



**LEBANON BOROUGH  
LAND USE BOARD  
MINUTES  
Tuesday, February 10, 2026**

The Regular meeting of the Lebanon Borough Land Use Board was called to order by Vice Chairman David Abeles. at 7:00 P.M.

The meeting was convened in compliance with the Open Public Meetings Act of 1975. Three local newspapers were notified, and a notice is posted at Borough Hall.

**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was recited by all.

**ROLL CALL:**

Members Present: David Abeles, Rob Weingart Jim Fordham, Jim Newman, Joe Hauck, Ron Lapczynski, Marianne Mathewson, and Councilman Berger  
Absent: Alexander Saharic, and Mayor James J. Pittinger,  
Also present: Karen M Romano, Secretary, Jonathan Drill Esq, and Kendra Lelie PP

**OPEN PUBLIC SESSION**

Vice Chairman David Abeles opened the floor for public questions.

There being no comment on the floor was closed.

**MINUTE APPROVAL:**

**Mr. Hauck moved, and Mr. Mathewson seconded, a motion that Minutes of January 13, 2026.**

**The motion passed with the following roll call vote:**

**Ayes:** Abeles, Weingart Fordham, Newman, Hauck, Lapczynski, Matheson, Berger

**Nay:**

**Absent:** Saharic and Pittinger

**Abstain:**

Borough Attorney Jonathan Drill Esq. swore in Borough Planner Kendra Lelie. Ms. Lelie presented the Amended fourth round Housing Element and Fair Share Plan to the Land use Board. The fourth round included vacant land adjustment, rezoning, and overlay zone. She explained that all properties involved as well as the surrounding properties would be notified of the changes and the public hearing on March 10, 2026.

The Board asked questions pertaining to the proposed plan. Ms. Lelie answered each question. No changes to the HEFSP were proposed.

**PUBLIC HEARING FOURTH ROUND HOUSING ELEMENT AND FAIR SHARE PLAN**

Vice Chairman Abeles opened the floor for public comment.

Mr. William Vorhees of Rt 22 asked if the proposed HEFSP affected his property. Ms. Lelie explained it only effected the properties on Corporate Drive.

There being no further comment on the floor was closed.

Vice Chairman Abeles requested a motion to adopt the Amended Housing Element and Fair Share Plan as presented.

**Mr. Weingart made the motion to adopt Amended Housing Element and Fair Share Plan with a second by Mr. Hauck.**

**The motion passed with the following roll call vote:**

**Ayes:** Abeles, Weingart Fordham, Newman, Hauck, Lapczynski, Matheson, Berger

**Nay:**

**Absent:** Saharic and Pittinger

**Abstain:**

**MEMORIALIZATION: RESOLUTION 2025-04**

**MODIFYING CONDITIONS #11 OF RESOLUTION NO. 2021-03 GOVERNING THE "TOWN CENTER AT LEBANON" FAMILY RENTAL INCLUSIONARY AFFORDABLE HOUSING DEVELOPMENT**

Vice Chairman Abeles requested a motion to memorialize Resolution 2025-04 modifying conditions #11 of resolution no. 2021-03 governing the "town center at Lebanon" family rental inclusionary affordable housing development

**Mr. Weingart made the motion to adopt Amended Housing Element and Fair Share Plan**

with a second by Mr. Hauck.

**The motion passed with the following roll call vote:**

**Ayes:** Abeles, Weingart Fordham, Newman, Hauck, Lapczynski, Matheson, Berger

**Nay:**

**Absent:** Saharic and Pittinger

**Abstain:**

#### **LTC URBAN RENEWAL LLC/ TOWN CENTER AT LEBANON**

Requesting Modifying conditions #1 AND #12 of resolution no. 2021-03 governing the “Town Center at Lebanon” family rental inclusionary affordable housing development. With an one year extension of Resolution 2021-03

Borough Attorney Jonathan Drill swore in property owner Sam Gershwin.

Attorney Carly M. Clinton Esq. presented the proposed modifications to conditions #1 AND #12 of resolution no. 2021-03 governing the “Town Center at Lebanon” family rental inclusionary affordable housing development. With an one year extension of Resolution 2021-03

Attorney Jonathan Drill Esq. stated:

LTC Urban Renewal, LLC (the “**applicant**” or “**LTC**”) is the successor in interest to Town Center at Lebanon, LLC, which owned property identified below and obtained from the Lebanon Borough Land Use Board (the “**Board**”) (previously known as the “Lebanon Borough Planning Board / Board of Adjustment”), sitting as a planning board in accordance with N.J.S.A. 40:55D-25c, preliminary site plan approval with “c(1)” and “c(2)” variances and exceptions from certain residential site improvement standards (the “**approvals**”) as memorialized in Board Resolution No. 2021-03 adopted on August 24, 2021 (“**Resolution No. 2021-03**”) to allow construction of a family rental inclusionary affordable housing development consisting of four (4) multifamily residential buildings containing a total of two hundred and eighty (280) rental units, of which 20%(56 rental units) will be deed restricted to remain affordable to low and moderate income households, along with related site improvements such as stormwater facilities, street improvements, parking and landscaping (the “**proposed inclusionary development**”) on an approximately 22.2-acre property consisting of two lots designated on the Borough of Lebanon (the “**Borough**”) tax maps as Block 4, Lots 1.03 and 1.04, and having post office addresses of 400 and 500 Corporate Drive (both lots together are referred to as the “**Property**”);

With the consent of the prior owner and the current owner of the Property, CODD LIV, LLC (the “**owner**” or “**CODD**”), LTC applied for and obtained from the Board the following relief: (1) Modification of condition #11 of Resolution No. 2021-03 (prohibiting all construction prior to obtaining final site plan approval) to allow water connections and meters and associated service lines to be installed, and (2) Modification of condition #12 of Resolution No. 2021-03 (requiring the applicant to obtain final site plan approval by August 24, 2023) to extend the time within which

the applicant must obtain final site plan approval to August 24, 2024, which relief is memorialized in Resolution No. 2023-01 (“**Resolution No. 2023-01**”) adopted by the Board on Marh 14, 2023;

The LTC next applied for and obtained from the Board the following additional relief: (1) Modification of condition #1 of Resolution No. 2021-03 (requiring that revisions be made to the preliminary site plans, preliminary architectural plans, and stormwater management report, with all revisions to the documents being made by, and the preliminary site plan being signed-off by, February 24, 2022) to extend the date by which the revisions have to be made and the preliminary site plans have to be signed off to February 24, 2025; and (2) Further modification of condition #12 of Resolution No. 2021-03 (requiring the applicant to obtain final site plan approval by August 24, 2023) to extend the time within which the applicant must obtain final site plan approval to August 24, 2025, which relief is memorialized in Resolution No. 2024-01 (“**Resolution No. 2024-01**”) adopted by the Board on April 9, 2024;

The LTC next applied for and obtained from the Board the following additional relief: (1) Further modification of condition #1 of Resolution No. 2021-03 to extend the date by which revisions have to be made to the preliminary site plans and the preliminary site plans have to be signed off from February 24, 2025 to February 25, 2026; and (2) Further modification of condition #12 of Resolution No. 2021-03 to extend the time within which the applicant must obtain final site plan approval from August 24, 2025 to August 24, 2026, which relief is memorialized in Resolution No. 2025-03 (“**Resolution No. 2025-03**”) adopted by the Board on August 12, 2025;

The LTC also applied for and obtained from the Board the following further relief: (1) Further modification of condition #11 of Resolution No. 2021-03 to allow the applicant to install soil erosion and sediment control measures, install headwall and outflow measures adjoining the stream, and to start clearing and land disturbance in order to vest certain rights under the applicant’s NJDEP Flood Hazard Activity Permit #1018-05-0004.LUP2100001 pursuant to “Interim Construction Plan to Modify Condition 12 of Resolution 2021-03 Lebanon Town Center” prepared by AKRF, dated August 14, 2025 (of note the plans contained an error in the title and the title should have read to modify condition 11), which relief is memorialized in Resolution No. 2025-04 (“**Resolution No. 2025-04**”) adopted by the Board on February 10, 2026;

The applicant has now applied by letter from its attorney, Craig M. Gianetti, Esq. (of Day Pitney, LLP) dated January 12, 2026 for the following condition modification relief (the “**modification application**”): (1) Further modification of condition #1 of Resolution No. 2021-03 to extend the date by which revisions have to be made to the preliminary site plans and the preliminary site plans have to be signed off from February 24, 2026 to February 24, 2027; and (2) Further modification of condition #12 of Resolution No. 2021-03 to extend the time within which the applicant must obtain final site plan approval from August 23, 2026 to August 23, 2027;

The Board held a duly noticed public hearing on the modification application on February 10, 2026, with an affidavit of service and notice and an affidavit of publication of notice being submitted by the applicant to, and being on file with, the Board, thereby conferring a procedural jurisdiction over the modification application with the Board, during which hearing the applicant was represented by Carly M. Clinton, Esq. (of Day Pitney LLP) and the Board was represented by

Jonathan D. Drill, Esq. (of Stickel, Koenig, Sullivan & Drill, LLC);

**WHEREAS, AFTER CONSIDERING THE MODIFICATION APPLICATION, AND ALL DOCUMENTS IN THE RECORD, AS WELL AS THE SWORN TESTIMONY OF THE APPLICANT'S MANAGING MEMBER SAM GERSCHWIN, AND GIVING APPROPRIATE WEIGHT TO ALL OF THE SAME, AND BASED ON ITS UNDERSTANDING OF THE APPLICABLE LAW, THE BOARD MAKES THE FOLLOWING FACTUAL FINDINGS AND LEGAL CONCLUSIONS FOR THE PURPOSE OF MEMORIALIZING IN A WRITTEN RESOLUTION IN ACCORDANCE WITH N.J.S.A. 40:55D-10g(2) ITS ACTION IN GRANTING THE MODIFICATION APPLICATION AS TO CONDITIONS #1 AND #12 SUBJECT TO CONDITIONS AS SET FORTH BELOW:**

**A. FACTUAL FINDINGS**

1. **The Property, Zoning, Existing Features, and Surrounding Uses.** The Property consists of two adjacent lots (Lots 1.03 and 1.04 in Block 4) under common ownership which, together, total approximately 22.2-acres. The Property is in the AH-4 zone (Affordable Housing – 4 zoning district) (formerly the R-MF-12 zone), with a street address of 400 and 500 Corporate Drive. Corporate Drive is a private road located on the property which connects Cokesbury Road and Route 22. The Property is irregular in shape and includes some area on the south side of Corporate Drive between Corporate Drive and Route 22. The Property was rezoned to allow affordable housing as part of an inclusionary residential multifamily development by Borough Ordinance 2020-08 which was adopted on October 21, 2020 as part of the Borough's compliance with its Third Round Mount Laurel affordable housing obligations, in compliance with a settlement agreement entered into between the Borough and Fair Share Housing Center ("FSHC") (the "**Settlement Agreement**") as well as a memorandum of settlement entered into between the Borough and Lebanon Town Center, LLC (the "**MOS**"), both of which were approved by the Superior Court of New Jersey, Law Division in an order entered on December 3, 2019 in a declaratory judgment action titled In re: Borough of Lebanon Compliance with Mount Laurel Third Round Affordable Housing Obligation, Docket No. HNT-L-321-15, after which a final judgement of compliance and repose was entered by the court in that action on May 20, 2021. (The Board takes "quasi-judicial" notice of the Settlement Agreement and the MOS as well as the court order and judgment.) The Property is currently a farm field with a stream and associated stream corridor that bisects the property and forms the common boundary between lots 1.03 and 1.04 on the property. The Property slopes towards the stream corridor on both lots 1.03 and 1.04. The slope is significant and requires a substantial amount of grading to accommodate the proposed development. The Property is bounded to the north by I-78, to the east by an existing but vacant office building situated on Block 4, Lot 1.05 with a street address of 600 Corporate Drive, to the west by an existing hotel, and to the south by Corporate Drive and existing office buildings fronting on the opposite side of Corporate Drive.

2. **The Preliminary Site Plan Approval and Conditions at Issue.** As set forth above, LTC is the successor in interest to Town Center at Lebanon, LLC, which obtained from the Board the approvals, consisting of preliminary site plan approval with "c(1)" and "c(2)"

variances and exceptions from certain residential site improvement standards, as memorialized in Board Resolution No. 2021-03 adopted on August 24, 2021, to allow construction of the proposed development which is a family rental inclusionary affordable housing development consisting of four (4) multifamily residential buildings containing a total of two hundred and eighty (280) rental units, of which 20% (56 rental units) will be deed restricted to remain affordable to low and moderate income households, along with related site improvements such as stormwater facilities, street improvements, parking and landscaping the approximately 22.2-acre Property.

3. **The Conditions at Issue.** Conditions #1 and #12 of Resolution No. 2021-03 are at issue here, and they provide as follows:

a. “1. **Revisions to Preliminary Site Plans, Preliminary Architectural Plans and Stormwater Management Report.** Revisions to the Preliminary Site Plans, Preliminary Architectural Plans, and Stormwater Management Report shall be made to incorporate the [] comments emanating in the [] letters and/or memos prepared by the [] Board professionals and/or as discussed by the Board on the record during the hearing on the Application, and to the satisfaction of the Board expert(s) who filed the report or testified, as well as to the satisfaction of the Borough Engineer and Borough Planner, with the revisions being made to all of the documents and the Preliminary Site Plans being signed no later than February 24, 2022 (which is six (6) months from the date the within resolution is adopted on August 24, 2021), and only after the revisions have been made to all of the documents. In the event that the applicant fails to revise the documents as required and/or fails to obtain signatures on the Preliminary Site Plans within said time period, or extension thereof as granted by the Board, the approvals granted in the within resolution shall expire and become automatically null and void. (The Board notes that, in the absence of the within time limitation condition, it would decline to grant conditional approvals and, instead, would continue the hearing on an application for no more than a six month period to provide the applicant with the opportunity to revise the site plans and documents and, failure by the applicant to resubmit same to the Board within that period or submission within that period but failure of the applicant to make all the required revisions, would result in denial of the application.) Any dispute(s) concerning satisfaction of any conditions related to the revisions of the site plans and documents may be brought to the Board for resolution by written letter application submitted by the applicant without the necessity for public notice but on written notice to the Borough Engineer and Borough Planner.”

b. “12. **Subject to Final Site Plan Review and Approval.** The approvals granted herein are subject to the applicant applying for and obtaining final site plan approval by August 24, 2022 (which is within one (1) year of the date of the adoption of the within resolution memorializing the grant of preliminary site plan approval on August 24, 2022). If final site plan approval is not obtained within said one (1) year period, or extension thereof as granted by the Board, the within preliminary approval with all related relief granted herein shall automatically expire

and become null and void. (While there is no express provision in the MLUL authorizing such a limitation on the “life” of an approval, the New Jersey Supreme Court held in D.L. Real Estate Holdings v. Point Pleasant Beach Planning Board, 176 N.J. 126, 133-36 (2003), that it is permissible for municipalities to impose a “life” on an approval. The Court recognized the difference between the “life” of the approval and the period of protection against ordinance changes that are conferred on preliminary and final approvals and held that permitting a municipality to provide for the expiration of approvals “furthers the municipality’s ability to plan effectively. It prevents the possibility that a future tentative potential development, based on an earlier ... approval, would forever affect planning decisions concerning development in other areas.” Id. at 136).”

4. **The Prior Modifications.** As set forth above, conditions #1 and #12 of Resolution No. 2021-03 were modified as memorialized in Resolution No. 2024-01 adopted on April 9, 2024, and further modified in Resolution No. 2025-03 adopted on August 12, 2025. They currently provide as follows:

“1. **Revisions to Preliminary Site Plans, Preliminary Architectural Plans and Stormwater Management Report.** Revisions to the Preliminary Site Plans, Preliminary Architectural Plans, and Stormwater Management Report shall be made to incorporate the [] comments emanating in the [] letters and/or memos prepared by the [] Board professionals and/or as discussed by the Board on the record during the hearing on the Application, and to the satisfaction of the Board expert(s) who filed the report or testified, as well as to the satisfaction of the Borough Engineer and Borough Planner, with the revisions being made to all of the documents and the **Preliminary Site Plans being signed no later than February 24, 2026**, and only after the revisions have been made to all of the documents. (**emphasis added**). In the event that the applicant fails to revise the documents as required and/or fails to obtain signatures on the Preliminary Site Plans within said time period, or extension thereof as granted by the Board, the approvals granted in the within resolution shall expire and become automatically null and void. (The Board notes that, in the absence of the within time limitation condition, it would decline to grant conditional approvals and, instead, would continue the hearing on an application for no more than a six month period to provide the applicant with the opportunity to revise the site plans and documents and, failure by the applicant to resubmit same to the Board within that period or submission within that period but failure of the applicant to make all the required revisions, would result in denial of the application.) Any dispute(s) concerning satisfaction of any conditions related to the revisions of the site plans and documents may be brought to the Board for resolution by written letter application submitted by the applicant without the necessity for public notice but on written notice to the Borough Engineer and Borough Planner.”

“12. **Subject to Final Site Plan Review and Approval.** The approvals granted herein are subject to the applicant **applying for and obtaining**

**final site plan approval by August 23, 2026. (emphasis added)**. If final site plan approval is not obtained within said period, or extension thereof as granted by the Board, the within preliminary approval with all related relief granted in Resolution No. 2021-03 shall automatically expire and become null and void. (While there is no express provision in the MLUL authorizing such a limitation on the “life” of an approval, the New Jersey Supreme Court held in D.L. Real Estate Holdings v. Point Pleasant Beach Planning Board, 176 N.J. 126, 133-36 (2003), that it is permissible for municipalities to impose a “life” on an approval. The Court recognized the difference between the “life” of the approval and the period of protection against ordinance changes that are conferred on preliminary and final approvals and held that permitting a municipality to provide for the expiration of approvals “furthers the municipality’s ability to plan effectively. It prevents the possibility that a future tentative potential development, based on an earlier ... approval, would forever affect planning decisions concerning development in other areas.” Id. at 136).”

5. **The Modification Application.** As set forth above, the modification application seeks to modify the following conditions of Resolution No. 2021-03 in the following particulars: (1) further modification of condition #1 to extend the date by which revisions have to be made to the preliminary site plans and the preliminary site plans have to be signed from February 24, 2026 to February 24, 2027; and (2) further modification of condition #12 to extend the time within which the applicant must obtain final site plan approval from August 23, 2026 to August 23, 2027:

6. **Standards for Considering the Request for Modification of Conditions.** Our courts have held that a board has the power to modify and/or eliminate prior approval conditions upon a “proper showing of changed circumstances”, or upon “other good cause” warranting modification and/or amendment, or if “enforcement of the restrictions would frustrate an appropriate purpose.” Cohen v. Fair Lawn, 85 N.J. Super.234, 237 (App. Div. 1964); Allied Realty v. Upper Saddle River, 221 N.J. Super. 407, 414 (App. Div. 1987), certif. denied, 110 N.J. 304 (1988); Sherman v. Harvey Cedars Board of Adjustment, 242 N.J. Super. 421, 429 (App. Div. 1990). N.J.S.A. 40:55D-12a recognizes the authority of a board to modify previously imposed conditions by requiring that public notice be given “for modification or elimination of a significant condition or conditions in a memorializing resolution in any situation wherein the application for development for which the memorializing resolution is proposed for adoption required public notice.” The court in Cohen, 85 N.J. Super. at 237-238, noted that even if a condition is agreed to by an applicant, it can be later modified or eliminated if its modification or elimination will not have an adverse effect on public health or safety. This is especially so where the underlying use serves the general welfare only, meaning that the condition was imposed to advance the general welfare but is not critical for the survival of the underlying approval. Id. As to changed circumstances, our courts have held that a board should consider whether there have been changes in the neighborhood and, if so, the effect of those changes in terms of the condition under consideration. Russell v. Tenafly Board of Adj., 31 N.J. 58, 66 (1959). The Board believes that changed circumstances can also be a change in the law. Regarding “good cause”, our courts have held that a board should consider what its intent was in imposing the condition in the first instance and whether the proposal to modify or eliminate the condition is consistent with or contrary to that

intent. Sherman, 242 N.J. Super. at 430. In this regard, our courts have held that a board is not limited to the four corners of the resolution to determine intent and can consider Board minutes of the underlying hearing, transcripts if available, and/or expert reports filed with the application. The object is to determine how significant the condition was to the Board at the time it was imposed and whether the proposal to modify or eliminate it is consistent or contrary to that intent. Id.

7. **Applicants' Reasons for Modifying Conditions #1 and #12.** Sam Gershwin, the applicants' managing member, testified that the reasons the applicants seek modification of conditions #1 and #12 of Resolution No. 2021-03 are as follows. First, he explained that the applicant is anticipating a submission for amended preliminary major site plan in 2026 and this submission will include the Borough professional's comments and proposed revisions in connection with Resolution No. 2021-03. Second, Mr. Gershwin testified that the applicant is continuing to work with the Borough in an attempt to have a Redevelopment Plan adopted for the property to address, among other issues, proposed improvements to Corporate Drive. Mr. Gershwin further testified that if a Redevelopment Plan was adopted for the property, he would submit a PILOT application to the Borough. Mr. Gershwin acknowledged that, regardless if whether a Redevelopment Plan was adopted, the applicant had to make revisions to the plans in accordance with condition #1 and that the engineering firm retained to prepare the plans for the proposed development was in the process of making the revisions. Finally, Mr. Gershwin testified that he needs the two conditions at issue modified to extend the time within which to revise the plans and documents and to extend the time within which to obtain final site plan approval from August 23, 2026 to August 23, 2027 to allow the proposed development to move forward.

8. **Good Cause Exists to Modify Conditions #1 and #12.** The Board finds that good cause exists to warrant modification of conditions #1 and #12 of Resolution No. 2021-03 for the following reasons. First, the Board notes that if it does not modify the conditions #1 and #12 to provide the applicants with more time to both make the required revisions to the site plans and other documents and to obtain final site plan approval, the preliminary approval will expire and become null and void which will cause the applicants to have to start the approval process from scratch, which is to no one's benefit and to everyone's detriment. Second, the Board notes that one of its intents in imposing conditions #1 and #12 is set forth in condition #12 itself and is to "further[] the municipality's ability to plan effectively. It prevents the possibility that a future tentative potential development, based on an earlier ... approval, would forever affect planning decisions concerning development in other areas." In this regard, the Board finds that there have been no changes to the area surrounding the property that would be negatively affected by the proposed development and there have been no changes to the area surrounding the property that would negatively affect the proposed development. The Board specifically notes in this regard that it granted in its capacity as a zoning board of adjustment "d(1)" use variance, a "c(1)" bulk variance and minor site plan approval to allow conversion of an existing building located at 600 Corporate Drive (Block 4, Lot 1.05) to a self-storage facility which would serve, among others, future residents of the proposed development. See, Resolution No. 2024-02 adopted on June 9, 2025. Further, the Board notes that the 2025 4<sup>th</sup> Round Housing Element and Fair Share Plan that it adopted on July 9, 2025 proposes on page 8 that the seven (7) unit "unmet need" obligation that the Borough must zone for (calculated by taking 25% of the Borough's unmet need number of 26

units, which is calculated by subtracting the Borough's 5 unit RDP (Realistic Development Potential) from its Prospective Need number of 31) should be provided for by an overlay zoning district permitting inclusionary development at a density of 8 units per acre on Block 4, Lot 1.01, 1.02, and 1.05, all of which lots are in close proximity to the property and the development of which for inclusionary housing will be consistent with the proposed development. Third, the Board finds that a further intent in imposing the conditions which was to encourage the timely creation of the affordable units that will be produced by construction of the proposed development and the applicants are not sitting on their hands doing nothing. Fourth, the Board finds that the proposed inclusionary development is a large-scale development with many moving parts and the applicants have suffered economic issues resulting from the aftermath of the COVID-19 pandemic which delayed the development from progressing forward. Fifth, the Board finds that modifying the conditions at issue to extend the time periods within which to revise the site plans and other documents and to obtain final site plan approval is consistent with the Board's intents and purposes of imposing the conditions in the first instance provided, however, that the conditions set forth below are imposed and complied with. Finally, the Board notes it will modify conditions #1 and #12 to grant extensions of the time period within which the applicant must revise and obtain sign-off on the preliminary site plans and within which the applicant must obtain final site plan approval to August 23, 2027, which is a cumulative total of six (6) years from the date Resolution 2021-03 (which memorialized the grant of preliminary site plan approval) was adopted on August 24, 2021.<sup>1</sup>

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD BY MOTION DULY MADE AND SECONDED ON FEBRUARY 10, 2026 THE MODIFICATION APPLICATION IS GRANTED SUBJECT TO CONDITIONS AS SET FORTH BELOW:**

**B. RELIEF GRANTED**

1. **Modification of Condition #1 of Resolution 2021-03.** Subject to the conditions set forth below, condition #1 of Resolution No. 2021-03 is modified as set forth below.

2. **Modification of Condition #12 of Resolution 2021-03.** Subject to the conditions set forth below, condition #12 of Resolution No. 2021-03, is modified as set forth below.

**C. CONDITIONS**

1. **All Conditions of Resolution No. 2021-03 Remain in Full Force and Effect Except for Conditions #1 and #12.** All conditions set forth in Resolution No. 2021-03, as modified by Resolution No. 2023-01, remain in full force and effect except for conditions #1, and #12 which are modified as set forth below.

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<sup>1</sup> The Board notes that the within modification application seeking to extend the time limitations set forth in conditions #1 and #12 require notice because the cumulative total of the time extensions exceeds five (5) years. See N.J.S.A. 40:55D-12a.

2. **Condition #1 as Further Modified.** Condition #1 of Resolution No. 2021-03, as modified by Resolution No. 2024-01 and further modified by Resolution No. 2025-03, is hereby further modified to provide as follows:

“1. **Revisions to Preliminary Site Plans, Preliminary Architectural Plans and Stormwater Management Report.** Revisions to the Preliminary Site Plans, Preliminary Architectural Plans, and Stormwater Management Report shall be made to incorporate the [] comments emanating in the [] letters and/or memos prepared by the [] Board professionals and/or as discussed by the Board on the record during the hearing on the Application, and to the satisfaction of the Board expert(s) who filed the report or testified, as well as to the satisfaction of the Borough Engineer and Borough Planner, with the revisions being made to all of the documents and the Preliminary Site Plans being signed no later than February 24, 2027, and only after the revisions have been made to all of the documents. In the event that the applicant fails to revise the documents as required and/or fails to obtain signatures on the Preliminary Site Plans within said time period, or extension thereof as granted by the Board, the approvals granted in the within resolution shall expire and become automatically null and void. (The Board notes that, in the absence of the within time limitation condition, it would decline to grant conditional approvals and, instead, would continue the hearing on an application for no more than a six month period to provide the applicant with the opportunity to revise the site plans and documents and, failure by the applicant to resubmit same to the Board within that period or submission within that period but failure of the applicant to make all the required revisions, would result in denial of the application.) Any dispute(s) concerning satisfaction of any conditions related to the revisions of the site plans and documents may be brought to the Board for resolution by written letter application submitted by the applicant without the necessity for public notice but on written notice to the Borough Engineer and Borough Planner.”

3. **Condition #12 as Further Modified.** Condition #12 of Resolution No. 2021-03, as modified by Resolution No. 2024-01, and further modified by Resolution No. 2025-03, is hereby further modified to provide as follows:

“12. **Subject to Final Site Plan Review and Approval.** The approvals granted herein are subject to the applicant applying for and obtaining final site plan approval by August 23, 2027. If final site plan approval is not obtained within said period, or extension thereof as granted by the Board, the within preliminary approval with all related relief granted in Resolution No. 2021-03 shall automatically expire and become null and void. (While there is no express provision in the MLUL authorizing such a limitation on the “life” of an approval, the New Jersey Supreme Court held in D.L. Real Estate Holdings v. Point Pleasant Beach Planning Board, 176 N.J. 126, 133-36 (2003), that it is permissible for municipalities to impose a “life” on an approval. The Court recognized the difference between the “life” of the approval and the period of protection against

ordinance changes that are conferred on preliminary and final approvals and held that permitting a municipality to provide for the expiration of approvals “furthers the municipality’s ability to plan effectively. It prevents the possibility that a future tentative potential development, based on an earlier ... approval, would forever affect planning decisions concerning development in other areas.” Id. at 136).

Vice Chairman Abeles requested a motion to modify conditions #1 AND #12 of resolution no. 2021-03 governing the “Town Center at Lebanon” family rental inclusionary affordable housing development. With an one year extension of Resolution 2021-03 at stated.

**Mr. Weingart made the motion to modify conditions #1 and #12 of resolution 2021-03 with a second by Mr. Fordham.**

**The motion passed with the following roll call vote:**

**Ayes: Abeles, Weingart Fordham, Newman, Hauck, Lapczynski, Matheson, Berger**

**Nay:**

**Absent: Saharic and Pittinger**

**Abstain:**

#### **MISCELLANEOUS:**

#### **ADJOURN**

**Mr. Hauck moved, Mrs. Mathewson seconded a motion to adjourn, there being no further business to come before the Board.** The motion was passed by a unanimous vote. The meeting was adjourned at 8:45 p.m.

Respectfully submitted,

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Karen Romano  
Land Use Board Secretary