

**CITY OF LEWISTON  
PLANNING BOARD MEETING  
MINUTES for June 16, 2003 - Page 1 of 6**

**I. ROLL CALL:** This meeting was held in the City Council Chambers, was called to order at 7:00 p.m., and was chaired by John Cole.

- **Members in Attendance:** John Cole, Roger Lachapelle, Jeffrey Gosselin, Robert Connors, Lucy Bisson, John Racine, James Horn, and Tom Truchon.

- **Members Absent:** Rob Robbins.

- **Staff Present:** Gil Arsenaault, Deputy Development Director; Lincoln Jeffers, Business Development Manager; David Hediger, Land Use Inspection Officer; and Doreen Christ, Administrative Secretary - Planning Division.

- **Student Members Absent:** Ethan Chittim and Wade Morgan.

**II. ADJUSTMENTS TO THE AGENDA:** At the applicants request, Item VI. Other Business, Sub-Item A. New Business - A request for a "de minimis" change to the application by the Land Tree Corporation - Fifth Revision of a portion of Michaud Meadows, consisting of a land swap on Loubier Avenue between the Land Tree Corporation and Veterinary Support Services was heard first out of sequence to the agenda listing. Other items heard out of sequence to the agenda listing pertained to Item V. Public Hearings. Both Sub-Items B. and C. were heard before Sub-Item A. The remainder of the agenda was heard in its sequence.

**III. CORRESPONDENCE:** The following items were distributed at this meeting: A. An e-mail from City Administrator James Bennett dated June 16, 2003 announcing the selection of David Hediger as the new City Planner; B. Planning Board Project Development Review Form from the Police Department dated May 29, 2003 in regards to the Greater Androscoggin Humane Society Animal Shelter Facility (Amended Materials) on Strawberry Avenue; and C. Planning Board Project Development Review Form from the Public Works Department dated May 29, 2003 in regards to the Greater Androscoggin Humane Society Animal Shelter Facility (Amended Materials) on Strawberry Avenue. The following motion was made.

**MOTION:** *by Robert Connors, seconded by Lucy Bisson to accept these items, place them on record, and read them at the appropriate time.*

**VOTED:** 8-0.

*As listed above, out of sequence to the agenda the following item was heard first.*

**VI. OTHER BUSINESS:**

**A. New Business:** *A request for a "de minimis" change to the application by the Land Tree Corporation - Fifth Revision of a portion of Michaud Meadows, consisting of a land swap on Loubier Avenue between the Land Tree Corporation and Veterinary Support Services.* Present at this meeting on behalf of the Land Tree Corporation was **Robert Gagnon** of A.R.C.C. Land Surveyors, Inc. Both of these lots are located in the Neighborhood Conservation "A" (NCA) District and will remain conforming lots. David Hediger said that previously there had been an error in the deed descriptions, which led to a property line dispute. This dispute has been resolved with the land swap and there has been an exchange of deeds. Robert Gagnon showed where the previous and new property line is located on his map to the Board. There was no objection from the Board on this item and no formal action was required or taken. Robert Gagnon left the required mylars for John Cole's signature.

*Lincoln Jeffers, Business Development Manager for the City of Lewiston arrived at 7:05 p.m.*

*In sequence to the agenda listing, the following Final Hearings were heard in the order of their listing on the agenda.*

**IV. FINAL HEARINGS:**

**A. *A Final Hearing on the amended development review application submitted by Platz Associates on behalf of the Greater Androscoggin Humane Society, Animal Shelter Facility, 55 Strawberry Avenue.*** City Planner David Hediger read this portion of his memorandum dated June 12, 2003. Present at this meeting on behalf of the Greater Androscoggin Humane Society was **Stephan Myers** of Platz Associates.

This item was determined to be complete at the Planning Board Meeting on April 7, 2003 and was scheduled, at that time, for a Final Hearing to be heard at the Planning Board Meeting of May 5, 2003. At the request of the applicant, this item was continued to this Planning Board Meeting, due to a modification in the proposed design of the building.

Currently this property is a vacant lot and is located in the Urban Enterprise (UE) District. The modifications in the proposed design of this building will give a net increase of 3,500 square feet to the structure. The modifications

include: 1. The kennel space will be reduced by 1,500 square feet; 2. a #5,000 square foot training room will be added for obedience classes; 3. there will be one (1) additional parking space bringing the total spaces to 25; and 4. the stormwater drainage design.

The front setback of 25 percent has been reduced to 18.75 feet.

One (1) of the issues raised at the April 7, 2003 Planning Board Meeting was whether a traffic analysis was required for this project. This facility, based on the numbers provided by the Greater Androscoggin Humane Society, will generate less than 300 trips in a week. The applicant did not calculate trips as being in and out of a site, so, the actual numbers are over 400. This number is insignificant in this area. Another issue raised was the generation of noise. Staff feels that noise should not be an issue and that any noise that is created cannot exceed 50 decibels at the property line of the development abutting a residential zoning district. Staff also feels that there will be adequate parking, since there will be only six (6) employees or volunteers at this facility at anyone time.

A Natural Resource Protection Act (NRPA) permit from the State of Maine DEP will need to be obtained on this project prior to commencement of any development activity, due to this project being within 75 feet of a wetland.

Both the Public Works and Fire Departments had no concerns with this project. Inspector of Police, James Rioux expressed concerns over the traffic impact at the intersection of Main Street and Strawberry Avenue and requested a more recent traffic count, as well as a more specific description of the use of the facility in the evening hours. This request is listed in his correspondence dated May 28, 2003, which was included in the Planning Board packets.

In his brief presentation to the Board, Steve Myers stated that there are presently 20 kennels at the Auburn facility for dogs. This new facility will provide 27 kennels. There are currently 42 kennels for cats. This will be increased at the new facility to 78 kennels. He said that there will be an indoor training rink of about 5,000 square feet. This allows them to make the building a little bit narrower and further back from the stream on this property than the original design. He continued his presentation by saying that a Permit-By-Rule will be needed. This facility is within 75 feet of a wetland, but it is greater than 25 feet. All the new drainage has been worked out with the Public Works Department. He said that the drainage is going into the stream, which leads to the public storm sewer system. Steve Myers then showed the Board the location of the project on his plan. He said, at the last meeting, questions were raised about noise. There will be buffering with natural trees at the Tall Pines property to help in reducing the noise, however, he does not believe noise will be a factor. The wall of this facility will be 2 x 6 metal studs with six inches (6") of insulation. There will be a inch of insulation on the outside. There will be acoustical sheathing on the roof. The facility will be completely climate-controlled year round. The windows will not be open. The dogs do not have outside runs. Everything is inside, however, the dogs will be taken outside for exercise. The amount of dogs outside at one (1) time will depend on the number of volunteers. This facility will open during off-peak traffic hours at 10:00 a.m. The obedience classes will be after 6:00 p.m. and will typically have 12-16 people. Steve Myers said more people are taking their dogs to obedience classes now. He said he feels this project will have no impact to the traffic situation. There are no plans to operate any differently in this new location. This type of facility operates with limited resources.

Comments from the Board included the following. John Cole is concerned with the increase that this facility may generate in traffic at this location. Jeffrey Gosselin stated that the traffic problem is already there. He feels that the proposed Dunkin' Donuts will create a traffic impact. Gil Arsenault commented that this project shows a maximum of 30 vehicles in a peak hour on a Saturday morning.

In closing, John Cole asked, "What happens if this project is put in place and for one reason or another, there are more than 50 decibels in the appropriate location on the property with dogs barking, yelping, etc. - what can the City do? Gil Arsenault said it could trigger environmental performance standards. If, once the project is up and running and there are issues, Code Enforcement would get involved. The complaints would need to be investigated by a decibel meter. If it was found to be triggering 50 dba at a residential property line, the property owner would be contacted. It would be suggested that they do business differently. If an order is generated, then it would go to court. This building has been designed with 50 decibels in mind.

There was no public audience at this meeting, therefore, the following motion was made.

**MOTION:** *by Jeffrey Gosselin, seconded by Lucy Bisson that the Planning Board grant final approval to the Greater Androscoggin Humane Society, Animal Shelter Facility, 55 Strawberry Avenue and find that it meets all the necessary approval criteria contained under Article XII, Section 4 of the Zoning and Land Use Code.*

**VOTED:** *7-1 (Opposed -John Cole).*

There was no condition placed on the above motion, pertaining to making it a condition of approval for the NRPA Permit, since this is already required and will need to be obtained prior to any development taking place.

*Planning Board Member John Racine recused himself from the Planning Board on the following item.*

**B. A Final Hearing on a minor amendment to the Site Layout Plan for W/S Lewiston Properties, LLC retail development at 27 East Avenue.** David Hediger read this portion of his memorandum dated June 12, 2003.

Present at this meeting were **Doug Reynolds** from Gorrill-Palmer Consulting Engineers, Inc., who submitted the application and **Ronald Bissonnette** of Isaacson & Raymond.

This item was brought to the Planning Board as a request for a minor amendment of the previously approved (April 2002) Site Layout Plan. W/S Lewiston Properties, LLC is now proposing to create two (2) separate lots for each retail building - one (1) being Shaws. This request is due to financial purposes and to secure a tenant for the smaller retail store.

This development is located in the Community Business (CB) District. The minimum frontage requirement is 125 feet of which both lots will exceed this requirement. This request is to reallocate the open space between the two (2) retail developments.

Ron Bissonnette said basically this will separate the two (2) approved uses on to two (2) separate lots. This will allow financing for the other parcel to be done separately. Once a tenant is found, then the financing can be planned separately.

Jeff Gosselin asked if the existing parking is for Shaw's. Ron Bissonnette said that Shaw's paved the proposed building site, since there were no other existing tenants. The other structure was not put up because they were not sure what it would be. This could come back at a later date if there is a tenant who wants something different or a different configuration. It is possible that a building could be placed right against the other building. Again, this request is for the approval to divide this off and then when a tenant is found, they will come back if they need to. Jeff Gosselin said that in theory, there would be two (2) new structures. Ron Bissonnette clearly stated that there will be one (1) new structure in addition to the new Shaw's. There will be very comprehensive easements with covenants and restrictions between the two (2) parcels. The City's ordinance only requires that there are sufficient easements for being able to maintain either of the buildings. Ron Bissonnette said that he has only seen a draft of the E.C.R. The E.C.R. is being prepared by W/S's counsel in Boston, Massachusetts. This will be much more comprehensive than the City requirements. This is so they can use the parking and have customers cross over. John Cole asked if there is any intent on the part of W/S Properties to divest itself of this new parcel? Ron Bissonnette responded with, "Not that he knows of". The new parcel's owner will have a very similar name, but both of them will still be owned by W/S Development. John Cole said that if there is a new owner with the second lot, there is nothing to prevent W/S Properties from conveying to another entity altogether. John Cole said that it is incumbent upon the Planning Board to be absolutely certain that all the criteria have been approved and all the conditions that are approved will indeed apply to any new owner and it will be something the new owner will have to deal with. Rob Bissonnette stated that the approval would be the same as before, except for the property line creation. The Conditional Zoning proposal is on record at the Registry of Deeds and the entire parcel is subject to that. Ron Bissonnette stated that only what was previously approved can be built. This would need an amendment if the building footprint is changed.

Ron Bissonnette said the entire parcel will be refinanced. The mortgage on the entire parcel will be discharged and replaced with a new mortgage. The new mortgage will be on the Shaw's parcel and the other parcel will be free at that point. John Cole said that we want to be absolutely certain that they are not overlooking something before it is approved. Ron Bissonnette said that all the approvals are subject to all the agreements on both parcels. All the land will be subject to those restrictions.

On his map to the Planning Board, Doug Reynolds showed the traffic flow of delivery trucks.

Ron Bissonnette said that from the perspective of someone looking at the site, it will not look any different that it does presently. He said that he had a copy of the draft of the Maintenance Agreement, but not the final form. When it is in final form, it would be submitted to Staff for their review. The Survey Plan will also be submitted. They want to wait until they get their approval so that if there is a change they want to make sure the survey line is drawn exactly as it is approved. John Cole said that an agreement needs to be seen by this Board before this item can be approved. John Cole said that there is not necessarily a problem to approve this, but stated that the nature, substance, and extent of that agreement is something that the Planning Board needs to be very careful about, particularly if there is going to be new ownership. One (1) party will take the lead and is responsible for maintaining the landscaping and the other party reimburses. There will be two (2) separate owners with a common element. It was mentioned that the action taken at this meeting tonight, could be contingent upon final approval on this agreement.

It was mentioned that if there are two (2) separate owners, there is a necessity of a mutual agreement.

This item was then opened to the public audience for their comments and questions.

**Robert McGraw (5 Pleasant Street)** is concerned with the safety of the children in this area. He stated that people enter the Marston Street entrance at a high rate of speed. He said he would appreciate a study of this area. People use this area as a raceway. There are no signs in this area. He was speaking about people coming in on Lisbon Street and Pleasant Street and meeting at the entrance. Someone is going to be hit coming out of the store. This is the entrance on Pleasant Street.

Lincoln Jeffers stated that this item will require City Council action to amend the traffic study. John Cole said that he appreciates the concern, but the Planning Board does not have very much jurisdiction on this. John Cole then asked Lincoln Jeffers to assure Robert McGraw that the City Council will address this item.

John Cole asked Staff if this request is for the entire matter to be re-approved. Gil Arsenault responded with, "No". Lincoln Jeffers said that this is not a developer issue, it is a City issue. This is a traffic issue, not necessarily a Planning or Development issue. Gil Arsenault said that a recommendation can be made to James Rioux of the Lewiston Police Department to investigate this issue.

In conclusion, Jeffrey Gosselin stated that the Planning Board members may need to see the Maintenance Agreement. This would be in the public's interest. The following motion was made.

**MOTION:** *by Jeffrey Gosselin, seconded by Lucy Bisson that the Planning Board address this matter and table the minor amendment to the Site Layout Plan for W/S Lewiston Properties, LLC retail development at 27 East Avenue to the Planning Board Meeting of July 21, 2003 until receipt of a Maintenance Agreement and the Easement with Covenants and Restrictions (ECR) approval, subject to the Maintenance Agreement in order to complete the survey.*

**VOTED:** *7-0-1 (Abstained - John Racine).*

Ron Bissonnette mentioned that this parcel could change, but that the lot would not. In closing, it was mentioned that there was a lot of public input at the beginning of this project.

**John Racine rejoined the Planning Board on the remainder of the agenda items.**

**As mentioned earlier, out of sequence to the agenda listing, Items B and C under Item V. Public Hearings were heard before Item A.**

## **V. PUBLIC HEARINGS:**

**B. A proposal to amend Appendix A, Zoning and Land Use Code, Article XVI, "Development Districts" for the establishment of the Southern Gateway Development District and C. A proposal to amend Appendix A, Zoning and Land Use Code, Article XVI, "Development Districts" for the establishment of the Western Gateway Development District.** David Hediger read this portion of his memorandum dated June 12, 2003.

This item requires an amendment to Article 16.

City Council action was taken at their meeting of June 3, 2003, to create two (2) new development districts in Lewiston. The City Council is scheduled to hold a Public Hearing for the final passage of these districts at their meeting tomorrow night, June 17, 2003, however, an amendment to the Code is necessary for the recognition and creation of these two (2) development districts.

Article 16, Development Districts to Appendix A of the Code of Ordinances needs to be amended by adding Sections 2 and 3.

Lincoln Jeffers said that Oxford Networks is scheduled to break ground in September 2003. He showed the Board renderings of this gateway. He said that the Downtown Master Plan specifically looks at gateways. Oxford Networks will occupy 17, 500 square feet. The second renderings showed to the Board gives elevations. The southern gateway includes plans for not only the Oxford Networks facility, but also to house Northeast Bank.

There is a zero setback for this zone. This will create more traffic in this location. Both the Lewiston-Auburn Economic Growth Council (LAEGC) and CEI will be tenants in this area. There will be some land swapping. Parking will be needed for 200-400 vehicles. A parking garage along Canal Street is being planned. This parking garage will be between \$2-\$4 million. There will also be some surface parking provided in this area.

The Androscoggin Mill Block building will have improvements made.

Lincoln Jeffers mentioned land condemnation and that a development district is similar to a TIF. This targets the gateways to development and promotes development. It was asked if there was any consequences to zoning. Lincoln Jeffers said that there is criteria that needs to be met. Gil Arsenault said that zoning take precedence. Development districts puts the public on notice. The state legislature has protocol to follow. This Board is being asked to make a recommendation to the City Council for their consideration.

Lincoln Jeffers addressed the Western Gateway and described its location. He said that there is no proposal for this area yet, although the City is working at Bates Mill No. 5. This area also includes the Empire Theater and the Libby Mill properties.

The following questions were asked. Can two (2) areas be designated as a development district? Is there a greater benefit to both districts? This is focused on the gateways. Gil Arsenault stated that eminent domain is the biggest driver. Criteria still needs to be met for blight. John Cole then asked if both the Southern and Western gateways and the middle portion could be included as one large development district. He would like to attach the entire area into one (1) district. Lucy Bisson feels that this is too big of an area to lump together. Gil Arsenault said that the intent is to limit the development districts to gateways.

Jeffrey Gosselin asked, "Do we need a development district for Oxford Networks?" He said is this to encourage other properties to be included. They do need to acquire deeds. Gil Arsenault said that eminent domain cannot be done for economic development purposes.

At this point in the discussion, this item was opened for public comment.

**Martin Finley (the owner of the Cowan Mill).** The Cowan Mill is located right on the river. He stated concerns that he would like to develop, but he has no parking. He does not want the City to take his building. He has put in \$50,000 worth in window renovations. It was mentioned that the City is willing to work with developers who come forward. Gil Arsenault stated that Martin Finley's property is beautiful on the river and that he has a gorgeous building. He commented to Martin Finley that this may have some benefits to him to develop his property. This property is in the historical records. Again, Martin Finley stated that he wants to develop his building.

There, being no further comments or questions from the public audience, this item was turned back to the Planning Board for the following motion.

**MOTION:** by **Lucy Bisson**, seconded by **Roger Lachapelle** that the Planning Board send a favorable recommendation to the City Council to amend Appendix A, Zoning and Land Use Code, Article XVI, "Development District" to accept both the Southerly and Western Gateways.

**VOTED:** 8-0.

**A. A proposal to amend Article A, Zoning and Land Use Code, Article IX, Section 6, "Limit of variances".** At the last Planning Board Meeting it was requested to have City Attorney **Martin Eisenstein** review this document. Included in the Planning Board packets is a response from Martin Eisenstein dated June 12, 2003. The proposed language is on the front page. Martin Eisenstein is suggesting a separate section on the last page of his correspondence.

David Hediger summarized Martin Eisenstein's correspondence. Some statements include that Martin Eisenstein agrees that an amendment to the Lewiston Code is appropriate so as to provide specifically that a variance is not required for an expansion if the expansion itself otherwise satisfies the space and bulk standards. He also agrees with Staff's interpretation that the other applicable space and bulk standards would apply to any additional structure constructed on a lot which has been the subject of a prior variance, with the result that such a lot would not be overburdened. Martin Eisenstein's suggestion is to adopt the proposed amendment as an addition to Article IX, rather than a replacement of Section 6, "Limit of variances". Section 6 should remain as a guide for future Board of Appeals decisions. He is suggesting that the amendment be added as a new Section 12 in Article IX, as follows: *Article IX, Section 12. Effect of grant of variance for single-family detached dwelling on individual residential lot.*

David Hediger stated that Staff liked the City Attorneys recommendation. John Cole agreed that his suggestion makes good sense. Gil Arsenault said that, as he stated at the last Planning Board Meeting of June 2, 2003, there are not a lot of properties that were created with a function of variance, but for those few people, this is an incredible burden when you cannot put a deck on or you cannot build a garage or you cannot put in an in-ground or above-ground pool. This really paves the way for self-procurement. The following motion was made.

**MOTION:** by **Jeffrey Gosselin**, seconded by **Roger Lachapelle** that the Planning Board send a favorable recommendation to the City Council on the adoption of the proposed language to Appendix A, Zoning and Land Use Code, Article IX as Section 12.

**VOTED:** 8-0.

**The remainder of the agenda items were heard in the order that they were listed on the agenda.**

**VI. OTHER BUSINESS:**

**B. Old Business:**

**1. An update on the Traffic Scoping Session held on June 9, 2003.** David Hediger said that there was a meeting held on June 9, 2003 to discuss Dunkin' Donuts. David Hediger said prior to that he met with ATRC, Bill Eaton, a traffic engineer, and with a private firm that is doing the Main Street study, as well. They are preparing a plan, which should be done by the end of the month or the beginning of July 2003 at the latest. He said that Bill Eaton or ATRC would like to make a presentation to this Board. A few days after this meeting, at the Traffic Scoping Session with Dunkin' Donuts. Tying into that was the Main Street Traffic Study, which was determined that for Dunkin' Donuts to go there, there would need to be a left-hand turning lane on Strawberry Avenue. There is a need for this to be extended in length to accommodate stacking and for the Dunkin' Donuts to function. This area does not warrant a light and the left-turning lane will accommodate it. A thorough application is needed before it comes before the Planning Board. David Hediger said that there will be a forced right-turn - no left-turning traffic off the Dunkin' Donuts site on to Main Street.

Again, John Cole said that there will be a huge mess in traffic up there. The stacking will occur right on the Dunkin' Donuts property.

There are 300 vehicles during the peak traffic hour, which is between 7:15-8:15 a.m. There will be stacking of 10 vehicles on site. In this location, 25 percent of the time, stacking will occur out into the street. It is not known how many vehicles will be stacked during this 25 percent of the time.

Gil Arsenault said that Staff is very concerned with Dunkin' Donuts. There are also issues with access into the site. It was mentioned that Dunkin' Donuts will not come before this Board before Staff has had the chance to review the Main Street Study.

Strawberry Avenue is the key entry point. A workshop session could be done before the Planning Board Meeting starts on July 21, 2003. It was then decided that this workshop session will occur at 6:00 p.m. prior to the Planning Board Meeting and that sandwiches will be provided.

**2. Any other business Planning Board Members may have relating to the duties of the City of Lewiston Planning Board.** David Hediger mentioned that he has an update on the St. James Place Subdivision. A Neighborhood Meeting will take place on Thursday, June 26, 2003 at 6:00 p.m in the City Council Chambers. St. James Builders will be providing revised plans. This item will then be scheduled for a Final Hearing at the next Planning Board Meeting which is now scheduled for Monday, July 21, 2003.

It was suggested to be sensitive to the agenda for July 21, 2003. W/S Lewiston Properties, LLC retail development at 27 East Avenue could come forward from being tabled. It was requested that Martel School be notified and also Maurice Dionne when it does come forward. Gil Arsenault commented that the developers want to make the neighbors happy.

**VII. READING OF THE MINUTES: Reading of the minutes from the June 2, 2003 Planning Board Meeting.** The following changes were made: On Page No. 3 in the paragraph above the first motion, fourth line, change the word, "Council" to read, "lawyer". On the same page, under Sub-Item B.1., first paragraph, fourth line, delete the typographical error "0" before the word, "whether". The following motion was made.

**MOTION:** by **Lucy Bisson**, seconded by **Robert Connors** that the Planning Board accept the Planning Board Minutes for June 2, 2003, as amended.

**VOTED:** 6-0-2 (Roger Lachapelle and James Horn Abstained - Not present at that meeting).

**VIII. ADJOURNMENT:** No action was taken on adjournment, however, this meeting adjourned at 9:00 p.m. The next meeting is scheduled for July 21, 2003.

Respectfully submitted,

Lucy A. Bisson  
Planning Board Member and Secretary

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