. Mr. Finley stated that there would be a 2 to 3-inch mulch layer of hardwood chips over a sandy loam pocket of 18 inches with planting of shrubs and grass. Ms. Romano asked how long water would sit in the rain gardens. Mr. Finley suggested it would depend on the rainfall as well as the weather and season, but it would likely drain quickly based on the testing result of 30 inches per hour. Ms. Romano inquired about maintenance and fencing. Mr. Finley stated that there is a maintenance plan for the storm water system, and they would prefer not to fence those areas. Ms. Monroe expressed concern over renters' children seeing them as play areas, and she referred to some that had four-foot fencing and signage that kept people from using them. Ms. Romano asked for a description of the infiltration ponds. Mr. Finley stated they would be similar to the rain gardens but larger, deeper, and planted with no fence planned at present. Ms. Romano also expressed her concern about small children and suggested they would be better fenced. Mr. Finley acknowledged that they would fill up during a 100-year storm event, which could create a safety concern. Mr. Hall stated that he did not see them as a safety issue, because parents have an obligation to supervise their children.

Chair Garland referred to the April 24 memo and asked for clarification as to the status at present. Mr. Finley agreed to go through the memo, stating that a full set of drainage calculations was submitted, and Ms. Hall responded to those with 20 comments, which are in the meeting packet. Mr. Finley described each item and its status. Mr. Donison stated that all of those comments have been addressed at this point.

Mr. Hall inquired about the result of water draining too quickly. Mr. Finley stated that it would go straight to ground water without filtration, which is why they will add some material to slow it down. The areas have to be cleaned of sediment and maintained. It is a State requirement.

Mr. Brooks inquired if the basins are oversized based on the drainage rates and if they plan to shrink them down or make them shallower. Mr. Finley replied that with the testing information, they would possibly make them smaller and shallower, particularly the one closest to Oak Ridge Road, when the final plan is created. Ms. Monroe noted that it has been quite dry recently and inquired if the testing was accurate. Mr. Finley stated that the test was done at two feet below ground level and dug to six feet for the test bed for an accurate result.

Chair Garland stated that Mr. Arcone sent in an email with photos, but it is not clear what they represent. The Board would like to wait until final review to address them. Mr. Finley agreed.

Ms. Monroe stated that there is a difference between the conditions in May and November for testing. Mr. Finley stated that they are able to infer from the results. Mr. Donison stated the New Hampshire State requirements for an Alteration of Grade Permit specifies the procedure, and Mr. Finley did follow the procedure. Mr. Donison explained the procedure.

Chair Garland asked that the other regulations be addressed.

### **13.10 - Excavation and Grading**

Mr. Finley stated that the project was designed using the subsection requirements, and all specifications are on the plans. The materials are suitable, and they met all requirements and specified all materials for roads and utilities. They may encounter some unsuitable materials that would be cleared during construction. There are reports of copper antenna wires and old metal objects that would be disposed of properly. Ms. Romano inquired about the property close to the ravine and the need for duplexes, suggesting that removing the duplexes would allow for building away from the ravine and some additional parking at the beginning of the project. Mr. Finley stated that they don't need duplexes, but Mr. Shapiro's plan was to provide them at the beginning of the property. The City's records indicated 5.38 acres, but the survey confirmed just 5.08 acres, and a unit was lost due to the survey. One duplex will likely become a single family home. A variance was requested for the original house, which was in the 75-foot setback for a PURD. The variance was denied, so the house must be torn down. That would likely eliminate another duplex and leave one. There is also a question of the unit with a deck out over the ravine. Ms. Romano suggested the additional space could provide some parking near the beginning of the complex.

### **13.11 - Site Preservation**

Mr. Finley noted this regulation includes natural cover, erosion and sediment control, and other elements. The project meets the 50% minimum open space requirement, and nothing is disturbing the steep bank. There is a plan for erosion and sediment control and maintenance. The plan utilizes existing drainage ways for events beyond a 100-year event.

Ms. Monroe referred to the grading and drainage plan, noting that the houses on the east side would have their yards raised slightly. Mr. Finley confirmed that aspect. Ms. Stavis inquired about a more complete definition of open space. Mr. Corwin noted that the requirements are in Section 501.1 and 501.1F of the Zoning Ordinance. Ms. Stavis inquired as to whether the plan meets those requirements. Mr. Corwin stated that it meets the technical requirements, but there are other criteria for the Board to consider. The public benefit criteria are in Section 501.J.1-A. There are several goals to reach for the design of this open space. It would be the Board's decision whether it meets the goals for open space. There are technical requirements and goals, and Planning Staff believes they meet the technical requirements. Ms. Monroe inquired as to when the Board would review them. Mr. Corwin stated that this phase is the subdivision preliminary review. The applicant will have one year in which to submit the final major subdivision application, a site plan, and a conditional use permit for the PURD. At this stage, the Board and applicant are only required to discuss the project's compliance with Sections 12 and 13 of the Subdivision Regulations. Because it is a residential development, the Planning Department recommended that they go through a more in-depth initial review. It is beneficial to the applicant to address the PURD requirements. Mr. Corwin added that the Board has leeway and is only required to determine if the applicant meets Sections 12.1-12.4 of the PURD. If the Board wants to go through the PURD requirements it may, but it is not required at this point.

### **13.12 N/A**

**13.13 Pedestrian Walks and Bicycle Paths** – Mr. Finley stated that there is no plan for a sidewalk within the development, but one is proposed along the north side of Oak Ridge Road to the Route 10 sidewalk and access to Advance Transit across the street. No bike lanes are proposed. Ms. Romano agreed with using the north side, as the south side would not get enough sun to melt ice and snow. Mr. Donison stated that it is not preferable to have a crosswalk mid-block, but there are benefits to the north side. If the crosswalk is right at Route 10, some kind of warning light for the crosswalk would be recommended. Ms. Stavis inquired if the crosswalk would be the responsibility of the City, the State DOT, or the developer. Mr. Donison stated if it is crossing Oak Ridge Road, it would be the responsibility of the developer.

**13.14 – Development of Open Space** - Ms. Monroe observed that there were previous instances when the Board got into depth regarding the definition of open space and the issue of active versus passive recreation in open space. Since the Board did not explore the details at the July 31 Special Meeting, Ms. Monroe suggested that the discussion happen at this meeting. Chair Garland stated that the Board is here to discuss open space. Ms. Monroe also inquired about the curtilage and how the developer would deal with it. Mr. Brooks stated that curtilage is the area immediately around the house, perhaps 10-15 feet. How it is ordinarily used is up to the developer or association. Ms. Monroe noted when there are no lot lines, residents could start taking over open space with personal equipment and eliminate others from using the space. Chair Garland stated that the property owner would be responsible for creating and enforcing the rules.

### **13.15 Parks and Playgrounds – Previously discussed**

**Chair Garland opened the Public Hearing** and reminded the public that there should be no repeat of topics for those who have spoken at prior meetings.

Lawrence Kelly, 25 Wildwood Drive, stated that he and his wife sent a letter asking residents if they supported what Dr. Rand Swenson said. Mr. Kelly brought a list of 68 residents of the Oak Ridge/Wildwood area who signed in agreement with Dr. Swenson and delivered the list to the Mr. Corwin. Chair Garland stated that they are opinions, not facts, but appreciated the effort. Mr. Kelly also commented on the waiver for 125-foot versus the required 150-foot distance between entrances. Other entrances are already very close together on Oak Ridge Road, and this would create a more unsafe situation. Mr. Finley stated that the separation requirement is for City streets, not private properties. Pinewood Village may not be a City street. Ms. Hall asked Mr. Finley to file that waiver request, but he does not believe it is necessary.

Martha Solow, who resides in the Riverdale area, stated that she is not an abutter but is concerned for the City. Ms. Solow noted that she served six years on Hanover's Board and 20 years on the Upper Valley Planning Commission. She looked at this proposal in terms of meeting the City's goals to increase housing for seniors and others in the region. Ms. Solow looked at the plan, and stated her reaction based on experience that it is much too dense for the site. There is not enough open space, the units are too close, and there is not an easy access to the development. There are safety issues on the site and getting to the site. Traffic is a problem with one entrance, and there is a potential issue with fire safety due to the lack of a second egress or plan for egress from the site. There is no space for play areas and no open space between houses. In general the development is not meeting any community goals. Another area in the City is coming up for this type of housing and wouldn't be trying to fit that many homes into a site which is too small. Ms. Solow believes this plan does meet the standards set for the City.

Steve Arcone, 40 Oak Ridge Road, inquired about the number of site visits and meetings. Chair Garland clarified that the Board planned on one site visit and three to four meetings.

**Chair Garland closed the Public Hearing.**

Chair Garland stated that the Board would continue their deliberation of Sections 12 and 13 of the Subdivision Regulations, and the public would not be commenting. The goal is to provide Staff enough information to begin drafting a summary of the project. Ms. Monroe inquired about “reserve strips”. Mr. Brooks stated that it’s an area that is not being developed now and is not being included as open space. It is being reserved for future consideration.

**Section 12.1 – Character of the Land** – Chair Garland noted that this section considers unsafe land and unsuitable land, and there are no issues with the safety or suitability.

**Section 12.2 – Open Space & Recreation Areas**

A. Open Space – Ms. Monroe stated that the design is really tight, and it is uncertain whether open space is for all of the people or for individual units. Chair Garland noted that it does meet the 50% requirement. Ms. Monroe added that she was speaking of the quality of it, not the quantity, and how it is created.

B. Improvements to Open Space Parcels

Ms. Monroe suggested there could be onsite management.

**Section 12.3 – Impact**

Natural Resources – Ms. Monroe recalled looking at the ravine, which had little undergrowth due to shade and not enough plants to slow water down from surface rain. Chair Garland noted several comments from the public regarding erosion.

Schools – Chair Garland stated that there is no input from the School Board. The plan projects a small number of children. Mr. Brooks noted that there is more capacity on the west side, and there is no adverse impact from this project.

Adequacy of Streets and Sidewalks – Ms. Zook stated that the Board heard comment about the intersection at Route 10 but has no jurisdiction over it. Ms. Zook met with City Manager Mulholland regarding the intersection and wanted to report that conversation to the Board. Manager Mulholland had contacted the Lebanon Police Dept. In the last three years, there has been one accident at the intersection, which was the result of a loose cat in the car of the at fault driver. Manager Mulholland stated there is an opportunity to have the non-turn lane turned into an actual left turn lane with a little widening of the road. It would eliminate some of the close calls, but there has been only one accident reported.

Ms. Monroe stated that she would question whether the Planning Board has no jurisdiction over the Route 10 intersection. Ms. Monroe noted that the Board has had input in the past and have required past applicants to contribute to paying toward mitigating a situation, as their project would be adding to a problem that is already there. The mitigation has been blinking lights, traffic lights, and other remedies. Mr. Hall stated that the Board heard the traffic study. Ms. Monroe added that hearing about all the near misses at that intersection attests to the fact that it is dangerous and adding more cars is not logical. Chair Garland stated that it is a State highway, and although he agrees with Ms. Monroe’s points, the Board has no jurisdiction over it. Ms. Zook noted that it is going to be addressed, but it would have to be a bigger development than this to have a significant impact. Ms. Stavis stated that she agrees with Ms. Zook regarding the widening of the center lane. Mr. Hall noted that there are anecdotal stories versus a traffic studies that doesn’t support significant impact, and the Board can’t ignore that. Ms. Monroe suggested that a second study could be conducted after listening to the abutters and hearing their experiences. The Board could choose who will do the study, and can legally require the applicant to pay for it. Ms. Romano observed that the situation would still exist if the project doesn’t go forward. The solution is for someone with the authority to fix the situation for the people who live there now. Mr. Brooks stated that it would be appropriate for the City administration to request the DOT to assess the intersection and the traffic

study to make changes. It would not be appropriate to ask the applicant to pay for it. It would be appropriate to ask a City official to draft a letter to the City Manager with a copy to the City Council detailing concerns about the intersection. Ms. Romano noted that Mr. Corwin was going to contact Chris Turgeon at the DOT to raise the issue of the intersection. Mr. Corwin stated that one of the citizens already contacted them and copied all of the relevant City administrators. Chair Garland suggested the Board move on.

Utilities – already discussed

Sewage – N/A – Sewage would be connected to Hanover

Public Safety – Ms. Romano noted that the applicant would address it based on previous discussion.

Drainage – already discussed

Fiscal impact – Chair Garland noted that the assessor cannot judge the accuracy of the applicant's information without seeing the completed building, though projections appear to be on the high side. The tax revenues may not be as high as projected, but plowing will be provided by the owner. Ms. Stavis observed that the assessor should be able to assess the value of the land and improvements calculated by the applicant to make an educated estimate. Chair Garland stated that there is no critique from the assessor without comparing the new structure to comparables. Chair Garland noted that they do have some information but no critique of the information.

#### C. Scattered or Premature

Mr. Corwin stated that if the Board identified some aspect of the plan that would result in scattered or premature development, it is just a preliminary judgment. It is a high bar to find something scattered or premature, but there has to be a very serious concern regarding one of the items listed in Subsection C. Mr. Hall asked if there is a definition of premature and scattered. Mr. Corwin stated that there is none. Ms. Zook asked for confirmation that if it is not determined to be premature and scattered tonight, it doesn't mean the Board doesn't want answers to questions that are raised when they see the final application. Mr. Corwin said that was true. Mr. Hall stated that he doesn't see any obvious concern.

#### **12.4 Impact fees** – Already discussed

**12.5 Off-site improvements** – Mr. Corwin stated that the Board has authority to require the applicant to address offsite impacts, like constructing a sidewalk along Oak Ridge Road. The Board could require it. Mr. Corwin described circumstances that could require some type of contribution, but it would make sense to consider it still a question at this point.

**12.6 Community Water Supply and Sewage Disposal Systems** – N/A Ms. Romano asked if the units would be required to be sprinklered. Mr. Corwin said they would not.

#### **12.7 Operation and Maintenance of Common Facilities** – N/A

#### **12.8** N/A

### **13 - Design Standards**

#### **13.1** N/A

**13.2 N/A****Section 13.3 Lot Layout, Drainage and Driveways** - already discussed

Ms. Monroe reiterated that the units are close together at 15 feet apart. Ms. Monroe wondered if the design takes into account windows that are across from each other and the impact on quality of life, suggesting that perhaps they could be offset.

**Section 13.4 Lots/Lot Area/On-site Septic** - N/A

**Section 13.5 Streets** – Mr. Corwin noted that when the application undergoes final subdivision review, the applicant will be requesting a waiver from the 22-foot street width requirement. Mr. Hall expressed concern over the safe passage of public safety vehicles, and it would be helpful to have input from the various services before making a final decision. Chair Garland inquired about no parking signs. Mr. Corwin stated that they could be required as part of final approval. Mr. Brooks noted that it is private property, and enforcement would be up to the management. Mr. Hall agreed that it would be incumbent on the owner to enforce parking rules. Mr. Corwin stated that at a minimum, it would be a violation of the site plan. Ms. Romano inquired if the police on patrol could ticket a vehicle blocking the street. Mr. Corwin agreed they should look into it.

Mr. Corwin stated that this is a driveway, not a street, so many requirements do not apply. Ms. Monroe inquired as to why the requirements would apply if it is a driveway. Mr. Donison stated that the applicant would have to abide by some requirements of road construction. Mr. Corwin noted that many requirements don't apply, because it is not a subdivision with different roads. This road will not have its own right of way. The members discussed the various aspects of driveway versus street designation. Mr. Brooks stated that the street would have a name and the residences would be numbered. Due to the number of buildings, it would not be allowed to be just off Oak Ridge Road. Ms. Romano noted that the designation of private street would mean that the 150-foot distance doesn't apply. There are municipalities that require private streets be built to public street standards in the event that the City were to take it over and maintain it. Mr. Brooks stated that the private versus public issue would be determined at the time of the final application. Mr. Corwin stated that the applicant designed the street to conform to this section except for the aspects requiring waivers.

Ms. Stavis stated that given these are rental units and there are concerns about maintenance of the streets, it would be preferable to have it be a private street. It provides satisfaction for the City that there will be a program for maintenance that would address the expressed concerns.

Ms. Monroe noted that the various safety services do make rounds in the city and could note problems and request the owner address them. Ms. Stavis added that it would require the developer to create a plan for addressing safety issues. Mr. Corwin noted it could be a condition of approval. Mr. Hall referred to the Statement of Impact on Page 1 of the proposal, which refers to the street as a "private roadway."

**13.6 Street Lighting** – Chair Garland noted that recommendations for lighting were presented.

**13.7 Street Signs** – Mr. Brooks stated that if the street is named, the City would supply a sign paid for by the applicant. Ms. Monroe noted that there would be a name and sign for the development.

**13.8 Utilities** – The City would provide water. Sewage would be handled by Hanover's system, and all cables would be underground.

**13.9 Storm Drainage** – already discussed

Ms. Monroe confirmed the fact of a State requirement that there should not be an increase or decrease of water coming off the property.

**13.10 Excavation and Grading** – already discussed

**13.11 Site Preservation**

**13.12 Fire Protection** – N/A

Ms. Monroe confirmed that there are fire hydrants proposed.

**13.13 Pedestrian Walks and Bicycle Paths** – already discussed

**13.14 Development of Open Space** – already discussed

**13.15 Parks and Playgrounds** – already discussed

**13.16 Special Flood Hazard Areas** - N/A

**13.17 Reserve Strips** - N/A

Chair Garland noted that the Board did a good job of discussing the various regulations. Ms. Monroe inquired about the creation of a list of recommendations for the applicant. Mr. Brooks stated that previously a Board member was assigned to work with Planning Staff. This application is not as complex, and Planning Staff could draft a list and the Board could review it. Chair Garland approved of that approach. Mr. Brooks stated that the Board would finish up at a regular meeting, perhaps in October. Mr. Hall volunteered to assist with the list creation if needed and thanked the members of the public who have attended the meetings and given input. Chair Garland concurred.

**4. ADJOURNMENT:**

***A MOTION by Matthew Hall to adjourn the meeting. Seconded by Kathie Romano.***

***\*The MOTION passed (6-0).***

The meeting was adjourned at 7:40 PM.

Respectfully submitted,  
Holly Howes  
Recording Secretary